

TASMANIA.

THE CHILDREN OF THE STATE ACT, 1918.

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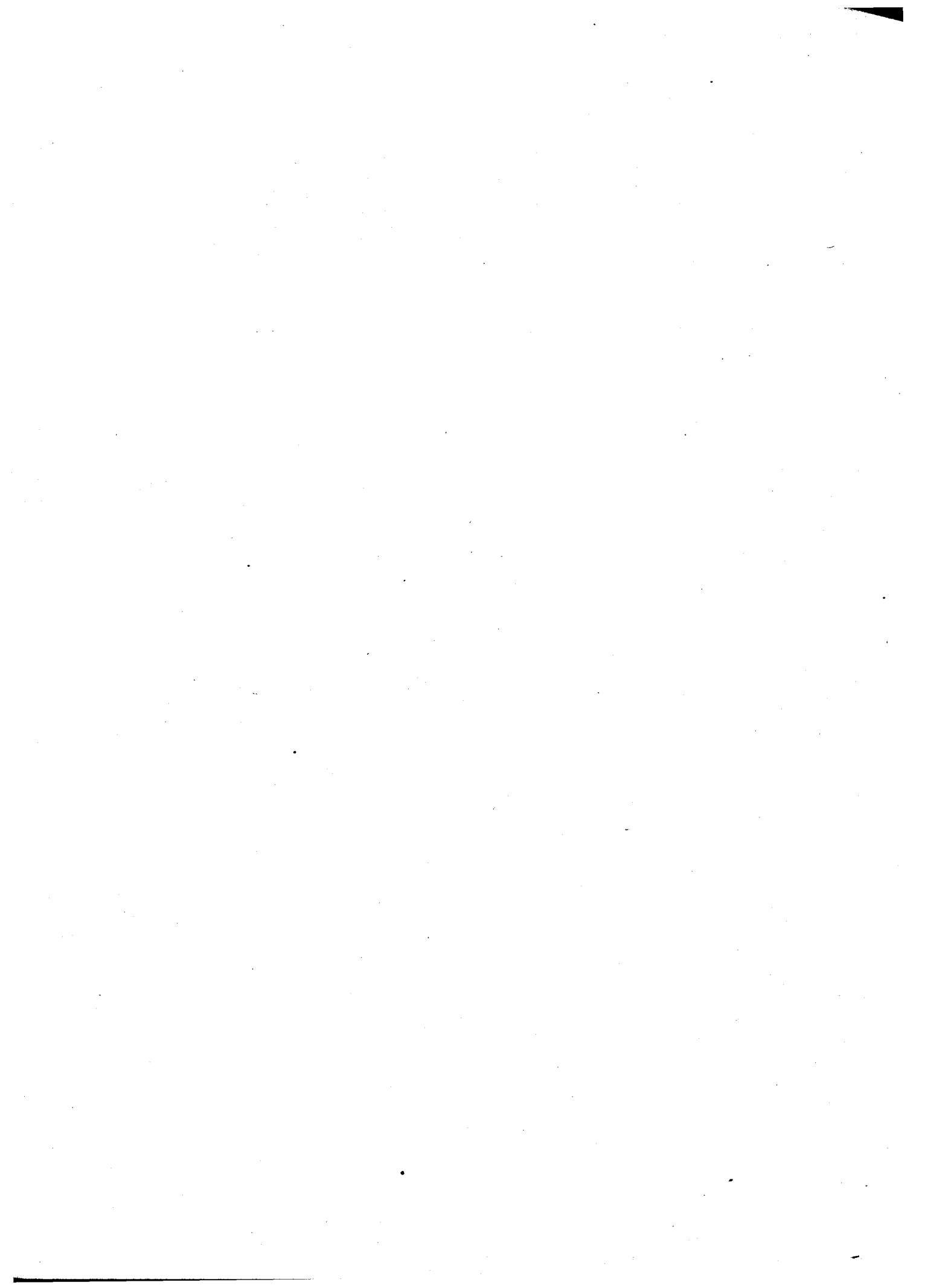
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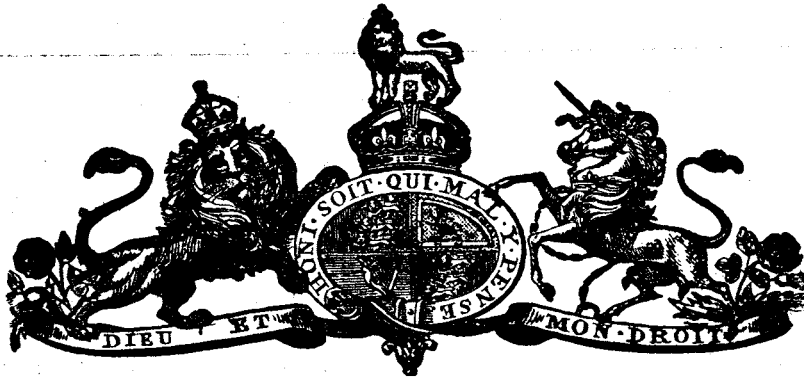
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TASMANIA



1918.

ANNO NONO

GEORGII V. REGIS.

No. 15.



AN ACT to consolidate and amend "The Youthful Offenders, Destitute and Neglected Children's Act, 1896," make better provision for the Protection, Control, Maintenance, and Reformation of Neglected and Destitute Children, and for other purposes.
[22 November, 1918.]

A.D.
1918.

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

PART I.

PRELIMINARY.

1. This Act may be cited as "The Children's Charter," and shall come into operation on a day to be fixed by the Governor by proclamation. Short title and commencement.

Children of the State.

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Division.

2 This Act is divided into the following parts :—

Part I.—Preliminary.

Part II.—The Children of the State Department.

Part III.—Management of Property of Children of the State.

Part IV.—Institutions.

Part V.—Children of the State and Children's Courts.

Part VI.—Maintenance of Children by their Relatives.

Part VII.—Foster-mothers and Nursing Homes.

Part VIII.—Procedure, Penalties and General Provisions.

Repeal.

3 The Acts specified in the Schedule (1) to this Act are hereby repealed to the extent therein stated :

Interpretation.

No. 24, 1896, s. 2

(Tas.).

No. 16, 1905, s. 2

(N.S.W.).

No. 31, 1907, s. 4

(W.A.).

No. 11, 1911, s. 4

(Q.).

No. 641, 1895,

s. 4 (S.A.).

No. 2703, 1915,

s. 3 (Vict.).

4 In this Act, unless the context or subject-matter otherwise indicates or requires—

“Age” means in the absence of positive evidence as to age, the apparent age :

“Authorised officer” means an officer of the Department authorised either generally under this Act or for any particular purpose by the Secretary or the Minister :

“Certified institution” means a private institution or private reformatory school certified in accordance with the provisions of this Act :

“Child” means any boy or girl under the age of Seventeen years :

“Child of the State” means a “convicted child” or “neglected child” or any other child received into or committed to an institution, or to the care of the Department, or apprenticed or placed out under the authority of this Act, or any Act heretofore in force :

“Children's court” means a children's court established under this Act, and includes a police magistrate or justices exercising the jurisdiction of a children's court :

“Clerk” or “clerk of petty sessions” means the person officiating as police clerk or clerk of petty sessions at the police court or place of holding petty sessions held at or nearest to the place at which the children's court is held :

“Court” means a children's court, or the Supreme Court, or a judge thereof, as the case may be :

“Convicted” means found guilty or convicted of any crime or offence punishable by imprisonment :

“Department” means the children of the State Department constituted under this Act, heretofore known as the Department for Neglected Children :

“Foster-mother” means any person licensed under Part VII. for any purpose mentioned in Section One hundred and five of this Act.

“Foster-parent” means any person to or with whom a child of the State is apprenticed or placed out under this Act, or under any enactment hereby repealed, and includes the assignee of such person :

Children of the State.

“Indictable offence” means any offence for which an information may be filed against any person in the Supreme Court by His Majesty’s Attorney-General: A.D. 1918.

“Inmate” means a child of the State maintained in an institution :

“Institution” means and includes the receiving depôt of the State, the Government Training School for Boys, every receiving depôt or shelter, children’s home, foundling home, industrial school, probationary school, reformatory, farm school, or other institution established under this Act, and every private reformatory, school, or private institution, certified or deemed to be certified under this Act, and all other institutions, schools, and places for the time being under the care, control, or supervision of the Department :

“Judge” means a judge of the Supreme Court :

“Maintenance” includes clothing, nursing, support, medical treatment, necessaries, training, discipline, and education :

“Maintenance order” means an order made by the court for payment of money by any near relative in respect of the maintenance of a child :

“Managers” means the persons for the time being having the management or control of any private institution or private reformatory :

“Minister” means the responsible Minister of the Crown for the time being charged with the administration of this Act :

“Near relative,” as regards a legitimate child, means and includes father, mother, stepfather, stepmother, brother, sister, or any grandparent of the child ; and as regards an illegitimate child, the mother and the person admitting himself to be or adjudged by a competent court to be the father of such child :

“Neglected child” means child--

- i. Who is found in a house of ill-fame, or known to associate with or be in the company of a person known to the police or to the department to be or reasonably suspected of being a prostitute, whether such person is the mother of the child or not : or Cf., *Ib.*, N.S.W., s. 5.
Ib., Q., s. 4.
- ii. Who is found stealing in a public place, or who associates or dwells with any person known to the police or the Department to be a thief, drunkard, or with any person who has no apparent lawful means of support : or *Ib.* 8 Ed. VII., c. 59, s. 2 (Ontario).
N.S.W.
- iii. Who has no visible lawful means of support, or has no fixed place of abode : or
- iv. Who begs in any public place, or habitually wanders about public places, being in no ostensible occupation, or sleeps at night in the open air in any public place : or Cf. N.S.W.

Children of the State.

- A.D. 1918.
Cf. N.S.W.
- Q.
- Ontario.
- Q. and W.A.
- N.S.W.
- Ontario.
Ibid.
- N.S.W. and Q.
- Cf. Q.
- Cf. Q.
- Ontario.
- Ibid.*
- v. Who is not provided with necessary food, nursing, clothing, medical aid or lodging, or who is neglected, ill-treated, or exposed by his parent, and such neglect, ill-treatment, or exposure has resulted, or appears likely to result, in any permanent or serious injury to the child : or
- vi. Who, being of the compulsory school age, is an habitual truant from day school, or whose parent has been convicted at least twice of neglecting to cause such child to attend school : or
- vii. Who, by reason of the neglect, or drunkenness, or other vice, of its parents, or either of them, is growing up without salutary parental control and education, or in circumstances exposing such child to an idle or dissolute life : or
- viii. Who is illegitimate, and whose mother is dead, or is unable to maintain or take charge of such child : or
- ix. Who takes part in any public exhibition or performance whereby the life or limb of such child is endangered : or
- x. Who is deserted by its parents : or
- xi. Whose parents or only parent are or is undergoing imprisonment for an indictable offence : or
- xii. Who, being a female, solicits men, or otherwise behaves in an indecent, or improper, or disorderly manner, or habitually wanders at night without sufficient cause in a public place : or
- xiii. Who, being under the age of Fourteen years, is engaged in street-trading, in a public place, or in any place other than the child's home : or
- xiv. Who is found by a children's court to be an uncontrollable child : or
- xv. Who by reason of ill-treatment, continual personal injury, or grave misconduct, or habitual intemperance of its parents, or either of them, is in peril of loss of life, health, or morality : or
- xvi. Whose home, by reason of neglect, cruelty, or depravity, is an unfit place for such child :
- "Nursing home" means any home registered as a nursing home under Part VII. of this Act :
- "Parent" includes a guardian and every person who is by law liable to maintain a child, or with whom the child in fact lives and is dependent upon :
- "Part" means Part of this Act :
- "Place-out" means to entrust a child of the State to the care and charge of some person approved of by the Secretary or the managers, as the case may be, for the purpose of its being maintained by such person, or in such person's house, or for the purpose of adoption, training, or hire :
- "Police officer" includes any constable or officer of police :

Children of the State.

- “Private institution” means a children’s home, institution, orphanage, or establishment for the detention, maintenance, employment, and benefit of neglected children, established, or wholly, or in part maintained by private benevolence or contributions : A.D. 1918.
- “Private reformatory school” means a school or institution for the detention, maintenance, reformation, and employment of convicted children, established, or wholly, or in part maintained by private benevolence, or contributions :
- “Public place” includes—
- i. Whatever is by any Act defined to be a public place :
and
 - ii. Any place declared by the Governor by order-in-council to be a public place for the purposes of this Act :
- “Receiving home” includes receiving depôt or shelter or any suitable place, the occupier of which is willing temporarily to receive a child of the State :
- “Secretary” means the Secretary of the Department appointed or deemed to be appointed under this Act :
- “Special magistrate” means a justice of the peace or other person (male or female), appointed as a special magistrate by the Governor for the purposes of this Act or any police magistrate :
- “Street-trading” includes the hawking of newspapers, matches, flowers, and other articles, playing, singing, or performing for profit, shoeblacking, and any other like occupation carried on in any public place. But this definition does not include playing, singing, or performing at an occasional entertainment, the net proceeds of which are wholly applied for the benefit of any school, or of any church or charity, or for any patriotic purpose.

PART II.

THE CHILDREN OF THE STATE DEPARTMENT.

5 For the purposes of this Act the Department known as the Department for Neglected Children is hereby continued and constituted a department, under the control of the Minister. The name of the said Department is hereby altered to and shall hereafter be “The Children of the State Department.” Children of the State Department.

*Children of the State.*A.D. 1918. *S.A.*

Provisions of Act relating to officers to be subject to "Public Service Act."

Secretary.

6 The provisions of this Act relative to officers shall be construed with and be subject to the provisions of any Act for the time being in force regulating the Public Service of Tasmania (in this Act referred to as "any such Public Service Act").

7—(1) The Governor may, subject to the provisions of any such Public Service Act, from time to time, appoint a Secretary of the Department.

It shall be the duty of the Secretary, under the direction of the Minister to carry this Act into operation, so far as the execution thereof is not expressly committed to any other person.

(2) The person who, when this Act comes into operation, holds the office of Secretary of the Department shall be deemed, without further appointment, to have been duly appointed Secretary under this Act.

Inspectors and other officers.

8—(1) The Governor may, subject to the provisions of any such Public Service Act, from time to time, appoint inspectors, inspecting nurses, and other officers, with such powers and functions as he deems necessary to carry out the purposes of this Act.

(2) The Governor may, subject to the provisions of any such Public Service Act, from time to time, appoint superintendents, matrons, warders, and other servants of State institutions under this Act.

Substitutes.

9 In case of the absence on leave or temporary incapacity of any officer or servant appointed under the provisions of this Act, or any corresponding provision previously in force, the Governor may appoint some fit and proper person to act in his stead, and every such person when so acting may exercise all the powers and shall perform the duties of the officer in whose place such person is appointed.

Visitors.

10—(1) The Secretary, with the approval of the Minister, may, from time to time, appoint such and so many persons as he thinks proper to be honorary visitors of the Department.

(2) Honorary visitors shall, in accordance with the regulations, assist the Department in procuring and supervising boarding-out homes and in the care of the children of the State sent to such homes, or placed out for hire or discharged or released on probation under this Act.

Secretary to be guardian of children of the State.

Cf., *ib.*, Vict., s. 25.

N.S.W., s. 34.

Q., s. 10.

S.A., s. 16.

W.A., s. 10.

Tas., s. 18, 26, and 65.

11—(1) Notwithstanding anything to the contrary contained in any other law relating to the guardianship or custody of infants, the Secretary shall be and become the guardian of every child of the State to the exclusion of the parent or other guardian, and shall, except during the time the child is lawfully detained in any certified institution, and except as hereinafter provided, continue to be such guardian, unless the Governor otherwise directs, until the child is discharged.

The Secretary shall as such guardian have (except as aforesaid) the sole right to the custody of every child of the State and shall deal with it as directed by this Act.

Children of the State.

(2) While any child of the State is detained in any Government institution the superintendent or matron of the institution may exercise the powers of the Secretary as guardian of such child.

(3) While any child of the State is lawfully detained in any certified institution the powers of the Secretary as guardian, with the sole right to the custody of the person of such child, shall be reposed in and exercisable by the managers of the institution or school, as the case may be, who shall also continue to be guardians of the child during the continuance of any licence granted by them, or during the period of any apprenticeship to which they are parties, as hereinafter provided, or which has been granted or entered into under any repealed Act.

(4) The Governor may at any time make an order transferring the guardianship of any inmate from the managers to such person as the Governor by the order appoints.

12 The Minister may, on or before the discharge of a child of the State, empower the Secretary or the managers to continue to be guardian of the child until it attains the age of Twenty-one years, or for such shorter period as the Minister determines, and the child shall, during such period, be subject to the supervision of the Department or the managers as the case may be.

13 Subject to the regulations every child of the State may, from time to time, be dealt with by the Secretary in any of the following ways:—

- i. Placed in some receiving home :
- ii. Detained in an institution :
- iii. Transferred with the approval of the Minister from One institution to another institution :
- iv. Boarded-out, apprenticed, or placed at service with some suitable person :
- v. Placed in the custody of some suitable person who may be willing to take charge of such child.

14 The Secretary shall keep records of all moneys received and paid under this Act, and so far as known of the names, ages, dates of reception, near relatives, nationality, sex, religion, and dates of discharge of all children of the State, and of all dispositions of and dealings with such children.

15 The Secretary shall in every year report to the Minister on the working of this Act, and shall in such report—

- i. Specify the number of children in the several institutions : and
- ii. Specify the number of children placed out and apprenticed during the period covered by the report : and
- iii. Set out a summary of the receipts and expenditure of the Department during the same period : and
- iv. Set out any other particulars which the Minister may direct from time to time to be included in such report.

All such reports shall be laid before Parliament

A.D. 1918.

Guardianship of inmates of State institution.

Cf., Tas., s. 19

Guardianship of inmates of private institutions.

Cf., Tas., s. 65.

Governor may transfer guardianship.

Cf. No. 83 of

1908, s. 28 (N.Z.).

Minister may prolong guardianship beyond discharge.

Cf. Q., s. 10 (2).

General powers of Secretary.

Cf., *ib.* (Vic.), s. 30.

Cf., *ib.* (N.S.W.), s. 34.

Cf., *ib.* (Q.), s. 11.

Cf., *ib.* (S.A.), s. 16.

Cf., *ib.* (W.A.), s. 10.

Cf., *ib.* (Tas.), s. 18, 26, and 65.

Record of children of the State to be kept.

Annual report.

Children of the State.

A.D. 1918.

PART III.

MANAGEMENT OF PROPERTY OF CHILDREN OF THE STATE.

Provisions where
child of the State
entitled to
property.
Cf. No. 83, 1908,
s. 38 (N.Z.).

Public Trustee to
take possession
and convert into
money.

Application of
proceeds.

16—(1) Subject to the provisions of this Act, if any child of the State is or becomes at any time entitled to any real or personal property in this State, or to any interest therein, whether the same is vested in such child or in any trustee in his behalf, or otherwise howsoever, then and in such case, and whether or not any order for contribution to the maintenance of such child has been made, and whether or not the moneys payable under any such order (if made) have been duly paid, the following provisions shall apply:—

- i. The Minister may, by notice in the "Gazette," in general terms direct the Public Trustee to take possession of all such property and apply the same for the benefit of such child of the State :
- ii. Thereupon the Public Trustee shall have and may exercise in respect of all such property the same rights and powers as if such property formed part of an intestate estate of which he was the duly appointed administrator :
- iii. The Public Trustee shall demand, sue for, recover, get in, sell, and convert into money the said property at such times and in such manner as in his absolute discretion he thinks fit, with power to postpone conversion, and in the meantime to lease or otherwise deal with the unconverted property as he thinks fit, without being liable for any loss or damage that may be occasioned thereby :
- iv. The Public Trustee shall apply all moneys coming to his hands under the foregoing provisions of this section in manner and priority following, that is to say:—

Firstly, in paying all costs and expenses incurred by him in exercising the abovementioned powers, including his own usual and proper charges of management, realisation, and otherwise : and

Secondly, in or towards defraying to the extent of Seven years' maintenance, the cost of the past maintenance (if any) of such child of the State which has been borne out of the Consolidated Revenue, and not repaid : and

Thirdly, in or towards defraying (to the extent of the funds available) the current maintenance of such child of the State, by paying to the Secretary such sum per week as the Minister directs : and

Fourthly, by accumulating the residue of such moneys (if any) until such child of the State finally ceases to be maintained out of the Consolidated Revenue, when all such accumulations shall be applied for his benefit in such manner as the Public Trustee, subject to the Minister's approval, thinks fit.

Children of the State.

(2) Nothing in this section shall prevent an order towards the maintenance and support of any such child of the State being made against any person who would otherwise be liable, or affect the amount of such order, or prevent the enforcing of such order or of any like order already made, nor affect any powers of or orders made by the Supreme Court or a judge thereof.

A.D. 1918.

Not to affect other order.

(3) All moneys received under any such order shall be applied either in satisfaction *pro tanto* of the moneys payable by the Public Trustee as aforesaid, or otherwise in payment of the past or current maintenance of the child of the State as the Minister directs.

Application of moneys under orders.

PART IV.

INSTITUTIONS.

State Institutions.

17 The Governor may, from time to time, by order-in-council, establish and abolish receiving homes, childrens' homes, foundling homes, industrial schools, probationary schools, reformatories, farm schools, and other institutions for the maintenance of children of the State.

Governor may establish institutions.
Cf. Tas., s. 4.

The Government Training School for Boys shall be deemed to have been established under this Act as a reformatory for boys.

Private Institutions and Private Reformatory Schools.

18 The management and control of any private institution or private reformatory school under this Act may be vested in a body of managers elected by the donors or subscribers thereto; and the number of the said managers, and the mode of their election, may be regulated by the constitution of the institution or school as determined by the said donors or subscribers.

In whom the management of private institutions, &c., vested
Cf. Tas., s. 47.

19—(1) The Minister may, upon the application of the managers of any private institution or private reformatory school, examine into the condition and rules or regulations of the institution or school, and may, by writing under his hand, certify that it is fit for the reception of such children of the State as may be sent there in pursuance of this Act, and the same shall be deemed a certified private institution or certified private reformatory school, as the case may be.

Mode of certifying private institutions, &c.
Cf. Tas., s. 52.
Cf. Ch. 67, 1908, s. 45 (Eng.).

(2) No substantial addition or alteration shall be made in or to the buildings of any such institution or school so certified as aforesaid without the approval in writing of the Minister.

(3) The institutions specified in Schedule (2) to this Act shall be deemed to be certified private institutions under this Act, and certificates given in respect thereof by the Governor under any repealed Act shall continue in force as if the same had been given by him under this Act.

Children of the State.

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Withdrawal of
certificate.

20 The Minister, if dissatisfied with the condition, rules, regulations, management, or superintendence of any certified institution may at any time, by notice under his hand served on the managers, declare that the certificate of the certified institution is withdrawn as from a time specified in the notice, being not less than Six months after the date of the notice; and at that time the withdrawal of the certificate shall take effect, and the certified institution shall cease to be a certified institution.

Provided that the Minister may, if he thinks fit, instead of so withdrawing the certificate, by notice served on the managers, prohibit the admission of children of the State for such time as may be specified in the notice or until the notice is revoked.

Certificate may
be resigned.
Cf. Tas., s. 74.
Eng., s. 48.

21 The managers, or the executors or administrators of a deceased manager (if there is only one manager), of any certified institution may give notice in writing to the Minister of intention to resign the certificate of the certified institution, and at the expiration, in the case of managers of Six months, and in the case of executors or administrators of One month, from the receipt of that notice by the Minister, the certificate shall be deemed to be resigned accordingly, unless before that time the notice is withdrawn.

Effect of with-
drawal of certifi-
cate.
Cf. Tas., s. 61.
Eng., s. 49.

22 A child of the State shall not be received into a certified institution after the date of the receipt by the managers of the notice of withdrawal of the certificate for their certified institution, or after the date of the notice of resignation of the certificate; but the obligation of the managers to maintain any children of the State detained in their institution at the respective dates aforesaid shall, except so far as the Minister otherwise directs, continue until the withdrawal or resignation of the certificate takes effect, or until the discontinuance of the contribution out of money provided by Parliament towards the expenses of the children detained in the certified institution, whichever may first happen.

Disposal of
inmates on with-
drawal of certifi-
cate.
Cf. Tas., s. 62.
Eng., s. 50.
Liabilities of
managers.
Cf. Tas., s. 58.
Eng., s. 52.

23 Where an institution ceases to be a certified institution the children of the State detained therein shall be, by order of the Minister, either discharged or transferred to some other institution.

24 The managers of any certified institution may decline to receive any child of the State proposed to be sent to it under this Act, but when they have once received him, they shall be deemed to have undertaken the maintenance of such child during the whole period for which he is liable to be detained in the certified institution, or until the withdrawal or resignation of the certificate takes effect, or until the discontinuance of the contribution out of money appropriated by Parliament towards the expenses of the children detained in the institution, whichever may first happen.

Children of the State.

25 The managers of every certified institution shall be entitled to receive out of any moneys which may from time to time be appropriated by Parliament for that purpose, for every child of the State maintained in the certified institution during the preceding year, or any part thereof, a sum calculated at such rate per week as the Minister approves.

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State aid to certified institutions.
Cf. Tas., ss. 51, 59.
Vict., s. 7.
Eng., s. 73.

PART V.

CHILDREN OF THE STATE AND CHILDREN'S COURTS.

Constitution and Powers of Court.

26—(1) The Governor may by proclamation establish special courts, to be called children's courts.

Children's court.
Cf. N.S.W., s. 9.
W.A., s. 18.
Vict., ss. 4, 5, 6.

(2) Every such court shall consist of One or more special magistrates, and shall have jurisdiction within the area named in a proclamation

Such court shall have such jurisdiction notwithstanding any offence or matter is committed or arises outside such area.

(3) In the absence of a special magistrate, or in places not within the area named in the proclamation, the jurisdiction of a children's court may be exercised by a police magistrate or any Two or more justices of the peace, who shall be deemed to be a children's court.

27—(1) A children's court and the magistrate or justices constituting such court, in addition to any other jurisdiction, powers, and authorities conferred upon them by this Act—

Powers of court.

i. Shall have and may exercise all the powers and authorities for the time being possessed by police magistrates, courts of petty sessions, or justices in respect of children, and of offences committed by or against children: and

ii. Shall have and may exercise the powers and authorities of a court of summary jurisdiction, magistrate, justices, or justice under—

(a) "The Prevention of Cruelty to and Protection of Children Act, 1895," and "The Education Act, 1885" and its amendments; and

(b) "The Deserted Wives and Children Maintenance Act, 1873," "The Deserted Wives and Children Maintenance Amendment Act, 1898," and "The Infant Life Protection Act, 1907":

iii. May hear and determine all complaints, informations, and applications under this Act.

(2) Any child brought before a children's court in pursuance of the provisions of Section Five of "The Prevention of Cruelty to and Protection of Children Act, 1895," may in the discretion of the court be dealt with under that Act, or may be treated as though charged under this Act as a neglected child, and an order be made accordingly if the

Child dealt with under 59 Vict. No. 10 may be committed under this Act.
Tas., s. 14.

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circumstances of the case would justify an order being made under the said firstmentioned Act ; but no order shall be made under this Act if there be a relative of the child willing and in the opinion of the court suitable to have charge of such child.

Jurisdiction of
other courts to
cease.
Cf N.S.W., s. 11.
W.A., s. 20.
Vict., s. 15.

28 On and after the establishment of a children's court, the jurisdiction of every court of petty sessions (other than a children's court), and of every justice (other than a special magistrate) shall cease to be exercised within the area proclaimed in respect of the matters to which the children's court has jurisdiction, except in respect of offences committed against children, and except as to matters arising under the Acts referred to in Paragraph II. of Subsection (1) of the preceding section

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

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

Provided further that whenever it appears to a court of summary jurisdiction more desirable that any matter within the jurisdiction of the children's court (but not within its exclusive jurisdiction) should be heard in that court, that matter shall be remitted to the children's court.

Place of sitting.
Vict., s. 7.
See N.S.W., s. 12.

29 Every children's court shall hold its sittings—

- i. In some room of the building in which justices usually sit when hearing informations, but the children's court shall not be held in the same room as that in which a police magistrate or justice or justices are at the time sitting for the transaction of business other than that of a children's court or in which a justice or justices are sitting out of sessions : or
- ii. In any other building or room.

Appointment of
probation officers.
Vict., s. 8.

30 The Governor may appoint for any children's court or courts, or for the Supreme Court, One or more fit and proper persons, male or female, to be called "probation officers" who are willing to perform the duties assigned by this Act or the regulations to probation officers, and any such appointment may at any time be revoked.

Probation
officer subject
to directions and
orders of
children's court.
Vict., s. 9.

31 Every probation officer shall comply with the directions of the court for which he has been appointed, and shall obey all the lawful orders of such court with respect to any child under his supervision or his care and control.

Children of the State.

32—(1) It shall be the duty of every probation officer when required by a court— A.D. 1918.

- I. To investigate the circumstances of any complaint, charge, information, or application made in respect of any child and endeavour to ascertain his address and that of his parents: and
- II. To inquire and furnish such court with information as to the child's habits, conduct, and mode of living: and
- III. To render to such court such assistance as it may require; and
- IV. To visit and supervise any child before and after the hearing and determination of the case as may be directed by such court: and also
- V. To perform any other duties that the Governor may by regulation direct.

Duties of probation officers. Vict., s. 10.

(2) It shall be the duty of every probation officer under whose supervision a child has been placed, to advise, assist, and befriend such child, and when necessary to endeavour to find him suitable employment.

(3) Every probation officer may appear in any such court to represent the interests of any child, and when a child is not represented by a legal practitioner the probation officer may be heard in any such court on such child's behalf.

Powers of probation officers.

33—(1) Any child may be released by a court on probation, and if so released or if discharged on surety to appear for punishment when called upon or to be of good behaviour, such child shall if the court so orders be under the supervision of a probation officer of any court making such order or of a probation officer of some other court who shall for that purpose be deemed to be a probation officer of the court making the order as if he had been appointed for that court.

Child released conditionally to be under supervision of probation officer. Vict., s. 11.

(2) Every probation officer shall have as to the child under his supervision or care and control the powers of a police officer.

When probation officer to have powers of peace officer.

(3) At any time in his own discretion such probation officer may apprehend without warrant and bring any child under his supervision before the court which made its order respecting such child for further or other action as the court may see fit to exercise.

Probation officer may bring child under his supervision before court for further action.

34—(1) Where any child who under this Act—

- I. Has been released on probation:
- II. Has been discharged on his entering into a recognisance to appear for punishment when called upon or to be of good behaviour—

Powers of court with respect to children released on probation, &c. No. 2914, 1917, s. 9 (Vict.).

fails to observe any terms or conditions imposed upon him by a court at the time of his release or discharge the court may by notice given to the parent of such child or the person with whom he is living or the probation officer direct that such child be brought before such court at a time named in the notice; and if such child is not so brought before the court may issue a warrant to apprehend such child and to bring him before such court.

Children of the State.

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(2) If it appears to any court that such failure has occurred such court may (as the case requires) deal with such child in the same manner as if he had not been so released or discharged.

(3) This section shall be read and construed as in aid and not in derogation of any other provisions of this Act.

Powers of court
in cases of
children placed
under supervision
of probation
officer.
Ibid., Vict., s. 10.

35 Where a child has been placed by a court under the supervision of a probation officer such court if satisfied on the report of such probation officer that the parent of the child or the person with whom he is living has failed, neglected, or refused to comply with any condition imposed by such court for the child's welfare and health, may remove the child from the care of such parent or person and cancel any order already made by it, and further deal with the child according to law.

Exclusion of
public from court.
No. 2627, 1915,
s. 16 (Vict.).
N.S.W., s. 13.
Removal by
police.
Punishment for
disobedience.

36—(1) On the hearing of any complaint, information, charge, or application under this Act a children's court may order any persons who in its opinion are not directly interested in the case not being the counsel or solicitor for the prosecution or for the defendant or the clerk of such solicitor to leave the court-room or place of hearing and the precincts thereof, and in case of disobedience may direct any member of the police force to remove such persons; and also if it thinks fit so to do, in addition and on its own view, may impose on every such person so disobeying its order a penalty of not more than Forty Shillings and in default of payment forthwith, or without imposing any penalty at all, may order that he be imprisoned for a term of not more than Forty-eight hours. An order to leave the court-room or place of hearing shall not be made under this section with regard to any probation officer or with regard to the mother or sister or one female friend of any female witness under the age of Eighteen years or of any female defendant if desired by such witness or defendant to remain with her whilst necessarily present in court.

(2) It shall not be lawful to publish a report of the proceedings before the court, or the result of any such proceedings if such publication has been prohibited by the court.

Register of
children's court.
Vict., s. 18.

37—(1) The clerk shall keep a register independently of that used in the court of petty sessions of the minutes or memoranda of all convictions, orders, and proceedings of the children's court, in the prescribed form and with the prescribed particulars, and such register shall be distinguished by the name of the place at which such court is held as in the said form prescribed.

Certified extracts
to be evidence.

(2) Such register, and also any document purporting to be an extract from such register, certified by the clerk keeping the same to be a true extract, shall be *prima facie* evidence of the matters entered therein.

Justices to sign
register.

(3) The minutes or memoranda of every day's sitting of the children's court shall be signed by the special magistrate or justices constituting such court by and before whom the convictions, orders, or proceedings referred to in the minutes or memoranda were made or had.

Children of the State.

(4) Every such register shall be open for inspection, without fee or reward, by any justice, and by any person authorised in that behalf by a justice, or by a law officer of the Crown, or so far as relates to the proceedings in any particular case by any party to the proceedings, or by the parent of the child in respect of whom the entry is made.

A. D. 1918:

Register open for inspection.

Admission or Committal of Children of the State.

38—(1) Subject to the approval of the Minister any child under the age of Seventeen years, may on the application of its parent or near relative, or any person of good repute, be admitted by the Secretary as a child of the State.

Children admitted on application. Cf. s. 19 (Q.). 7 Ed. VII. No. 51 (Tas.).

(2) Every child so admitted may be dealt with in the same way as any neglected child committed by a children's court to the care of the Department.

39 Any justice may, upon oath being made before him by an officer of the Department or other person appointed by the Secretary in that behalf that, having made due inquiry, he believes any child to be a neglected or uncontrollable child—

Warrant for apprehension. N.S.W., s. 15.

- i. Issue his summons for the appearance of such child before a children's court: or
- ii. In the first instance, issue his warrant to a police officer or a probation officer directing such child to be apprehended.

40 A police officer or any person authorised by the Secretary in that behalf may, although the warrant is not at the time in his possession, apprehend any child for whose apprehension a warrant has been issued under the last preceding section.

Apprehension of child. N.S.W., s. 16.

41—(1) If it appears to any justice, on information laid before him on oath by any credible person, that there is reasonable cause to suspect that a child is in a place which is or is reputed or suspected to be a brothel, or where opium or any preparation thereof is smoked, or where he is associated with a thief, or where there is reasonable cause to suspect he is being ill-treated, such justice may issue his warrant authorising any person named therein to search in such place for any child, and to take such child to a receiving home to be dealt with under this Act.

Warrant to search for child suspected to be in brothel or place where opium is smoked, &c. N.S.W., s. 17.

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

(3) Every such warrant shall be addressed to and executed by some sergeant of police or officer of a higher grade in the police force, who shall be accompanied by the person laying the information (if such person so desires), unless the justice issuing the warrant otherwise directs.

(4) It shall not be necessary in the information or warrant to name the child.

Children of the State.

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Apprehension of
child in brothel,
&c.
N.S.W., s. 18.

42 Any person authorised by the Secretary in that behalf, or any officer of police, of or above the rank of senior constable, may without warrant apprehend a child—

- I. Who is in a place which is a brothel, or where opium or any preparation thereof is smoked : or
- II. Who, he has reason to believe, is a neglected or uncontrollable child.

Procedure when child
apprehended.
Vict., s. 19 (1).

43—(1) Where a child is apprehended as a neglected or uncontrollable child, or upon a charge for any offence, such child shall, if practicable, be taken before a children's court within Twenty-four hours, or if such a court does not sit within such time, before some justice out of sessions, or special magistrate acting ministerially out of court, to be dealt with according to law as provided by this Act.

Disposal of child
pending or during
adjournment of
hearing.

(2) When such child is apprehended, pending the hearing of the charge or information, or during any adjournment of the hearing thereof, such child shall be disposed of in one of the following ways:—

In receiving
home.
Under care of
private persons.

- I. Such child may be taken when practicable, expedient, or convenient, to a receiving home :
- II. When not so practicable, expedient, or convenient, having regard to distance, the condition or state of health, or the welfare of such child, such child may be placed with some respectable person or persons, and such arrangements or agreements may be made by a probation officer, or a police officer, as may be necessary or proper, with such person or persons for the care and maintenance of such child by them, or such probation officer, or police officer, if married, may place such child in his own dwelling under the care and supervision of himself and his wife, and may provide for his or her care and maintenance at a reasonable charge :
- III. Where the charge pending against such child is of so serious a nature that his safe custody is a matter of paramount importance, such child may be placed in a gaol or the lock-up of a police station, but must be kept apart from other prisoners :
- IV. Or such child may be admitted to bail.

In gaol or
lock-up.

(5) When such child has been brought before a children's court or a justice or special magistrate it or he may make an order in accordance with these provisions, which order shall be a sufficient authority for the detention of such child as aforesaid.

Bail.

Absconders may
be placed in gaol.

(6) If any such child escapes from the custody of any such persons or from any such place of detention he may be re-arrested as an absconder and placed in a gaol till the charge or information is dealt with by the children's court.

Warrant not
necessary to
child.

(7) In any of the abovementioned cases no warrant shall be necessary to authorise the detention of any such child, but if the right to the custody of any such child is called in question by *habeas corpus* or otherwise it shall be sufficient to give in evidence the said order of the children's court or justice or special magistrate and the authority granted by the provisions of this Act to the persons abovenamed.

Children of the State.

44 Any person having the actual care and custody of the child may apply to a children's court to commit the child to an institution upon the ground that the child is an uncontrollable child. The provisions of Section Forty-three of this Act shall apply to such child as if it were a child apprehended as an uncontrollable child.

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Application to
commit uncontrollable
child.
Cf. N.S.W., s. 21.

45 Where any child is charged before a children's court with being a neglected or uncontrollable child or with an indictable offence or with an offence punishable on summary conviction, or when any application is made to the said court with respect to any such child under the provisions of the last preceding section—

Parent's attend-
ance in court.
Ibid. s. 19.
Cf. N.S.W., s. 22

- i. The parent of such child shall be entitled to be heard on his or her behalf either personally or by a legal practitioner and may cross-examine witnesses for the prosecution and examine and re-examine witnesses testifying on behalf of the accused :
- ii. If the parent of the said child is not present the children's court may hear the charge, information, or application in his absence or may order a summons to be issued for the attendance of the parent before such court and may adjourn the hearing of the case in the meantime : and
- iii. If the parent neglects or refuses to attend accordingly without furnishing to the court a reasonable excuse after being duly served with such summons the children's court may order a warrant to be issued to bring him before the court at the hearing of the case and on his arrest he may be admitted to bail on entering into recognisances, with or without sureties, to attend at the court at the hearing.

Parent may
appear on behalf
of child.

Enforcement of
parent's attend-
ance by court by
summons.

By warrant

46 If on the hearing a children's court finds that any child charged with being a neglected or uncontrollable child is a neglected or uncontrollable child it may—

Power of court
with respect to
neglected or
uncontrollable
child.
N.S.W., s. 23.

- i. Release the child on probation upon such terms and conditions and for such period of time as the court may think fit : or
- ii. Commit the child to the care of the Department : or
- iii. Commit the child to an institution.

Provided that where a near relative applies for an order of committal of an uncontrollable child the children's court may decline to make the order unless security is given to the satisfaction of the court for the making of such payments as, in the opinion of the court, the applicant is able to afford towards the maintenance of such child.

47 Whenever a child is committed to the care of the Department, the order of committal shall be sufficient authority to any police officer or probation officer or officer of the Department to take the child to such institution as the Secretary may direct, or in default of any such direction to such receiving home as may be nearest or most convenient.

Order for
detention.
Cf., *ibid.* (Tas.),
s. 21.
Cf. N.S.W., s. 50.
Q., s. 22.

Children of the State.

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Power with respect to child liable to be summarily convicted.

N.S.W., s. 24.

Vict., s. 21.

W.A., s. 28.

Q., s. 24.

On conviction may discharge child on entering into recognisances with sureties.

May impose penalty.

Summary trial of children not over the age of Fourteen years for an indictable offence.

Procedure where parent deemed to have contributed to commission of child's offence.

Vict., s. 22.

N.S.W., s. 25.

Court may direct institution of proceedings against parent.

When parent present.

48—(1) Where a child is summarily convicted of an offence for which the penalty is punishment by imprisonment, or imprisonment in default of payment of a fine, the children's court shall not sentence such child to imprisonment, but may—

- i. Release the child on probation upon such terms and conditions and for such period of time as the children's court may think fit: or
- ii. Commit the child to the care of the Department: or
- iii. Commit the child to an institution: or
- iv. Upon convicting the child discharge him conditionally on his entering into recognisance for a nominal sum with a surety or sureties to the satisfaction of the court in such sum as the court thinks reasonable and proper, to appear for punishment when called upon, or be of good behaviour for a term of not more than Twelve months, and also if it thinks fit, in addition, to order him to pay such damages and costs or either of them as the court thinks reasonable: or
- v. Adjudge the child to pay a penalty of not more than Forty Shillings.

(2) Instead of summarily convicting a child of any offence referred to in Subsection (1) of this section, the Children's Court may dismiss the information subject, if it thinks fit so to order, to the condition that the child pay such damages and costs of the proceedings or either of them as the court thinks reasonable.

49 Where any child whose age does not exceed Fourteen years is charged before a children's court with any indictable offence other than rape, homicide, attempt to murder, or wounding with intent to do grievous bodily harm, the court (notwithstanding the provisions of any Act to the contrary) shall not commit such child for trial at the Supreme Court, but shall deal summarily with the offence, and in its discretion if it finds the charge to be proved, may deal with the case in any of the modes specified in the next preceding section, which the court is empowered to adopt in respect of offences dealt with under that section.

50—(1) Where a child is summarily convicted by a children's court of an offence in respect of which a penalty, damages, or costs, or any one or more of them is or are adjudged to be paid, and the court has reason to believe that such child's parent has contributed to the commission of the said offence by wilful default or by habitually neglecting to exercise due care of the said child, the children's court may direct a member of the police force to forthwith charge such parent with so contributing to the commission of the said offence, and if the parent is present and does not ask for an adjournment of the hearing of the charge to enable him to answer it, such court may hear the charge there and then, and on being satisfied that it is proved may convict the said parent thereof.

Children of the State.

(2) Provided that where it is shown that a parent's want of pecuniary means is the cause of such default or neglect, the charge shall be held not proved. A.D. 1918.

(3) If the said parent is not present the children's court may direct a member of the police force to obtain a summons on such charge against the parent of such child, and upon the day appointed by the summons for the hearing of such charge, and after due service thereof on the said parent, the court on being satisfied that the charge is proved, may convict the said parent thereof. When parent not present.

51—(1) Where the children's court convicts the parent of the charge as aforesaid it may in and by its conviction adjudge the said parent to pay the penalty, damages, or costs, or any one or more of them that his child has been adjudged to pay instead of him, and may in addition order the said parent to forthwith enter into his own recognisance with or without surety for the good behaviour of such child for any period not less than Three months or more than Twelve months, and in default of such recognisance being entered into accordingly, may order the said parent to be imprisoned for a term of not more than Three months. May adjudge parent to pay penalty, damages, or costs instead of child. Vict. s. 28.

(2) Any such sums so adjudged to be paid by such parent may be recovered from him by distress, and in default of distress he may be imprisoned for not exceeding Six months. Recovery of sums so adjudged to be paid.

(3) Where the parent is so adjudged to pay all or any of such sums as aforesaid, the children's court shall permanently suspend enforcement of the payment of the said sums so adjudged to be paid by the said child convicted in the first instance, but these provisions shall not prejudice the right of the court to deal with the said child as a "neglected child" under this Act, in which event the said parent shall not be ordered to enter into a recognisance as aforesaid for the child's good behaviour. Suspension of conviction against child

52—(1) Where a child over the age of Fourteen years and under Seventeen years is charged before a children's court with an indictable offence other than rape, homicide, attempt to murder, or wounding with intent to do grievous bodily harm, and is not dealt with summarily, the children's court may— Power with respect to child charged with certain indictable offences. N.S.W., s. 26.

- i. Release the child on probation upon such terms and conditions and for such period of time as the court may think fit: or
- ii. Commit the child to the care of the Department: or
- iii. Commit the child to an institution: or
- iv. Commit the child to take his trial according to law.

(2) When a children's court has committed a child to take his trial for an indictable offence other than rape, homicide, attempt to murder, or wounding with intent to do grievous bodily harm, the Minister may commit the child to an institution, if no information shall be filed in the Supreme Court or a *nolle prosequi* shall have been entered in regard to proceedings against the child. Child committed for trial may be sent to institution.

Children of the State.

A.D. 1918.

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

Court to hear evidence on behalf of child.

53 Where a child is charged before a children's court with any offence other than rape, homicide, attempt to murder, or wounding with intent to do grievous bodily harm, or is brought before a court as a neglected or uncontrollable child, the court, before making any order or committal, shall give the child or his parent an opportunity to call evidence, or make a statement, and shall hear any evidence that may be tendered by or on behalf of the child.

As to Sections 46, 48, 52, or 55. N.S.W., s. 28.

54 When a child has been released on probation under Sections Forty-six, Forty-eight, Fifty-two, or Fifty-five the following provisions shall apply:—

- i. The child and the premises wherein he resides shall be subject to inspection by the probation officers of the court which released such child on probation, or officers appointed in that behalf by a court or any officer of the Department:
- ii. Any person having the care of a child as aforesaid who neglects or ill-treats such child shall be liable to a penalty of Five Pounds, to be recovered in a summary way, and the child may be removed from his custody and control by the Minister.

Child convicted of indictable offence may be sent to institution. N.S.W., s. 30.

55 Subject to the provisions of Sections Fifty-eight, Fifty-nine and Sixty where a child upon his trial in the Supreme Court has pleaded guilty to or has been convicted of an indictable offence, the court or judge shall not sentence such child to imprisonment, but may—

- i. Discharge the child on his entering into a recognisance; or
- ii. Release the child on probation upon such terms and conditions and for such period of time as the court or a judge thereof may think fit; or
- iii. Commit the child to the care of the Department; or
- iv. Commit the child to an institution; or
- v. Order the child to pay a fine, damages, or costs; or
- vi. Order the parent or guardian of the child to pay a fine, damages, or costs; or
- vii. Order the parent or guardian of the child to give security for his good behaviour.

Form of committal. N.S.W., s. 31.

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

Provided that in the case of a child charged with an indictable offence, such committal may be made to a reformatory school, and if so made, shall, subject to the provisions of Section Sixty-five, be for the period named.

Children of the State.

57 A child on being committed to an institution may, in the discretion of the court, be placed temporarily in a receiving home.

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58 Sentence of death shall not be pronounced on or recorded against a child by the Supreme Court or a judge thereof, but in lieu thereof the court or judge shall sentence the child to be detained during His Majesty's pleasure, and if so sentenced, he shall, notwithstanding anything in the other provisions of this Act, be liable to be detained in such place and under such conditions as the Governor may direct, and whilst so detained shall be deemed to be in legal custody.

Children to be placed in receiving home. N.S.W., s. 32.

Abolition of death sentence in case of children. Ch. 67 1908, s. 103, (Eng.).

59 Where a child is convicted on an information filed in the Supreme Court of rape or an attempt to murder, or of manslaughter, or with wounding with intent to do grievous bodily harm and the Supreme Court or a judge thereof is of opinion that no punishment which the court or judge is authorised to inflict is sufficient, the court or judge may sentence the offender to be detained for such period as may be specified in the sentence; and where such a sentence is passed the child shall during that period, notwithstanding anything contained in any Act, be liable to be detained in such place and on such conditions as the Governor may direct, and whilst so detained shall be deemed to be in legal custody.

Detention in the case of certain crimes committed by children. *Ibid.*, s. 104.

60--(1) A person in detention pursuant to the directions of the Governor under the last two foregoing sections of this Act may, at any time, be released by the Governor on licence.

Provisions as to release of child detained according to directions of Governor.

(2) A licence may be in such form and may contain such conditions as the Governor may direct.

Ibid., s. 105

(3) A licence may at any time be revoked or varied by the Governor, and where a licence has been revoked the person to whom the licence related shall return to such place as the Governor may direct, and if he fails to do so, may be apprehended without warrant and taken to that place.

61 The Minister as soon as practicable shall endorse on the order of committal the name of the institution and the place where the child is to be detained.

Child placed in institution. N.S.W., s. 33.

62 The Minister, with respect to any child who has been committed to, or is an inmate of any institution, shall determine the particular institution in which the child shall be placed and detained. Provided that no child may remain in a receiving-home for more than Three months, except by permission of the Minister.

Minister to determine particular institution. Cf. N.S.W., s. 35.

63 At the inquiry or hearing into any charge or information against a child the children's court shall be guided by the real justice of the case without regard to legal forms and solemnities, and shall direct itself by the best evidence it can procure or that is laid before it.

Procedure at inquiry or hearing. Vict., s. 29.

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Procedure on
requiring
appearance before
the court for
punishment of a
child who has
been released on
surety so to
appear.

Vict., s. 30.

Notice in
writing.

Service of notice.

On child's failure
to appear
recognisance to
be forfeited and
warrant of
apprehension
issued.

No detention
after age of 18.
W.A., ss. 30, 31.
Q., s. 25.
Cf. N.S.W., s. 34
S.A., ss. 38, 39.
Child over 16
may be detained
for Two years.

Governor may
extend period of
detention.
W.A., s. 40.
Q., s. 32.

Discharge of
State child.
W.A., s. 38.
Q., s. 29.

64—(1) Where any child has been convicted under this Act and discharged conditionally upon his entering into a recognisance in a nominal sum with a surety or sureties to appear before the children's court for punishment when called upon, and the said court at any time thinks fit to call upon such child to appear before the said court for punishment, such call may be effected and shall be sufficient if a notice in writing signed by the clerk of the children's court and addressed to such child and his surety or sureties is served on such surety or sureties commanding such child to appear, and his said surety or sureties to produce him, before some sitting of the court at a certain time and place therein mentioned to receive punishment for the offence of which he had been convicted by the said court.

(2) Service of the said notice may be effected either by prepaid letter sent by post to the address of the surety or sureties mentioned in the recognisance so as to reach such address by ordinary course of post Seventy-two hours before the time named in the said notice for the appearance of such child before the children's court, or as service of a summons may be effected under "The Magistrates Summary Procedure Act."

(3) After being so served with such notice if such child does not appear before such court for punishment accordingly the said court may declare the recognisance to be forfeited and may issue a warrant for the apprehension of such child and any justice may dispose of him in the manner provided in this Act for the disposal of a child pending the hearing of a charge or information, and order him to be brought before the next sitting of the court to be dealt with according to law.

65 Except as in this Act otherwise provided, no child of the State shall be detained in any institution after attaining the age of Eighteen years.

Provided that if any child at the time of being committed to an institution is upwards of Sixteen years of age, such child may be ordered to be detained in an institution, or otherwise dealt with under this Act, for a period of not exceeding Three years, notwithstanding that such period would extend beyond the time of such child attaining the age of Eighteen years.

66 The Governor may order that the period of care or of detention of any child of the State shall be extended until such child shall attain the age of Twenty-one years or for any shorter period.

67 Notwithstanding anything contained in this Act, the Governor may upon the recommendation of the Minister order the discharge of any convicted child and the Minister may order the discharge of any child of the State other than a convicted child from the control of the Department or from any institution, and the child shall be forthwith discharged accordingly.

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Such discharge may, if the Governor or Minister, as the case may be, thinks proper, be a discharge on probation on such conditions (if any) as may be imposed, and in such case the child shall be subject to the care of the Department until he attains the age of Twenty-one years, or for such shorter period as the Governor or the Minister, as the case may be, determines.

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68—(1) Every order committing a child to the care of the Department or to an institution shall contain a statement of the age and religion, so far as can be ascertained of such child, and the cause for which the child is to be detained.

Form of order.
W.A., ss. 34, 35.
Cf. Q., s. 27 (2).
S.A., ss. 43, 44,
45.

(2) If there shall be an absence or insufficiency of positive evidence or information as to the age of any child, the court may on view determine the age of such child, and shall insert in the order the age so determined.

(3) The statement in any order that the child therein named is of a certain age and religion may, for the purposes of this Act, be taken to be true, unless within Six months from the date of the order the Secretary shall be satisfied to the contrary, and shall indorse on the order the correct age or religion.

Statement of age
and religion to be
prima facie
evidence.

69 Any child of the State who absconds from any institution, or from his foster-mother, or foster-parent, or from any person in whose custody he is placed, or who, whilst liable to detention, refuses or neglects forthwith to return to such institution or custody as the Secretary may order, may be apprehended without a warrant by any police officer, or by an officer of the Department, and conveyed to such institution or custody as the Secretary may direct.

State children
absconding, &c.,
may be apprehended
without warrant.
W.A., s. 37.
Cf. Q., s. 28,

70 The Secretary or the managers of any certified institution, as the case may be, may, by indentures of apprenticeship, bind any child of the State apprentice to be taught such trade or calling as the Secretary or such managers approve.

The Department
or managers
may apprentice
children.
W.A., s. 41
Q., s. 33.

Such indentures shall be as effectual without being executed by the child as if the child were of full age at the date thereof, and had voluntarily executed the same.

71 Subject to this Act the Secretary or the managers of any certified institution, as the case may be, may place out any child of the State for such period as the Secretary or managers think fit.

Secretary or
governing
authority may
place out children
W.A., s. 34.
Q., s. 34.

A child of the State shall not be placed out with any person who is the holder of a hotel or public-house licence.

Nothing in this section shall authorise the placing out of any child for any time extending beyond the period of detention of such child.

72—(1) Every child of the State over the age of Seven years shall be sent regularly to a State school in compliance with "The Education Act, 1885," or be regularly and efficiently instructed in some other manner until such child attains the age of Fourteen years. If considered advisable the Minister may extend the limit of school age.

State children
to attend school
regularly.
W.A., s. 43.
Q., s. 37.
49 Vict. No. 15
(Tas.).
Q., s. 38

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- (2) No child of the State shall be apprenticed or placed out for hire —
- I. If he is under the age of Fourteen years: nor
 - II. Unless a medical certificate of physical fitness for employment has been obtained in respect of such child.

(3) Any parent or foster-parent committing or permitting any breach of this section shall be guilty of an offence against this Act, unless for good cause shown he shall be specially exempted by the Minister.

Certain children not to be placed out.

Q., s. 36.

The apprenticing or placing out of children to be subject to regulations.

Provisions in indentures.

W.A., s. 45.

Q., s. 39.

73 No child who is suffering from enthetic disease shall be placed out.

74 The apprenticing or placing out of a child of the State by the managers of any institution shall be subject in all respects to the regulations made under this Act.

75—(1) All agreements for the placing out for hire of children of the State under this Act shall be in the form approved by the Minister.

(2) All indentures of apprenticeship shall be in the form prescribed by or under "The Wages Boards Act, 1910," whenever applicable, but otherwise shall be in such form as the Minister shall approve.

(3) All such agreements and indentures shall (in addition to the provisions, if any, prescribed under "The Wages Boards Act, 1910"), contain provisions respecting the maintenance of such children, and for the due payment of such wages as may be payable thereunder, and shall be exempt from stamp duty.

(4) Any indentures executed in conformity with the provisions of this Act shall be good and valid indentures for all purposes under "The Wages Boards Act, 1910," and enforceable in the same manner as if the same were in a form (if any) prescribed under that Act.

Wages may be paid into savings bank.

Cf. W.A., s. 46.

Q., s. 40.

76 All wages earned by a child of the State, except such part thereof as the employer is required to pay to the child personally as pocket-money shall be paid by the employer to the guardian of the child or other person mentioned in the indentures or agreement.

The guardian or such person shall deposit every amount so paid in a savings bank in trust for the child.

Moneys banked may be expended for the child's benefit.

Cf. W.A., s. 47.

Q., s. 42.

77—(1) All or any part of the money so deposited, and any interest thereon, may be expended for the benefit of the child when and in such manner as its guardian may from time to time deem advisable.

(2) When a child of the State is discharged his guardian shall pay to him or expend for his benefit, as the guardian thinks fit, such portion of the money earned by the child as aforesaid, and then in the savings bank, as the guardian thinks advisable.

Any such payments may be made by instalments if considered advisable.

Any balance not so paid to the child or applied for his benefit shall remain in the savings bank at interest until the child attains the age of Twenty-one years, and shall then be transferred to the child on application and proof of his identity.

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78 The wages or earnings due by any person on account of any child of the State may be sued for and recovered by and in the name of the guardian of the child or of any other person mentioned in the indenture or agreement as aforesaid for the benefit of the child.

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Guardian may
recover wages.
W.A., s. 48.
Q., s. 41.

79 On the death of a child of the State, the money held in trust to the credit of the child in any savings bank pursuant to this Act shall, after payment thereof of any funeral or other expenses approved by the Minister, be paid into the Consolidated Revenue.

Disposal at death.
Cf. W.A., s. 47.
Q., s. 44.

80—(1) The foster-parent of any child of the State may, by an assignment bearing the consent of the Secretary or the managers, as the case may be, but not otherwise, assign the indentures of apprenticeship or agreement for placing out in relation to such child to any fit and proper person.

Indentures of
apprenticeship,
agreement, or
placing-out may
be assigned with
consent of
Secretary.

(2) Every such assignment shall be executed in duplicate by the assignor and assignee, and one part of the assignment so executed shall be forthwith forwarded to the Secretary or managers by the assignor, and thereafter the indentures or agreement placing out, shall, for the purposes of this Act, be read and construed as if the assignee had originally been party thereto in the place of the assignor.

(3) Every foster-parent who assigns any indentures of apprenticeship or agreement without such consent as aforesaid shall be guilty of an offence against this Act, and the assignment shall be null and void.

81—(1) The Minister may at any time by order require any child of the State placed out or apprenticed forthwith to surrender himself at any institution or to any person to be named in the order.

Minister may
order return of
child apprenticed
or placed out.
Q., s. 48.

(2) The Minister may by the same or a separate order, and without incurring any liability for breach of contract or otherwise cancel the indentures of apprenticeship or agreement relating to any child of the State, and require the person with or to whom such child is placed out or apprenticed forthwith to deliver such child at an institution or some person to be named in the order.

(3) Any police officer or officer of the Department may, without warrant, take into custody such child and bring him to the institution or person named in the order, and for such purpose may enter upon or into any land, house, building, or vessel whereon or wherein the child is or is supposed to be.

82 No person with or to whom a child of the State is placed out or apprenticed shall change his place of residence without giving to the Secretary or the managers the prescribed notice.

Change of
residence to be
notified by
foster-parent.
W.A., s. 52.
Q., s. 45.

83 If a child of the State apprenticed or placed out absconds, becomes ill, meets with an accident, or dies, the person with or to whom such child is placed out or apprenticed shall immediately give such notice and do all such further acts and things as may be prescribed.

Notice to be
given if child
absconds,
becomes ill, or
dies.
W.A., s. 54.
Q., s. 47.

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Department to have general supervision of State children. W.A., s. 55.
 Children of the State to be visited. W.A., s. 56.
 Q., s. 49.
 Tas., s. 24.

84 The Department shall have general supervision over all children of the State detained in any institution or placed out for adoption or otherwise, or apprenticed.

85—(1) The Secretary shall cause all children of the State to be visited once at least in every Three months by an officer of the Department, or person appointed for that purpose by the Secretary, to ascertain whether the stipulations of the indentures of apprenticeship or agreements respecting such children have been fulfilled, and that the treatment, education, and care of such children are satisfactory.

(2) The managers of any institution or any person authorised by such managers may for the like purpose visit any child of the State apprenticed or placed out by such managers.

(3) Every person with or to whom a child of the State is placed out or apprenticed, shall at the request of any such officer, managers, or person—

- i. Produce the child and his outfit or show cause to the satisfaction of the officer, managers, or person, for the non-production or absence of such child; and
- ii. Permit an examination to be made of such outfit and the sleeping and other accommodation, and food provided for such child; and
- iii. Permit such officer, managers, or person, out of the presence and hearing of such first mentioned person, to examine and question such a child.

Payments for maintenance of State children to foster-mother. W.A., s. 58.

86 The Minister may, out of any moneys which may from time to time be appropriated by Parliament for that purpose, pay to the foster-mother of any child for the care and maintenance of such child, such sum as he thinks reasonable and proper.

PART VI.

MAINTENANCE OF CHILDREN BY THEIR RELATIVES.

Order of liability of near relatives for maintenance of any child. W.A., s. 59.
 Q., s. 50.

87 The undermentioned near relatives of any child of the State shall be liable to pay or contribute towards the maintenance of such child according to their several abilities, and in the following order, namely—

- i. In the case of a legitimate child—Father, mother, stepfather, stepmother, brothers and sisters, grandparents;
- ii. In the case of an illegitimate child—Father, mother.

On complaint court to issue summons. W.A., s. 60.
 Q., s. 51.

88—(1) Upon complaint that any persons are near relatives of any child of the State, and are able to pay or contribute towards the maintenance or past maintenance of such child, such persons or any of them may be summoned to appear before a children's court at a time and place to be named in such summons, to show cause why they or he should not pay for or contribute towards the past or future maintenance of such child.

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(2) The court may adjourn the hearing, and may summon any other persons alleged to be near relatives to appear at the adjourned hearing. A.D. 1918.

(3) If the court is satisfied that the persons summoned, or any of them, are near relatives, and are able to, and in the opinion of the court, should pay for or contribute towards the past or future maintenance of such child, the court may order payment to be made by such near relatives, or some One or more of them to the Secretary, or to the managers of an institution as the court thinks fit—

Court may order payment of maintenance. W.A., s. 61.

I. Of such sum for past maintenance of the child as seems sufficient: and

II. Of such sum for future maintenance, and for such period and by such instalments as the court deems sufficient.

(4) If a maintenance order is made against Two or more near relatives, 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 court seems fit.

(5) No maintenance order shall be made for payment in advance for future maintenance, otherwise than by periodical instalments not exceeding Four weeks in advance, without the consent of the Secretary.

(6) Every maintenance order shall be served upon the persons against whom the same is made personally; or in such manner and at such place as may be prescribed, or as the children's court shall direct; but the order shall take effect from the time of its pronouncement, notwithstanding that the formal order has not been signed or served.

Order to take effect from pronouncement. W.A., s. 62.

89—(1) In any case in which a maintenance order under this Act might be made against any near relative of any child of the State, the Secretary or a children's court may in lieu thereof accept from such near relative or any other person an undertaking to pay.

Undertaking may be given.

The undertaking shall have the same effect as a maintenance order; and if it contains a direction to any other person to pay into court any sum owing or to become owing to such near relative, such sum shall become and be attached in the hands of such person and the provisions of Section Ninety-one shall *mutatis mutandis* apply.

(2) Any proceedings authorised under a maintenance order may be taken against any person who has signed an undertaking.

(3) A children's court may at any time rescind any undertaking given under this section and make a maintenance order.

90 Upon the hearing of any complaint under this Act in respect of the maintenance of a legitimate child of the State, the averment in the complaint that the person complained against is a near relative liable to maintain, and is able to pay or contribute towards the maintenance of such child, and that any sum has been expended upon, or is due, or owing for, or in respect of maintenance, shall be sufficient evidence of the facts; and the onus of proving that such person is not a near relative, or is not able to pay or contribute towards the maintenance of such child, or that some other person is prior in order of liability, or that the sum stated to have been expended, or to be due, or owing, was not expended, or is not due, or owing, shall lie upon the defendant.

Allegations in complaint *prima facie* evidence. W.A., s. 63. Q., s. 56.

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Attachment of property of persons against whom order is sought.
W.A., s. 66.

91—(1) Upon complaint made under Section Ninety of this Act, notice may be given by the Secretary to any banker or other person having, or supposed to have, the care, custody, or control of any money or property of, or belonging or payable to, any person complained against, not to pay or part with the possession of such money or property until such complaint has been heard and determined, and such money and property shall thereby become and be attached in the hands of the person having the care, custody, or control thereof, who shall be compellable to give evidence on the hearing of such complaint as to all matters relating to or concerning such money or property.

(2) Any person who, after receipt of any such notice, pays or hands over any such money or property otherwise than in accordance with the order made by a children's court, or who neglects or refuses to comply with the order made, shall be personally liable to pay to the Secretary the amount of money or the value of the property ordered to be paid or handed over, and such amount or value may be recovered before the court in a summary way.

Court may make orders for delivery, &c., of attached property.
W.A., s. 67.

92 The children's court hearing any such complaint may direct that the money or property attached, or any portion thereof, shall be paid or handed over to the Department or to the person to whom the maintenance money is ordered to be paid, and the person having the care, custody, or control thereof shall pay or hand over the same accordingly, and shall be thereby discharged from all liability to the owner thereof, or any person claiming under him in respect of the money or property so paid or handed over.

Court may require security for compliance with order.
W.A., s. 68.
Q., s. 55.

93 A children's court on the hearing of a complaint that any person liable upon any maintenance order made under this Act has made default thereunder, or intends to evade compliance therewith, may order that the person liable for the maintenance shall find good and sufficient security that he will comply with the order made against him.

The children's court may, by this lastmentioned order or by a further order on the same complaint, adjudge that in default of such security being found, such person shall be imprisoned for any period not exceeding Six months, if the order for security is not sooner complied with.

The children's court may determine upon the sufficiency of any proposed security, and in what manner the security shall be given.

Power to increase amount.
W.A., s. 69.
Q., s. 57.

94 The amount of the weekly payments payable in respect of maintenance, under any order made under this Act, may, by any subsequent orders from time to time made by a children's court, be increased if the persons liable are able to pay such greater amount.

Orders may be varied, &c., on further inquiry.
W.A., s. 58.
Q., s. 58.

95—(1) On the complaint of a near relative liable upon a maintenance order under this Act, all or any of the persons alleged to be near relatives, may be summoned to appear before a children's court.

(2) At the hearing, or at any adjourned hearing, the court may make further inquiry as to the means and ability of the complainant,

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and as to the relationship to the child of the persons summoned, and as to their several abilities to maintain or contribute towards the maintenance of such child, and may make such order increasing, reducing, or varying the periodical sum to be thenceforth paid by the complainant, or suspending for a specified time or annulling the previous order, or directing that the persons so summoned, or some or one of them, shall thenceforth pay for or contribute towards the maintenance of the child, or may make such other order not inconsistent with this Act, as appears just.

96 Subject to the provisions of a maintenance order, any officer of the Department, and any police officer when so directed by the Commissioner of Police, may demand, collect, and receive from any person liable to pay the same all sums of money due to the Department under any maintenance order, and the receipt in writing of any such officer for moneys paid to him shall be a sufficient discharge therefor.

97—(1) If any money payable under a maintenance order is in arrear for One month, a police magistrate may issue a warrant authorising the Secretary, or some person named in such warrant, to receive the whole or part of the rents, profits, and income of the real and personal estate or business, or any part of the wages or salary already earned or thereafter to be earned of the person against whom such order was made.

(2) No notice or demand whatsoever shall be requisite before issuing any such warrant as is mentioned in this section or before exercising all or any of the powers thereby conferred.

(3) Any person, who after service of a copy of such warrant upon him, pays or hands over any such rents, profits, income, wages or salary, otherwise than in accordance with the tenor of such warrant, or who neglects or refuses to comply with the directions of such warrant, shall be personally liable to pay to the secretary or person named in the warrant the moneys by the warrant directed to be paid or handed over, and the amount of such moneys may be recovered before a children's court in a summary way.

98 The payment to the Secretary or person named in any such warrant shall be a good discharge to any person for all moneys paid by him pursuant to such warrant.

99 The rents, profits, income, wages, or salary received under any such warrant, shall be applied first in payment of the costs of collection; next in payment of the costs of obtaining such warrant; thirdly, in paying any money due under the original order; and the balance shall be applied in or towards future maintenance, or in such other manner as a children's court may direct.

100 All complaints under this part, except where otherwise provided, shall be made by the Secretary or an authorised officer.

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Collection by the police of moneys due to the Department. W.A., s. 71.

Warrants may be granted to enforce payment under orders W.A., s. 73.

Warrant may be issued without previous demand. W.A., s. 77.

Payment under warrant to discharge persons paying. W.A., s. 78.

Application of moneys received under warrant. W.A., s. 79.

Who may complain. W.A., s. 60. Q., s. 60.

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PART VII.

FOSTER-MOTHERS AND NURSING HOMES.

Repeal of certain portions of No. 51 of 1907.

101—(1) The following parts and provisions of “The Infant Life Protection Act, 1907” (in this section referred to as “the said Act”), are hereby repealed:—

- i. The words and figures in the Third and Fourth lines of Section Two:
- ii. The definitions of “nursing home” and “relatives” contained in Section Four:
- iii. The whole of Parts II. and III.:
- iv. Paragraph II. of subsection (7) of Section Forty:
- v. Sections Forty-one and Forty-two:
- vi. All the words of Section Forty-four except the following, namely:—

“The Governor may from time to time make regulations for giving effect to this Act. Such regulations may impose a penalty not exceeding Twenty-five Pounds for any breach of the same.”

Saving.

(2) All orders, registrations, registers, certificates, rolls, and notices, in existence or in force under Part II. of the said Act at the time of the repeal of that Part shall, in so far as is not inconsistent with this Part, continue as if this Part had been in force when they were respectively made, effected, kept, issued, or given, and they had been respectively made, effected, kept, issued, or given under this Part, and as if, in the case of a certificate of the registration of any person as the occupier of a nursing home, such certificate were a licence issued under this Part to such person as a foster-mother.

(3) Upon the repeal of Part II. of the said Act the secretary shall be entitled to the custody of the register kept under that Part, and all records, documents, and writings relating solely to transactions under that Part.

Application of Act.
No. 51, 1907, s. 5 (Tas.).

102 This Part of this Act shall not extend to—

- i. The near relatives or lawful guardians of any child, not being a child of the State, retained or received by such relatives or guardians:
- ii. Any person or institution of a public nature exempted for the time being from the operation of this Act by special order of the Minister.

Interpretation.

103 In this Part of this Act “infant” means and includes—

- i. Any child of the State:
- ii. Any infant under the age of Five years which is not a child of the State.

Foster-mothers to be licensed and nursing homes registered.
Ibid., s. 6 (Tas.).

104—(1) No person shall, retain in or receive into the care of such person or charge in any house any infant for the purpose of either—

- i. Nursing or providing for such infant apart from its parents for a longer period than Twenty-four hours; or
- ii. Adopting such infant—

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unless such person, in this Act called a "foster-mother," is licensed for any such purpose in respect of such house, and such house is also registered as a nursing home under this Act.

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(2) The Secretary or any person authorised by him may receive payment of any sum in advance for the keep and care of any child in a nursing home, and may pay out such money in such monthly instalments as he deems requisite. In case of the death of the child, any sum unexpended after payment of funeral expenses shall be returned to the person entitled to receive the same.

Payments.

105 The Secretary shall cause a register to be kept in which shall be entered the name of every foster-mother who applies to be licensed, and to have her house registered as a nursing home under this part, and the situation of such nursing home, together with the maximum number of children that may be nursed therein, and such other particulars as may be prescribed.

Manner of licensing and registration.

Ibid., s. 7 (Tas.).

Every such licence or registration shall, unless cancelled under this part, remain in force until the Thirty-first day of December next following the making thereof, and no longer, unless the same is renewed.

Licences and registrations may be renewed during the month of December in which the same expire, and renewals shall take effect from the first day of January next ensuing, and shall, unless cancelled under this part, remain in force for One year.

No fee shall be payable for any licence or registration or renewal.

The secretary shall give to the licensed foster-mother a licence and a certificate under his hand of the registration of the nursing home or renewal of registration, which shall in all matters be *prima facie* evidence of such licence, registration, or renewal. The certificate in respect of the nursing home shall disclose the maximum number of infants permitted to be kept therein.

106 The Secretary may refuse to licence any foster-mother or to renew any licence unless he is satisfied that the applicant is of good character, and able properly to nurse and provide for any infants in her care or charge, and is in good health and free from any constitutional disease or complaint.

Secretary may refuse to register.
Ibid., s. 8 (Tas.).

The Secretary may refuse to register or renew the registration of any nursing home, unless he is satisfied that the house is suitable for the purpose, and is situated in a suitable locality.

107—(1) Every licensed foster-mother shall keep at her nursing home a roll, in which she shall immediately enter the name, sex, and age of each infant retained in or received into her care or charge.

Roll of nursing home.

Ibid., s. 9 (Tas.).

She shall, immediately, also enter in such roll opposite the name of each infant the date when such infant was so retained or received, and the full names and places of residence and occupations of its parents, and of the person by whom such infant was left, or from whom it was received, and, if such last-mentioned person is a married woman, the

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A.D. 1918: full name and the occupation of her husband, and also particulars of the periodical payments to be made in respect of such infant and by whom they are to be made.

In case of default in the making of any such periodical payments she shall also, within Three days after the same become due, give written notice in prescribed form to the Secretary of the fact of such default.

(2) If any such infant is removed from such nursing home, whether before or after attaining the age of Five years, such foster-mother shall immediately after such removal enter in such roll the date of such removal and the full name and place of residence and occupation of the person by whom such infant was removed.

(3) Every licensed foster-mother shall cause the person from whom an infant is received, or by whom an infant is removed, to sign such entry, and shall forward to the secretary a copy of each such entry within Three days after the reception or removal of each infant.

(4) She shall at all times forthwith upon demand by any officer of the department or member of the police force of or above the rank of sergeant produce such roll to such officer or member, who may examine and peruse the same, and, if he thinks proper, retain it.

Duty and responsibility of foster-mother.
Ibid., s. 10 (Tas.)

108 It shall be the duty of every licensed foster-mother to provide every infant, while in her care or charge, with proper and sufficient clothing, food, nursing, and attention, and with all other necessaries of life, and to keep every part of the nursing home at all times in a fit and proper state for the reception of infants, and to do, observe, and carry out all the acts, requirements, and directions prescribed by this Act or by any order of the Secretary or authorised officer in relation to the nursing home. And the Secretary or authorised officer is hereby empowered to make any such order having for its object the effectual execution of the foregoing provisions.

And every such foster-mother shall be held responsible not only for her own acts or default in relation to the nursing home, but also for any act or default of any member of her family, or of any person employed by her at or in connection with the nursing home.

Licences and registrations may be cancelled.
Ibid., s. 11 (Tas.)

109 If at any time it is made to appear to the Secretary that any licensed foster-mother has been guilty of neglecting any infant in her care or charge, or is incapable of providing any such infant with proper food or attention, or that the nursing home is unfit for the reception of infants, or if for any other reason it appears to the Secretary desirable so to do, he may, after at least Seven days notice in writing, served by leaving the same at the nursing home, cancel the licence of such person and the registration of such nursing home.

The Secretary shall immediately remove from such nursing home all children of the State and place them in another nursing home, or make other adequate provision for them.

The Secretary may at any time after giving such notice of cancellation to any foster-mother, by order in writing under his hand, addressed to the person who is by contract or otherwise legally responsible for the maintenance of any infant (not being a child of the State) placed in the care of such foster-mother, require such person to at once remove

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such infant from the nursing home of such foster-mother, and place it in another nursing home, or make other adequate provision for it, and if the person so ordered, upon a copy of such order being served upon him, fails to forthwith obey such order he shall be guilty of an offence against this Act. A.D. 1918.

The Secretary may also remove from any such nursing home any infant (not being a child of the State), and the Department may take it into its care temporarily, pending the restoration of such infant to its relatives or guardians, or until it can be lawfully disposed of; and in any such case the Secretary may recover the cost of the removal, maintenance, and clothing of and medical attendance upon such infant from the person, by contract or otherwise legally responsible for the maintenance of such infant.

The removal of any infant from the nursing home of any foster-mother whose licence has been cancelled under this section shall terminate any contract made with such foster-mother respecting such infant.

110 Every licensed foster-mother shall, within Twenty-four hours after the death of an infant in her care or charge, give or cause to be given notice thereof to the police officer in charge of the nearest police station, and thereupon an inquest shall be held.

Notice to be given of death of infant; inquest to be held, and report made to Minister. *Ibid.*, s. 13 (Tas.).

The coroner holding such inquest shall inquire not only into the immediate cause of death, but into all such circumstances as may throw any light upon the treatment and condition of the infant during life, and also into any other matters in his opinion requiring investigation in the interests of public justice; and such coroner after holding such inquest shall report to the Minister the cause of death, and shall in such report make such remarks with respect to the matter as to him seem fit.

No infant dying while in the care or charge of a foster-mother shall (unless such infant is the child of such person) be buried without the production of a certificate under the hand of such coroner authorising such burial.

111—(1) The Secretary or any officer of the Department, accompanied, if thought desirable, by a legally-qualified medical practitioner, may at any time, subject to the regulations, enter and inspect any nursing home and inspect all infants therein, and examine the licensed foster-mother in order to satisfy himself or the medical practitioner as to the proper care, maintenance, and treatment of any infant, and may give any necessary advice or directions as to such care, maintenance, and treatment. One inspection at least shall take place in every Three months.

Inspection. *Ibid.*, s. 14 (Tas.).

(2) If any person refuses to admit the Secretary, or any such officer, or medical practitioner into any nursing home, or obstructs such Secretary, officer, or medical practitioner in inspecting any infant therein or the premises in which any infant is retained or received, or refuses to answer or answers falsely any questions such Secretary, officer, or medical practitioner may put for the purposes of this part, such person shall be guilty of an offence against this Act, and shall be liable on conviction in a summary way to a penalty not exceeding Ten Pounds.

Penalty.

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PART VIII.

PROCEDURE, PENALTIES, AND GENERAL PROVISIONS.

Children main-
tained in certified
institution for
Two years with-
out objection by
father, not remov-
able without
consent or order.
Tas., s. 46.
Vic., s. 76.

112 Where any child being then destitute or neglected has been, without objection on the part of its father or other guardian, received into any certified institution and maintained therein for a period of Two years and upwards, such father or other guardian shall not be entitled to remove such child out of the custody or control of the managers of such institution without their consent in writing or the order of the Minister, unless such father or guardian satisfies the Minister that he did not know that such child was being so maintained, and that he has not been guilty of negligence with regard to such child whilst it has been so maintained.

If no such consent is given or order made, or satisfactory proof furnished the Minister as aforesaid, the managers of such institution shall have the custody of the person of such child until it attains the age of Eighteen years.

Officer of Depart-
ment may take
part in all trials
against children.
W.A., s. 108.
Q., s. 65 (1).
Order may be set
aside.
W.A., s. 110.
Q., s. 66.

113 At the hearing of any complaint under this Act any one officer of the Department or any one probation officer may be present, and examine and cross-examine witnesses, and be heard touching the acquittal or punishment of any child.

114 If an order is made under this Act in respect of a child in the absence of his parent or guardian, to whom reasonable notice of the complaint had not been given, such order may for good cause shown be set aside by a children's court upon the application of such parent or guardian within Three months after the making of the order.

Order forwarded
to an institution.
N.S.W., s. 50.
Q., s. 22.

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

Certain orders
and copies to be
evidence.

(2) The production of—

- i. Such order so endorsed : or
- ii. A copy of such order so endorsed with a memorandum pur-
porting to be signed by the superintendent or matron of
any such institution, stating that the child named in such
order was duly received into, and is at the time of the
signing thereof detained in such institution, or has been
otherwise disposed of according to law : or
- iii. Any order made under this Act, or a copy thereof purporting
to be signed by the clerk of the court at which the same
was made and certified to be a correct copy,
shall, without proof of the signature of the person purporting to have
signed the same, be evidence in all courts and proceedings—
- iv. Of the due making and signing of any such order, memoran-
dum, or certificate : and
- v. Of the committal, detention, and identity of the child, and of
the identity of the parent named in any such order, memo-
randum, or certificate.

*Children of the State.***116** Any person who—

- i. Makes any false representation : or
- ii. Forges any licence or certificate : or
- iii. Fraudulently makes use of any forged licence or certificate knowing it to be forged : or
- iv. Falsifies any roll kept in pursuance of this Act : or
- v. Furnishes false particulars of any matter required to be entered in such roll, or to be otherwise furnished under this Act—

shall be guilty of an offence against this Act.

In any prosecution under this Act a copy of or any extract from any entry in the register kept by the secretary, purporting to be signed by the secretary, shall against the defendant be *prima facie* evidence of the facts therein stated.

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Forgery of
certificate, &c.
Va. No. 1198.
s. 10.

Ibid. (Q.), s. 19
(Tas.), s. 42.

117 Whosoever—

- i. Without the authority of the Minister, takes or removes any child of the State from any institution before the expiration of the period of detention of such child, or from its foster-mother, or foster-parent to or with whom such child is apprenticed or placed out before the expiration of the term of placing out or apprenticeship : or
- ii. Directly or indirectly counsels or induces any child of the State to abscond from any institution, or to break his apprenticeship indentures, or to abscond from his foster-mother, or foster-parent before such child had been regularly discharged, or before the expiration of such placing out or apprenticeship : or
- iii. Aids or abets any child of the State in so absconding or escaping, or who prevents any child of the State from returning to any institution or to his foster-mother or foster-parent, or who, knowing any child of the State to have been so taken or removed as aforesaid, or to have so absconded or escaped, harbours or conceals, or assists in harbouring or concealing such child : or
- iv. Being an officer or servant of the Department or of the managers of an institution, negligently or knowingly permits any inmate to escape—

shall be guilty of an offence against this Act.

Penalty : Twenty Pounds or imprisonment for Six months.

Penalty for
taking, removing,
harbouring, &c.,
State children.
W.A., s. 112.
Q., s. 68.

118 Whosoever—

- i. Without the authority or permission of the Secretary, or of the managers of an institution, as the case may be, holds or attempts to hold any communication with any inmate : or
- ii. Enters any institution or any premises belonging thereto or used in connection therewith, and does not depart therefrom when required so to do by the superintendent, matron, or any officer or servant of such institution : or
- iii. After being forbidden by the Secretary or governing authority, as the case may be, so to do, holds or attempts to hold any communication directly or indirectly with any child of the State : or

Penalty for com-
municating with
children in
institutions.
W.A., s. 113.
Q., s. 69.

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iv Without the previous permission in writing of the Minister, removes any child of the State out of Tasmania, or suffers such child to be removed out of Tasmania—
shall be guilty of an offence against this Act.

Penalty for person disobeying order and quitting the State.
Q., s. 70.

119—(1) Whosoever—

- i. Refuses, fails, or neglects to comply with any maintenance order made against him under this Act, or attempts to leave the State without making arrangements for future payments to the satisfaction of the Department :
- ii. Being a near relative liable to maintain any child—
 - (a) Unlawfully deserts such child : or
 - (b) Leaves without, or fails to provide with, adequate means of support any such child—

Penalty for desertion of child under certain circumstances.
Q., s. 70 (1).

shall be guilty of an offence against this Act.

Penalty : Six months' imprisonment.

Court may determine matter in summary way.
W.A., s. 118.
Q., s. 70 (2).

(2) Upon the hearing of a complaint under this section, the court, if satisfied that the child has been or is about to be unlawfully deserted by the person complained against, or is actually without adequate means of support, and that such person is a near relative of such child, liable and able to contribute towards his maintenance, may order such person, either immediately or at some adjournment, to find good and sufficient security to the satisfaction of the court that he will comply with such order for maintenance, or that he will not desert or leave without adequate means of support such child.

The court, in default of such security being found, may commit such person to prison for any period not exceeding Six months, if such order is not sooner complied with.

Court may issue warrant for arrest of deserter upon complaint on oath.
W.A., s. 117.
Q., s. 70 (3).

(3) Upon complaint on oath by the Secretary, or any other officer of the Department, that he has reasonable grounds for believing that any person has committed or is about to commit an offence under this section, any justice, if satisfied that there are reasonable grounds for believing that such offence has been or is about to be committed, may issue a warrant for the arrest of the person complained against, and such person may thereupon be arrested by any police officer accordingly.

Penalty for ill-treating State child apprenticed, &c.
Q., s. 46.
W.A., s. 53.

120 Whosoever illtreats, injures, or neglects any child placed out with or apprenticed to him shall be guilty of an offence against this Act.

Penalty : Twenty Pounds or imprisonment for Six months.

Search Warrant.
No. 51, 1907, s. 45 (Tas.).

121 If it be made to appear to any justice by complaint on oath that there is reason to believe that any person is offending against this Act in any house or premises, or that any provision of this Act is being infringed in any house or premises, such justice may issue his warrant authorising any member or members of the police force to search any house or premises therein named, at any hour of the day or night, for the purpose of ascertaining whether there is or has been therein or thereon an infringement of this Act.

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122 All property, real or personal, given, devised, or bequeathed to the Department for the benefit of children of the State shall, subject to this Act, be held, invested, applied, or dealt with in such a manner as the Secretary (with the approval of the Minister) considers most conducive to the benefit or advantage of children of the State, or of the particular child or children of the State intended to be benefited.

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 —
 Gifts to Minister to be applied for benefit of objects of such gifts.
 W.A., s. 121.
 Q., s. 71.

123—(1) A children's court may, at any time, in a summary way, inquire into any disobedience of, or neglect to comply with, any order made under this Act, and for that purpose may summon and examine all proper parties and witnesses.

Court may enforce compliance with orders by fine or imprisonment.
 W.A., s. 122.
 Q., s. 72 (1).

In order to enforce compliance or punish the non-compliance with such order, a children's court may commit to prison for any period not exceeding Six months, unless the order shall be sooner complied with, the person found guilty of such disobedience, neglect, or non-compliance, or may impose upon such person a fine of not exceeding Fifty Pounds.

(2) Upon a complaint to the children's court, made under this section, in respect of any alleged disobedience of or neglect to comply with any order, the court may, instead of issuing a summons, issue a warrant for the arrest of the person against whom the complaint is made, and for the detention of such person until the hearing of the complaint, unless such person enters into a recognizance, with One or more sureties, in such sums as the court shall direct, conditioned for his appearance at the hearing of the complaint.

Warrant in first instance.
 W.A., s. 123.
 Q., s. 72 (2).

124 Every person authorised to take charge of any child ordered to be detained under this Act, for the purpose of conveying such child to or from any institution, or to a foster-mother, or foster-parent, shall while engaged in such duty, have all such powers, authorities, protection, and privileges for the purpose of the execution of his duty as any police officer has by common law or statute.

Persons in charge of State children to have privilege of constables.
 W.A., s. 125.
 Q., s. 73.
 Tas., s. 56.

125 In cases where the age of any person is material, a children's court may decide upon its own view and judgment, whether any person charged or present before it has or has not attained any prescribed age. But nothing herein shall be construed to prevent the age of such person being proved.

Proof of age.
 Q., s. 74 (1).

126 Any person who in any particular makes default in compliance with any provision of this Act for which no penalty is provided by this Act, shall be guilty of an offence against this Act.

General penalty.
 W.A., s. 126.
 Q., s. 75.

Penalty: Ten Pounds or imprisonment for Three months.

127 Where any child is adjudged by a children's court to pay any sum or sums of money by way of penalty, it may also adjudge such child to pay the same either immediately or within such period as the court thinks fit, or by instalments.

Payment of sums of money adjudged to be paid.
 Vict. s. 31.

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Police magistrate
or justice.

128 Where a child is himself ordered by a children's court to pay costs in addition to a penalty, the amount of the costs so ordered to be paid shall in no case exceed the amount of the penalty, and (except so far as the court thinks fit expressly to order otherwise), all fees payable or paid by the informant in excess of the amount of costs so ordered to be paid, shall be remitted or repaid to him, and the court, magistrate, or justice, may also order the penalty, or any part thereof, to be paid to the informant in or towards the payment of his costs.

Application of
Magistrates'
Summary Pro-
cedure Act.
W.A., s. 127.
Q., s. 76.

129 Every proceeding under this Act for, or in respect of omissions, defaults, acts, or offences to which any penalty or punishment is attached, and all applications for orders where no other method of proceeding is by this Act provided, shall be had and taken, and may be heard and determined summarily before a children's court, police magistrate, or justices, as the case may be, under "The Magistrates' Summary Procedure Act," and any amendment thereof or any Act for the time being in force relating to summary proceedings of justices.

When costs
ordered against
Department.

130 No costs shall be ordered against the Department or any officer thereof in any proceeding or matter unless the court having cognisance thereof (whether the Supreme Court or a judge thereof, or a children's court, as the case may be), shall be of opinion that the Department or officer has been guilty of wilful neglect or default.

Order to be a
defence to actions.
W.A., s. 129.
Q., s. 77.

131 In every action for anything done in obedience to any order it shall be sufficient for the defendant to justify under such order only, without setting forth the previous proceedings, and the production of the order or a duplicate or certified copy thereof shall be sufficient evidence to prove the fact of making such order.

Protection to
Department and
officers.
W.A., s. 130.
Q., s. 78.
See No. 36 of
1899 (Tas.).

132 No action shall be brought against the Department or any managers of an institution or any person for anything done in pursuance of this Act, unless notice in writing of such action has been given to the defendant One month at least before the commencement of the action.

Appropriation.
W.A., s. 131.
Q., s. 80.

133 All moneys received in respect of penalties and fees under this Act shall be paid into the Consolidated Revenue.

Expenses of
administration.

134 All expenses incurred in administering, carrying out, and enforcing this Act, shall be defrayed out of moneys from time to time appropriated by Parliament for the purpose.

Regulations.
W.A., s. 81.
Q., s. 81.

135 The Governor may, from time to time, make regulations—

- I. Relative to the duties, powers, authorities, and privileges of inspectors, inspecting nurses, visitors, and all other persons engaged in the administration of this Act :
- II. Relative to the appointment of probation officers, and adding to or varying the duties to be performed by them under this Act :

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- iii. Appointing places in Tasmania for the detention of children separate and apart from those appointed or available for the reception of adult prisoners : A.D. 1918.
- iv. Relative to the management, control, and supervision of institutions :
- v. Relative to the custody, maintenance, education, employment, placing out, and apprenticing of children of the State ; the visitation of such children at institutions, or apprenticed, or placed out ; the discipline of such children ; wages and rewards of such children :
- vi. Relative to the management and control of property vested in the Department :
- vii. Prescribing the records to be kept and reports to be made by managers of institutions and by licensees :
- viii. Prescribing the form and contents of agreements, appointments, apprenticeship indentures, authorities, complaints, licenses, notices, orders, summonses, and all other instruments, and documents, and the mode of executing, serving, or delivering the same :
- ix. Prescribing the mode in which applications for licences or registration shall be made and effected :
- x. Prescribing the registers to be kept :
- xi. Directing what particulars shall be entered in the registers, and rolls to be kept, and prescribing the method of keeping and verifying such registers and rolls :
- xii. Arranging nursing homes into classes in such manner as seems fit, and fixing the maximum number of infants to be retained in or received into nursing homes of any particular class :
- xiii. Enforcing drainage and the provision of sanitary conveniences for and sanitation generally in respect of nursing homes ; the cleansing and limewashing at stated times of the premises ; promoting cleanliness and ventilation therein ; enforcing the giving of notices and the taking of precautions in the case of any disease likely to affect the infants ; and generally for the good conduct of nursing homes :
- xiv. Regulating the management and conduct generally of nursing homes and the treatment generally of infants retained or received therein :
- xv. Prohibiting on the recommendation of the Chief Health Officer the administering to any infant of anything he deems harmful or undesirable :
- xvi. The recovery from the persons legally responsible therefor of the costs of maintenance, clothing, and medical attendance :
- xvii. Regulating the inspection from time to time of nursing homes and infants :
- xviii. Prescribing the fees to be paid in respect of matters arising under this Act :
- xix. Imposing penalties not exceeding Twenty Pounds in respect of any offence :

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xx. Prescribing the time and manner in which any act, deed, matter, or thing required by this Act to be done, and as to which the time or procedure is not provided, is to be done or performed :

xxi. Prescribing and providing for all matters and things he deems necessary or convenient to be prescribed or provided for, for fully and effectually carrying out and giving force and effect to the objects, purposes, powers, and authorities of this Act.

Forms.

136 In so far as forms are not prescribed under this Act, the several forms which at the commencement of this Act are in use for the purposes of any Act hereby repealed may be used for corresponding purposes under this Act with such variations as the circumstances require. Where a form in use cannot be conveniently varied for any purpose under this Act, or there is no form in use to meet the case, a form reasonably adapted to the circumstances of the case may, until a form is prescribed, be used and shall be sufficient for its purpose.

Act to be construed liberally

137 This Act shall be liberally construed to the end that its purpose may be carried out, to wit :—

That the care and custody and discipline of a child of the State shall approximate as nearly as may be that which should be given by its parents, and that as far as practicable every juvenile delinquent shall be treated, not as a criminal, but as a misdirected and misguided child, and one needing aid, encouragement, help, and assistance.

Saving of Royal prerogative.

138 Nothing in this Act shall be taken to derogate from or diminish the prerogative of pardon vested in the Crown.

SCHEDULES.

(1)

Section B

Date.	Short Title.	Extent of Repeal.
39 Vict. No. 6	"The Juvenile Offenders Act, 1875"	The whole.
45 Vict. No. 3	"The Chimney Sweepers Act, 1882"	The whole.
60 Vict. No. 24	"The Youthful Offenders, Destitute and Neglected Childrens Act, 1896"	The whole.
5 Edw. VII. No. 39	"The Youthful Offenders, Destitute and Neglected Children Act, 1905"	The whole.

(2)

Section 18.

The St. Joseph's Roman Catholic Orphanage, Hobart; The Boys' Home, Hobart; The Girls' Industrial School, Hobart; The Girls' Industrial School, Launceston.