

T A S M A N I A.



1907.

ANNO SEPTIMO

EDWARDI VII. REGIS,

No. 51.



AN ACT to make Better Provision for the Protection of Infant Life, and for other purposes. [5 December, 1907.]

A.D
1907.

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 Infant Life Protection Act, 1907," and shall commence and take effect on and from the First day of January, One thousand nine hundred and eight.

Short title and commencement.

2 This Act is divided into Parts, as follows :—
Part I.—Preliminary.
Part II.—Nursing Homes.

Division of Act.

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Further orders
may be made as
to mode of pay-
ment of expenses.
Ibid. (N.S.W.),
s. 16.

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

Seizure of
defendant's goods.
Ibid. (N.S.W.),
s. 17.

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

Disobedience of
order may be
punished.
Ibid. (N.S.W.),
s. 18.

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

Court may vary
order.
Ibid. (N.S.W.),
s. 19.

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

Service of sum-
mons or notice.
Ibid. (N.S.W.),
s. 20.

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

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

Court may pro-
ceed *ex parte*.
Ibid. (N.S.W.),
s. 21.

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

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

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

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Warrant may issue in certain cases.
Ibid. (N.S.W.), s. 22.

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

Certain breaches of Act to be misdemeanors when offender leaves *Tasmania*.
See N.Z., 1894, No. 22, s. 17;
Vic., 1901, No. 1737, s. 4.
Ibid. (N.S.W.), s. 23.

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

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

Committal to prison not to prevent making or operation of orders.
Ibid. (N.S.W.), s. 24.

39 Every person aggrieved by an order of a Court under this Act may appeal to a Court of General Sessions against such order in the manner provided by *The Appeals Regulation Act*, in respect of appeals to Courts of General Sessions: Provided that where an order is made before birth respecting the paternity of an infant, and the party aggrieved by the order gives notice of intention to appeal to a Court of General Sessions, and desires that the appeal shall not be heard before the birth of the infant, such party shall state his or her desire in the notice, and in such case the appeal shall be heard at the First Court of General Sessions held after a period of One month from the birth has elapsed, or at any Court of General Sessions succeeding such First held Court, and to which the hearing is postponed; but no appeal shall in such case be heard earlier than such First held Court: Provided also that at the request of either party the infant shall be produced in Court. Where an appeal respecting the paternity of an infant is to be heard after the birth of the infant, no order shall be made under Section Twenty-one of this Act until and unless such appeal has been heard and determined.

Appeal to General Session.
19 Vict. No. 10.

40—(1.) The occupier of every house or place in which an illegitimate infant is born shall, within Three days after the birth of such child, give notice thereof in writing to the registrar or deputy-registrar of births and deaths for the district.

Notice of birth or death of illegitimate infants.
Va. No. 1198, ss. 18, 19.
Ibid. (Q.), s. 17.

(2.) The occupier of every house or place in which an illegitimate infant under the age of Five years dies, or to which the body of an illegitimate infant who has died under the age of Five years is brought, shall, within Twenty-four hours after the death of such infant or the reception of its body, give notice in writing of such death to the registrar or a deputy-registrar of births and deaths for the district.

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(3.) But if such house or place is not situated within any city or town, then such notice may be given either to the registrar or deputy-registrar, or to the officer in charge of the nearest police station, and may be given at any time within One week after the birth or death of such infant or the reception of its body, as the case may be.

(4.) If the occupier of such house or place is the mother of the new-born infant, such notice may be given at any time within Three weeks after the birth of the infant.

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

(6.) Nothing in this section shall be construed to impose any liability on such occupier if the Court is of opinion that such occupier did not believe the illegitimate infant to be illegitimate.

(7.) Nothing in this section shall be construed to repeal or otherwise affect—

- i. The provisions of "The Registration of Births and Deaths Act of 1895," or any Amendment thereof: or
- ii. The provisions of this Act hereinbefore contained, whereby persons registered under this Act are required to give notice of the death of infants in their care or charge.

PART V.**GENERAL.**

Offenders against this Act not to be registered.
Va. No. 1198, s. 13.

Ibid. (Q.), s. 18.

41 The name of every person convicted of any offence against this Act shall, if such person is registered under this Act, be at once removed from the register, and the registration of every such person and of the nursing home of such person shall be thereby cancelled.

No person convicted of—

- i. Retaining in or receiving into his care or charge any infant under the age of Five years contrary to any provision of this Act: or
- ii. Neglecting to give notice of the death of an infant as required by this Act—

shall at any time thereafter be registered under this Act.

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

Ibid. (Q.), s. 19.

42 Any person who makes any false representation, or forges any certificate, or makes use of any forged certificate knowing it to be forged, with intent to obtain the registration either of such person or of any other person under this Act, or falsifies any roll kept in pursuance of this Act, or furnishes false particulars of any matter which is 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 Commissioner, purporting to be signed by the Commissioner, shall against the defendant be *prima facie* evidence of the facts therein stated.

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43 The Governor may appoint such inspectors and other persons as may be necessary to carry out the provisions of this Act. A.D. 1907.

44 The Governor may from time to time make regulations for all or any of the following purposes :—

- i. Prescribing the mode in which applications for registration under this Act shall be made and effected ;
- ii. Prescribing the registers to be kept under this Act and where the same shall respectively be kept :
- iii. Directing what particulars shall be entered in the registers, and rolls to be kept under this Act in addition to those hereinbefore required, and prescribing the method of keeping and verifying such registers and rolls :
- iv. As to the receipt, expenditure, and disposal of money by any clerk of petty sessions or other person :
- v. 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 :
- vi. 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 :
- vii. Regulating the management and conduct generally of nursing homes and the treatment generally of infants retained or received therein :
- viii. Prohibiting on the recommendation of the Chief Health Officer the administering to any infant of anything he deems harmful or undesirable :
- ix. The recovery from the persons legally responsible therefor of the costs of maintenance, clothing, and medical attendance :
- x. Regulating the inspection from time to time of nursing homes and infants :
- xi. For the appointment by the Minister of visiting committees, and for prescribing the powers and duties of such committees :
- xii. Generally, for giving effect to this Act.

Such regulations may impose a penalty not exceeding Twenty-five Pounds for any breach of the same.

All such regulations shall be published in the *Gazette*, and shall thereupon have the same effect as if they were enacted in this Act.

45 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

Inspectors, &c.
Ibid. (Q.), s. 20.
Regulations.
Va. No. 1198,
s. 6.
Ibid. (Q.), s. 21.

Search warrant.
Va. No. 1198,
s. 21.
Ibid. (Q.), s. 22.

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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.

General penalty.
Ibid. (Q.), s. 23.

46 Any person who by any act or omission is guilty of any contravention of any of the provisions of this Act shall be guilty of an offence, and, upon conviction in a summary way, shall be liable to a penalty not exceeding Twenty-five Pounds, or to be imprisoned for any period not exceeding Six months.

Procedure.

All proceedings for offences against this Act, and all fines, penalties, and sums of money imposed or made payable by this Act, shall be heard, determined, and recovered in a summary way by and before a police magistrate sitting alone, or by and before any Two or more justices, in the mode prescribed by *The Magistrates Summary Procedure Act*.

19 Vict. No. 8.

Subject to the provisions of this Act, the provisions of *The Magistrates Summary Procedure Act* shall apply to all proceedings under this Act.

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Part III.—Adoption of Infants.
 Part IV.—Maintenance of Infants.
 Part V.—General.

Repeal of Part
 XVI. of 3 Ed.
 VII. No. 37.

3 Part XVI., "Infant Life Protection," of "The Public Health Act, 1903," is hereby repealed.

Interpretation.
 Va. No. 1198, s. 3.
 5 Ed. VII. No.
 19, s. 4 (Q.).

4 In this Act, unless the context otherwise indicates—

"Commissioner" means the person for the time being holding the office of Commissioner of Police, or the person for the time being appointed by the Governor in the place of the Commissioner of Police :

"Nursing home" means a house registered as a nursing home under this Act :

"Relatives" means and includes parents, grandparents, and uncles and aunts by consanguinity or affinity, and in the case of illegitimate infants means and includes the persons who would be so related if the infant were legitimate :

"This Act" means this Act and any regulations made thereunder.

PART II.
NURSING HOMES.

Application of
 Act.
Ibid. (Q.), s. 5.

5 This Part of this Act shall not extend to—

i. The relatives or lawful guardians of any infant 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.

Nursing homes
 and occupiers to
 be registered.
 Va. No. 1198, s. 4.
Ibid. (Q.), s. 6.

6—(1.) No person shall, in consideration of any payment or reward, retain in or receive into his care or charge in any house any infant under the age of Five years for the purpose of either—

i. Nursing or maintaining such infant apart from its parents for a longer period than Twenty-four hours : or

ii. Adopting such infant—

unless such person is registered as the occupier of such house, and such house is also registered as a nursing home under this Act.

Payments to be
 periodical.

(2.) In no case shall any such payment or reward be otherwise than by way of periodical instalments, and no such instalment shall be paid for more than Four weeks in advance or exceed the sum of Twenty Shillings per week.

(3.) The clerk of petty sessions 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 monthly instalments not exceeding the

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instalments limited by the next preceding subsection. **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.** A.D. 1907.

7 The Commissioner shall cause a register to be kept in which shall be entered the name of every person who applies to be registered and to have his house registered as a nursing home under this Act, 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 required by the regulations. **Manner of registration. Va. No. 1198, s. 5. Ibid. (Q.), s. 7.**

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

Registrations may be renewed during the month of *December* in which the same expire. All such renewed registrations shall take effect from the First day of *January* next ensuing, and shall, unless cancelled under this Act, remain in force for One year.

No fee shall be payable for any registration or renewed registration.

The officer in whose charge the register is kept shall give to the person registering a certificate under his hand of the registration or renewal, which shall in all matters be *prima facie* evidence of such registration or renewal. The certificate shall disclose the maximum number of infants permitted to be kept in such home.

8 The Commissioner may refuse to register any person applying for registration, or to renew any registration, unless he is satisfied that the applicant is of good character, and able properly to nurse and maintain any infants in his care or charge. **Commissioner may refuse to register. Va. No. 1198, s. 8. Ibid. (Q.), s. 8.**

The Commissioner 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.

9—(1.) Every registered person shall keep at the nursing home a roll, in which he shall immediately enter the name, sex, and age of each infant retained in or received into his care or charge. **Roll of nursing home. Va. No. 1198, s. 9. Ibid. (Q.), s. 9.**

He 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 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 payment, he shall also, within Three days after the same became due, give written notice in prescribed form to the Commissioner 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 registered person shall immediately after such removal enter in such roll the date of such

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removal and the full name and place of residence and occupation of the person by whom such infant was removed.

(3.) Every registered person 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 Commissioner a copy of each such entry within Three days after the reception or removal of each infant.

(4.) He shall at all times forthwith upon demand by any member of the police force of or above the rank of sergeant, or any Inspector appointed for the purposes of this Act, produce such roll to such member or Inspector, who may examine and peruse the same, and, if he thinks proper, retain it.

Duty and
responsibility of
registered person.
Ibid. (Q.), s. 10.

10 It shall be the duty of every registered person to provide every infant, while in his care or charge, with proper and sufficient 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 Commissioner in relation to the nursing home. And the Commissioner is hereby empowered to make any such order having for its object the effectual execution of the foregoing provisions.

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

Names may be
removed from
register.
Va. No. 1198,
s. 11.
Ibid. (Q.), s. 11.

11 If at any time it is made to appear to the Commissioner that any registered person has been guilty of neglecting any infant in his 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 Commissioner desirable so to do, he may, after at least Ten days' notice in writing, served by leaving the same at the nursing home, cancel the registration of such person and such nursing home.

The Commissioner may at the time of giving such notice order the immediate removal of such infants from such nursing home to the care of the Secretary for the Department for Neglected Children, who shall then be charged with their care until they can be restored to their relatives or guardians, or be otherwise lawfully disposed of; and the said Secretary may recover the cost of the removal, maintenance, and clothing of and medical attendance on such infants from the persons legally responsible therefor.

Any registered person may, within One week after service of such notice, give notice in writing to the Commissioner of his intention to appeal, and such notice shall be accompanied by a deposit of Five Shillings. Thereupon the Commissioner shall refrain from cancelling such registration, and shall inform the Minister, who shall fix a time for the hearing of the appeal by some person authorised by him in that behalf, of which due notice shall be given to the Commissioner

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and person appealing; and the person so authorised shall at the appointed time proceed to hear the Commissioner and the person appealing, or their representatives, and shall determine the appeal, and if he decides that such cancellation shall be made the Commissioner shall act accordingly, and the sum of Five Shillings deposited as aforesaid shall be forfeited and paid into the Consolidated Revenue, but otherwise the same shall be repaid to the person depositing the same. The decision on such appeal shall not be subject to review in any court of law, and shall be final and conclusive.

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Any infants removed by order of the Commissioner under the authority of this section and not restored to the custody of their relatives or guardians shall, if such registration is not cancelled, be returned to the nursing home.

12 If any person who has placed an infant in a nursing home ceases for the space of Four consecutive weeks to make the payments arranged for with the keeper of the nursing home, the Commissioner, on receipt of notice thereof from the keeper of the nursing home, shall deal with such infant in the method provided for by the preceding section.

It periodical payments cease, Commissioner to deal with child. *Ibid.* (Q.), s. 12.

13 Every registered person shall, within Twenty-four hours after the death of an infant in his 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.

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.

Va. No. 1198, s. 12. *Ibid.* (Q.), s. 13.

No infant dying while in the care or charge of a registered person 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.

14—(1.) The Commissioner, or any inspector appointed for the purposes of this Act, 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 registered person in order to satisfy the inspector or medical practitioner as to the proper care, maintenance, and treatment of any infant, and 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. Va. No. 1198, s. 7. *Ibid.* (Q.), s. 14.

(2.) If any person refuses to admit any inspector or medical practitioner into any nursing home, or obstructs such inspector or medical practitioner in inspecting any infant therein or the premises in

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which any infant is retained or received, or refuses to answer or answers falsely any questions such inspector or medical practitioner may put for the purposes of this Act, 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.

PART III.

ADOPTION OF INFANTS.

Registration of
adopted infants.
Va. No. 1198,
s. 22.
Ibid. (Q.), s. 15.

15 If any person, including any relative of an illegitimate infant other than its parents, adopts or takes over the entire care and charge of any infant under the age of Five years from its parents or lawful guardians under such circumstances that the provisions of Part II. of this Act are not applicable, such person shall, within Twelve days after so doing, give or send notice thereof to the Commissioner, with full particulars of his name and place of residence and occupation, and of the name and age of such infant.

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

PART IV.

MAINTENANCE OF INFANTS.

Definition of
"preliminary
expenses."
No. 27 of 1904,
s. 2 (N.S.W.).

16 In this Part of this Act "preliminary expenses" means the expenses of the maintenance of the mother during a period of Two months immediately preceding the birth of her infant, reasonable medical and nursing expenses attendant upon the confinement of the mother, and the expenses of the maintenance of the mother and infant for Two months immediately succeeding its birth.

Part repeal of
Deserted Wives
and Children Act.
Ibid. (N.S.W.),
s. 3.

17 "The Deserted Wives and Children Maintenance Act, 1873," in so far as the same relates to complaints in respect of illegitimate children, and to proceedings consequent upon or incidental to such complaints, are hereby repealed.

37 Vict. No. 14.
Single woman
with child may
take proceedings
against father.
See Imperial Act
35 and 36 Vict.,
c. 63, s. 3.
Ibid. (N.S.W.),
s. 4.

18 Where any single woman is with child by any man who has made no adequate provision for the payment of preliminary expenses of and incidental to and immediately succeeding the birth of the infant, or the expenses of the future maintenance of the infant, she, or with her consent the Commissioner or any other reputable person on her behalf, may make complaint in writing on oath to a justice that she is with child by the said man, and that he has made no adequate provision for the payment of the expenses aforesaid; and shall when making such complaint produce evidence on oath, either oral or

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on affidavit, in corroboration in some material particular of the allegation as to the paternity of the infant. A.D. 1907.

The justice may thereupon summon the man to appear before a police magistrate or any Two or more justices in petty sessions assembled (hereinafter referred to as "the Court") to answer such complaint; or, if the circumstances seem to require it, may issue a warrant for his apprehension.

19 The Court shall hear and determine so much of such complaint as relates to the paternity of the infant, and may—

- I. Order the defendant to deposit with the clerk of the Court a sum not exceeding Twenty Pounds for preliminary expenses, or to make such other provision for the payment of the preliminary expenses as the Court deems satisfactory: and
- II. Further order the defendant to pay any expenses that may have been incurred in or relative to securing his appearance to answer the complaint: and
- III. Further order the defendant to enter into a recognisance with One or more good and sufficient sureties to the satisfaction of the Court for such amount as the Court determines, as a security that, within Three months from the birth of the infant, and on such day as any justice at any time determines, and of which at least Seven days' previous notice shall be given to the defendant by or on behalf of the complainant, the defendant will appear and show cause why he should not make such adequate provision as the Court determines for the payment of the expenses of the maintenance and education of the infant after it has reached the age of Two months. Every such order shall specify a date not later than Six months thereafter when the order shall lapse if the infant has not been born, and if upon such date the infant has not been born the order shall lapse, and the defendant and his surety or sureties shall be deemed to be released from their recognizances, and the unexpended portion of any moneys paid by the defendant as preliminary expenses shall be repaid to him.

Court may require defendant to pay preliminary expenses. See S.A. Act, No. 707, ss. 3, 4; Vict. Act, No. 1084, ss. 2, 3; Imperial Act, 35 and 36 Vict., c. 65, s. 4. *Ibid.* (N.S.W.), s. 5.

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

The Court shall not make an order under this section against the defendant—

- I. Unless it be proved by the evidence of some legally-qualified medical practitioner that the woman is quick with child:
- II. Unless her evidence be corroborated in some material particular:
- III. If the Court is satisfied that at the time the infant was begotten the mother was a common prostitute.

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

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

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Forfeiture of recognizance where defendant does not appear. *Ibid.* (N.S.W.), s. 6.

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

Order after birth where the defendant does appear. *Ibid.* (N.S.W.), s. 7.

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

Complaint may be made against father of illegitimate infant for leaving it without means of support. See Imperial Act, 35 and 36 Vict., c. 65, s. 3. *Ibid.* (N.S.W.), s. 8.

22 In any case where the father of an illegitimate infant has left it without means of support, the mother of the infant, or the Commissioner, or any other reputable person on behalf of the infant, may make complaint on oath to a justice; and upon such complaint being made, the justice may summon the defendant to appear before the Court to answer such complaint, or, if the circumstances seem to require it, may issue a warrant for his apprehension.

In any case where the mother of an illegitimate infant has left it without means of support, the Commissioner, or any reputable person on behalf of the infant, may make complaint in writing on oath to a justice; and upon such complaint being made, the justice may summon the defendant to appear before the Court to answer such complaint, or, if the circumstances seem to require it, may issue a warrant for her apprehension. No man shall be deemed to be the father of any illegitimate child upon the oath of the mother only.

Court shall hear and determine complaint, and may make order for maintenance. *Ibid.* (N.S.W.), s. 9.

23 The Court shall hear and determine the complaint, and may make—

- i. An order for payment by the defendant of any expenses that may have been incurred in or relative to securing the appearance of the defendant to answer the complaint;
- ii. An order for the payment by the defendant of a sum for the maintenance and education of the infant.

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

Woman may in certain cases be compelled to testify. *Ibid.* (N.S.W.), s. 10.

24 Where any complaint has been made under this Act by a woman for expenses in respect of an infant of which she is about to be or has been delivered, she may, at the hearing of the complaint, be compelled to give evidence; and where complaint has been made under the Act with her consent by the Commissioner or other reputable person on

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behalf of a woman for such expenses, she may, at the hearing of the complaint, be compelled to give evidence if it has first been proved to the satisfaction of the Court that she has made an allegation as to the paternity of the infant. The admissions of a woman in giving evidence under this section shall not be used against her in any criminal prosecution, except for perjury committed while so giving evidence.

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

Court may order payment of funeral expenses of mother and child.
See 35 and 36 Vict., c. 65, s. 4.
Ibid. (N.S.W.), s. 11.

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

Court may order payment of costs.
Ibid. (N.S.W.), s. 12.

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

Mother also to contribute to expenses of maintenance.
See N.Z. Act, 58 Vict. No. 22, s. 10.
Ibid. (N.S.W.), s. 13.

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

Period for which orders for maintenance may be made.

Cf. Imperial Act 35 and 36 Vict., c. 65, s. 5; N.Z. Act 58 Vict. No. 22, s. 9.
Ibid. (N.S.W.), s. 14.

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

Security for payment of amount may be ordered.
Ibid. (N.S.W.), s. 15.

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