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EDWARDI VII REGIS.

A.D. 1909.

No. 996.

An Act to amend the Law relating to State Children,
and for other purposes.

[*Assented to, December 11th, 1909.*]

BE it Enacted by the Governor of the State of South Australia,
with the advice and consent of the Parliament thereof, as
follows:

1. (1) This Act may be cited alone as "The State Children Amend-
ment Act, 1909," and, together with the Acts mentioned in sub-
section (2), as "The State Children Acts, 1895 to 1909."

Short title and
incorporation with
other Acts.

(2) This Act is incorporated with and shall be read and construed
as one Act with "The State Children Act, 1895" (hereinafter called
"the principal Act"), "The Affiliation Law Amendment Act, 1898,"
"The State Children Amendment Act, 1900," and "The State
Children Further Amendment Act, 1903."

2. In this Act, unless repugnant to the context or subject Definitions.
matter—

"Secretary" means the Secretary of the State Children's Council
for the time being:

"Court" means a Special Magistrate or two or more Justices
of the Peace sitting as a Court of Summary Jurisdiction:

"Guardian" means either the mother or father of a child, or
any person having the immediate custody and control of a
child:

"Informant" includes complainant:

"Information"

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“Information” includes complaint:

“Neglected child,” in addition to the meanings thereto assigned in section 4 of the principal Act, means and includes—

- (a) Any child who is found in any brothel or house of ill fame:
- (b) Any child under the age of fourteen years who, not being on any lawful business or errand, habitually frequents public streets or places between the hours of eight o'clock in the evening and five o'clock in the morning:
- (c) Any child under the age of sixteen years, who, not being the child or ward of the licensee, is, on more than one occasion and without lawful excuse, found in the bar, barroom, or taproom of any publichouse or wine saloon, or who is on more than one occasion served with intoxicating liquor in or upon the premises of such publichouse or wine saloon.

Place for hearing of information against children.

3. Section 31 of the principal Act and section 3 of “The State Children Amendment Act, 1900,” are hereby repealed, and the following provisions are substituted in lieu thereof:—

No information laid against any child in respect of any alleged offence, whether such offence is indictable or is punishable on summary conviction or otherwise, and no information alleging that any child is a destitute, neglected, or uncontrollable or incorrigible child, shall be heard in any Court, room, or place within the city of Adelaide or the city of Port Adelaide, except in such room, or place, or rooms, or places as are from time to time appointed or approved of by the Chief Secretary for the purpose of hearing such informations.

Amendments of principal Act to prevent apprenticing and placing out by institutions.

4. (1) The Principal Act is hereby amended by the omission of the following expressions:—

- i. In section 52, “or the governing authority of the institution, as the case may be,” and “or such governing authority”:
- ii. In section 53, “or the governing authority of the institution, as the case may be,” and “or governing authority,” wherever the latter expression occurs:
- iii. In section 60, “or governing authority”:
- iv. In section 62, “or of the governing authority, as the case case may be”:
- v. In section 63, “or the governing authority, as the case may be,” and “or governing authority”:
- vi. In section 65, “or governing authority, as the case may be”:

vii. In

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- vii. In section 66, “or the governing authority”:
- viii. In section 68, “or of the governing authority, as the case may be”:
- ix. In section 72, “whether by the Council or by any governing authority,” and “whether apprenticed or placed out by the Council, or by any governing authority”:
- x. In section 77, “by the governing authority of any private institution”:
- xi. In section 121, “other than the governing authority of the institution to which the child was committed”; and
- xii. In section 143 “by the Council or the governing body of any institution.”

(2) Sections 57 and 59 of the principal Act are hereby repealed.

5. Section 36 of the principal Act is hereby amended by leaving out in lines three and four the words “in lieu of sentencing such child to imprisonment” and inserting in lieu thereof the words “shall not sentence such child to imprisonment, but.”

Amendment of sec. 36 of Act 641 of 1895.

6. Section 54 of the principal Act is hereby amended by inserting between “until” and “he” at the end of the second line the words “such time thereafter as.”

Amendment of sec. 54 of Act 641 of 1895.

7. Section 56 of the principal Act is hereby amended by leaving out all the words after “years” in the second line.

Amendment of sec. 56 of Act 641 of 1895.

8. The principal Act is hereby amended by the omission of the following expressions:—

Amendment of principal Act so that all future maintenance orders shall be in favor of the Council.

- i. In section 83, “or to the governing authority, or other person, as the case may be”:
- ii. In section 93, “or to any governing body”:
- iii. In section 95, “the governing body”:
- iv. In section 98, “governing body”:
- v. In section 99, “authority”:
- vi. In section 100, “authority”:

Provided that nothing in this section shall prevent the enforcing of any maintenance order made before the passing of this Act, or the demanding, collection, or receiving of any sums of money due under any such order, and that all such orders may be enforced, and all such sums of money may be demanded, collected, and received as if this Act had not been passed.

9. The definition of foster-mother in section 4, subdivision (3) of section 16, and sections 105, 106, and 107 of the principal Act are hereby amended by the substitution of the words “seven years” for the words “two years” wherever occurring.

Amendment of secs. 105, 106, and 107 of principal Act.

10. Section

The State Children Amendment Act.—1909.

Amendment of sec. 15
of Act 750 of 1900.

10. Section 15 of "The State Children Amendment Act, 1900," is hereby amended by the addition at the end thereof of the following provision:—

The production of a document purporting to be under the seal of the Council, appointing a person therein named to lay such information or complaint and to conduct the case, shall be sufficient evidence in all Courts and before all tribunals that such person has been duly appointed by the Council for those purposes, and shall be *prima facie* evidence that the person producing such document is the person thereby appointed.

Child not to be im-
prisoned, but become
State child, for non-
payment of fine.

11. (1) Section 17 of "The State Children Amendment Act, 1900," is hereby repealed, and in lieu thereof it is enacted as follows:—

In any case where a child is liable to imprisonment by reason of the non-payment of a fine or penalty, or non-compliance with an order for the payment of money, such child shall not be sent to a gaol or prison, but may be sent to an institution or be placed in the custody and under the control of the Council for such period as the Justices in their discretion deem proper.

(2) When any child is so placed in the custody and under the control of the Council, the provisions of sections 22 and 23 of this Act shall apply in all respects.

Persons allowed to be
present during affilia-
tion cases.

12. No person shall be allowed to be present before a Court or in the Court-room during the hearing of any affiliation case except—

- (a) The informant and the defendant, and their witnesses:
- (b) Counsel or other persons representing the respective parties, and practitioners of the Supreme Court:
- (c) The officers of the Court and members of the Police Force:
- (d) Any person who has the express permission of the Court to be present.

Defendant to be a
compellable witness
in certain cases.

13. On the hearing of any information in which the defendant is alleged to be the father, or putative father, of an illegitimate child, and in any case where a defendant is charged with non-compliance with any order made by a Court or other tribunal, the defendant shall be compellable to give evidence, and may be summoned as a witness for that purpose; and such defendant shall not be excused from giving evidence on the ground that the answer to any question or such evidence might prove or tend to prove him guilty of the matter alleged or charged against him: Provided that such question or evidence is, in the opinion of the Court or other tribunal hearing the information or charge, relevant to the matter of such information or charge.

14. In

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14. In all proceedings relating to destitute, neglected, or uncontrollable or incorrigible children, or to unfit guardianship, the Court may receive and take into consideration any written or verbal report from any member of the Police Force or officer of the Council then present: Provided that the contents of such report shall be made known to the person charged, who shall be permitted to cross-examine such member of the Police Force or officer of the Council thereon.

Secondary evidence
receivable in certain
cases.

15. Any child may be committed to an institution during the period for which he has been remanded by a Court or any Justice or Justices, or during the period of his detention on committal for trial in the Supreme Court.

Committal of a child
to an institution
pending trial.

16. Whenever any information is laid alleging that a child is under unfit guardianship, or charging a child with being a neglected child on the ground that he is under unfit guardianship, the guardian of such child shall be notified in writing by the informant of the time and place where such information is to be heard. Such notice shall be deemed sufficiently given if served personally on such guardian, or posted addressed to him at his last known place of abode or business, a reasonable time prior to the date of the hearing of such information; and the guardian, if present, shall, if he so desires, be heard in the matter.

Notice to guardian of
certain proceedings.

17. In any information laid in respect of any alleged offence against the provisions of section 107 of the principal Act the allegation that any child has been received to be adopted, reared, nursed, or otherwise maintained for gain or reward, or that any child has been procured to be placed under care, charge, or custody as in the said section mentioned, or that any person has been permitted to have the care, charge, or custody of any child as in the said section mentioned, shall be sufficient evidence of such child having been so received or procured, or that such person has been so permitted, as the case may be, unless the contrary is proved.

Allegation that child
received for gain to
be *prima facie*
evidence.

18. The home or place of residence, and every part thereof, of any illegitimate child under the age of seven years, shall at all times be open to entry and inspection by any member or officer of the Council; and any person who refuses to allow such entry or inspection to be made, or hinders or resists any such member or officer in the making of, or attempting to make, such entry or inspection, or who refuses or neglects to produce such child to any such member or officer for inspection by him, upon such production being demanded by such member or officer, shall be liable to a penalty not exceeding Twenty Pounds: Provided that this section shall not apply to any benevolent institution.

Homes of illegitimate
children under seven
years liable to
inspection.

19. The State Children's Council, on the application of any foster parent, having the custody of a foundling child, may permit such foster parent to adopt and have the custody of such child, subject to such conditions as the Council may think proper. 20. If,

Benevolent institu-
tions exempted.

Foster parent may,
with consent of
Council, adopt child.

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Guardian of child to be liable in certain cases for its offence.

20. If, on the hearing of any information, any child is convicted of any offence, or is found to be a destitute, neglected, uncontrollable, or incorrigible child, and the Court or other tribunal hearing the information is of opinion that such child is guilty of such offence, or is destitute, neglected, uncontrollable, or incorrigible wholly or partly in consequence of some fault of or lack of proper care or control on the part of the guardian of such child, such Court or tribunal may, on such hearing or any adjournment thereof, and without information laid for that purpose, in its discretion punish such guardian by a fine not exceeding Twenty Pounds, or by imprisonment for any term not exceeding three months: Provided that no guardian shall be punished under this section unless notice of the hearing or adjournment has been given to him in manner provided by section 16, and, if present, he has had an opportunity of showing cause why he should not be punished.

Child may be placed under control of Council without committal to institution.

21. The Court or other tribunal, instead of committing any convicted, destitute, neglected, or uncontrollable or incorrigible child to an institution, may, by an order in writing, place such child in the custody and under the control of the Council until such child has attained the age of eighteen years.

Child under control of Council deemed a State child.

22. During the period of custody and control provided for by the next preceding section such child shall in all respects and for all purposes (except its detention in an institution) be deemed to be a State child, and shall be subject to the provisions of every Act relating to State children. And the near relatives of such child shall be liable to contribute towards its maintenance in the same manner as if such child had been committed to an institution by the Court or other tribunal.

Child under control may be placed in an institution.

23. The Council may, with the approval of the Chief Secretary, order, in writing, that any child committed to the custody and control of the Council shall be placed in an institution, and upon such order being made such child shall, immediately and for the unexpired term of such custody and control, be deemed to be a State child in the same manner and to the same extent as if such child had been originally committed to an institution by the Court or other tribunal.

Entry into house or premises for the purpose of arrest of children.

24. Any member of the police force, any officer of the Council specially authorised in writing by the Secretary, or any member of the Council, may enter into or upon any house, building, or other premises for the purpose of arresting, and may, there or elsewhere, arrest any child who is reasonably supposed to be guilty of any offence, or who is destitute, neglected, or uncontrollable or incorrigible; and any such child so arrested shall, as soon as conveniently may be, be brought before a competent Court, so that the matter alleged against him may be heard and determined.

Amendment of sec. 5 of Act 358 of 1885.

25. Section 5 of "The Criminal Law Consolidation Amendment Act, 1885" (which limits the time within which certain prosecutions shall

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shall be commenced), is hereby amended by the substitution of the words "six months" for the words "two months" therein.

26. The home or place of residence, and every part thereof, of any person having the charge, care, or custody, whether for gain or reward or not, of any child under the age of seven years, shall be open to entry and inspection, at all times between the hours of six o'clock in the morning and nine o'clock at night, by any officer of the Council appointed in writing by the Council to inspect the same; and any person refusing to allow such entry or inspection, or hindering or resisting any such officer in his making or attempting to make such entry or inspection, shall be guilty of an offence, and be liable to a penalty not exceeding Twenty Pounds: Provided that the provisions of this section shall not apply to the home or place of residence of any near relative of such child, nor shall the same apply to any benevolent institution.

Homes of persons (other than near relatives) having care of children under seven years to be liable to inspection.

Exception.

27. If the father or mother of any child, whether legitimate or illegitimate, or any person who has been adjudged to be the father of an illegitimate child, fails or neglects to provide reasonable and proper maintenance for such child, he or she shall be guilty of an offence, notwithstanding that at the time of such failure or neglect such father, mother, or person was out of the said State, and shall be liable to a penalty not exceeding Fifty Pounds, or to be imprisoned for any term not exceeding six months.

Punishment of father or mother failing to provide for child.

28. (1) If, on the hearing of any information laid against any person alleged to be the father of an illegitimate child, any other male person of over the age, or apparent age, of eighteen years, upon oath, admits or says that he had sexual intercourse with the mother of such child on any date, being not more than two hundred and ninety-four days nor less than one hundred and ninety days prior to the date of the birth of such child, the Court may, upon such hearing, and without information for the purpose, make an order against such other male person for contribution towards the maintenance of such child, and also, if the Court deems fit, towards the confinement expenses of the mother of such child. And every person so ordered to contribute shall, for non-compliance with such order, be subject to the same provisions and penalties as in the case of a near relative ordered to make payment under section 83 of the principal Act.

Persons admitting intercourse with mother of illegitimate child liable to contribute maintenance.

(2) An order may be made under this section whether any order is or is not made against the defendant, and the making of an order under this section shall not in any way prejudice any power to make an order against the defendant.

29. Subsection (a) of section 86 of the principal Act is hereby repealed, and it shall not be necessary hereafter to require any corroboration of the evidence of the mother unless and until the defendant has on his oath denied the allegations in the complaint: Provided

Repeal of part of sec. 86 of principal Act.

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Provided that if the defendant has on his oath denied the allegations in the complaint, he shall not be adjudged the father unless and until the evidence of the mother be corroborated in some material particular: Provided also that the cross-examination of such defendant shall be confined to the facts, or alleged facts, of the case then before the Court.

Corporal punishment
of apprentices and
children placed out.

30. (1) If any male State child who has been apprenticed or placed out with a foster parent is guilty of any fault or misconduct, the master or foster parent of such child may, in the presence of a witness not under the age of twenty-one years, inflict such corporal punishment upon such child, and in such manner, as are prescribed by regulations made under the principal Act; but such punishment shall not exceed in severity the punishment so prescribed, nor be of any nature, or be inflicted in any manner, other than so prescribed.

(2) Such master or foster parent shall forthwith after inflicting such punishment send to the Council a full and accurate report, signed by himself and the witness, of such fault or misconduct and of the punishment inflicted and the manner of its infliction.

(3) Any master or foster parent who does any act which is contrary to the provisions of this section or omits to do any thing required by this section, or sends to the Council a report under this section which is incomplete or inaccurate as to any material particular, shall, in addition to any other punishment or liability, civil or criminal, be liable to a penalty for a first offence of not more than Five Pounds and for any subsequent offence of not more than Twenty Pounds.

Council may accept
settlement in full.

31. In all proceedings under this Act against any person liable to contribute towards the expenses of the confinement of the mother or the maintenance of her illegitimate child the Council may accept from such person a sum of money in settlement of all such liability: And on payment of such money no proceedings whatsoever shall be taken by the Council or the said mother or any person whomsoever in respect of such expenses or liability.

In the name and on behalf of His Majesty, I hereby assent to
this Bill,

DAY H. BOSANQUET, Governor.