



## WESTERN AUSTRALIA.

ANNO TRICESIMO QUINTO

## VICTORIÆ REGINÆ.

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No. IV.

AN ACT to make further provision for the Maintenance of Bastard Children by their Putative Fathers.

[Assented to, 4th August, 1871.]

**W**HEREAS it is expedient to make further provision for the maintenance of bastard children by the putative fathers of such children: Be it therefore enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows:—

Preamble.

**1** ANY single woman who may be with child, or who may be delivered of a bastard child, after the passing of this Act, or who has been delivered of a bastard child within the period of six calendar months before the passing of this Act, may either before the birth or at any time within twelve months from the birth of such child, or at any time thereafter, upon proof that the man alleged to be the father of such child has within the twelve months next after the birth of such child paid money for its maintenance, make application to any one Justice of the Peace at the place

The putative father to be summoned to Petty Sessions, on application of mother of bastard.

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place in which she may reside, for a summons to be served on the man alleged by her to be the father of such child; and if such application be made before the birth of the child, the woman shall make a deposition upon oath stating who is the father of such child, and such Justice of the Peace shall thereupon issue his summons to the person alleged to be father of such child to appear at a Petty Session to be holden after the expiration of six days at least at the place in which such Justice usually acts.

Justices in Petty Sessions may make an order on the putative father for maintenance and costs, and enforce the same by distress and commitment.

2 AFTER the birth of such bastard child, on the appearance of the person so summoned, or on proof that the summons was duly served on such person, or left at his last place of abode six days at least before the Petty Session, the Justices in such Petty Session shall hear the evidence of such woman, and such other evidence as she may produce, and shall also hear any evidence tendered by or on behalf of the person alleged to be the father; and if the evidence of the mother be corroborated in some material particular by other testimony, to the satisfaction of the said Justices, they may adjudge the man to be the putative father of such bastard child; and they may also, if they see fit, having regard to all the circumstances of the case, proceed to make an order on the putative father for the payment to the mother of the bastard child, or to any person who may be appointed to have the custody of such child under the provisions of this Act, of a sum of money weekly, and of such costs as may have been incurred in the obtaining of such order, including, if they think proper, ten shillings for the midwife, and ten shillings towards the funeral expenses of the child, provided it have died before the making of such order; and if the application be made before the birth of the child, or within two calendar months after the birth of the child, such weekly sum may, if the said Justices think fit, be calculated from the birth of the child, at a rate not exceeding five shillings per week for the first six weeks after the birth of such child; and in other cases such sum shall not exceed two shillings and sixpence per week from the time of the making of the application; and if at any time after the expiration of one calendar month from the making of such order as aforesaid it be made to appear to any one Justice, upon oath or affirmation, that any sum to be paid in pursuance of such order has not been paid, such Justice may, by warrant under his hand and seal, cause such putative father to be brought before any two Justices; and in case such putative father neglect or refuse to make payment of the sums due from him under such order, or since any commitment for disobedience to such order as hereinafter provided together with the costs attending such warrant, apprehension,

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hension, and bringing up of such putative father, such two Justices may, by warrant under their hands and seals, direct the sum so appearing to be due, together with such costs, to be recovered by distress and sale of the goods and chattels of such putative father, and may order such putative father to be detained and kept in safe custody until return can be conveniently made to such warrant of distress, unless he give sufficient security, by way of recognizance or otherwise, to the satisfaction of such Justices, for his appearance before two Justices on the day which may be appointed for the return of such warrant of distress, such day not being more than seven days from the time of taking any such security; but if upon the return of such warrant or if by the admission of such putative father, it appear that no sufficient distress can be had, then any such two Justices may, if they see fit, by warrant under their hands and seals, cause such putative father to be committed to the common gaol or lock-up, there to remain without bail or mainprize for any term not exceeding three calendar months, unless such sum or costs, and all reasonable charges attending the said distress, together with the costs and charges attending the commitment and conveying to gaol, and of the persons employed to convey him thither, be sooner paid and satisfied; Provided always that if the woman have allowed the weekly payment to be in arrear for more than thirteen successive weeks without application to a Justice the man shall not be called upon to pay more than the amount due for thirteen weeks in discharge of the whole debt, and no warrant of distress shall be issued for more than the amount of arrears for thirteen weeks' payment in discharge of the whole arrears or debt.

Proviso.

**3** THE Justices in Petty Session as aforesaid may adjourn the hearing of the case as often as to them may seem fit; but no such order shall be made unless applied for at such Petty Sessions within the space of forty days from the service of the summons after the birth of the bastard child on the person alleged to be the father of such bastard child; and if within twenty-four hours after the adjudication and making of any order on the putative father as aforesaid such putative father give notice of appeal, to the mother of the bastard child, and also within seven days give sufficient security by recognizance or otherwise for the payment of costs, to the satisfaction of some one Justice of the Peace, it shall be lawful for such putative father to appeal to the next session of the Supreme Court to be holden after the period of fourteen days next after the making of the said order; and the Chief Justice shall thereupon hear and determine such appeal, and shall order such costs to be paid by either party as to him may seem fit.

Applications to be made within forty days.

Appeal to Supreme Court for the putative father.

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Money under the order to be paid to the mother or to a person appointed by the Justices

4 ALL money payable under any order as aforesaid shall be due and payable to the mother of the bastard child in respect of such time and so long as she lives and is of sound mind, and is not in any gaol or prison; and after the death of the mother of such bastard child, or whilst such mother is of unsound mind, or confined in any gaol, or prison, any two Justices may, if they see fit, by order under their hands and seals from time to time appoint some person who, with his own consent, shall have the custody of such bastard child, and any two such Justices may revoke the appointment of such person, and may appoint another person in his stead; and every person so appointed to have the custody of a bastard child shall be empowered to make application for the recovering of all payments becoming due under the order of the court of Petty Session as aforesaid in the same manner as the mother of such bastard child might have done: Provided always, that no order for the maintenance or support of any such bastard child made in pursuance of this Act shall, except for the purpose of recovering money previously due under such order, be of any force or validity after the child in respect of whom it was made has attained the age of fourteen years, or after the marriage of the mother of such child, or after the death of such child.

Time of cessation of order.

Mother punishable for neglect or desertion of her bastard child.

5 EVERY woman neglecting to maintain her bastard child, being able wholly or in part so to do, shall be punishable as an idle and disorderly person, under the provisions of an Ordinance made and passed in the twenty-fifth year of the Reign of Her present Majesty, intituled "The Police Ordinance, 1861"; and every woman so neglecting to maintain her bastard child, after having been once before convicted of such offence, and every woman deserting her bastard child whereby such bastard child becomes chargeable to the public, shall be punishable as a rogue and vagabond, under the provisions of the said last recited Ordinance.

5th Vic. No. 15, Sec. 18.

25th Vic., No. 15, Sec. 19.

Clerks to Justices annually to make a return of summonses, orders, &c., to the Registrar of the Supreme Court,

6 EVERY Clerk to the Justices shall once in each year (that is to say) as soon as may be after the first day of January, make up, in the Form in the Schedule (A) annexed to this Act, and forward to the Registrar of the Supreme Court a complete list of summonses issued, applications heard, and orders made as aforesaid since the first day of January of the year preceding, by the Justices to whom he acts as Clerk; and the Registrar of the Supreme Court shall receive such lists, and shall, on demand of the Clerk to the Justices, acknowledge under his hand the receipt of any such list, and shall preserve the said lists, and shall as soon as may be after the receipt of such lists transmit copies thereof, duly certified, to the Colonial Secretary,

who shall transmit copies thereof to the Colonial Secretary, with lists of appeals.

Secretary,

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Secretary, and shall also transmit a list of all the cases in which appeals have been made to the Supreme Court during the same period, with the result of every such appeal.

In the name and on behalf of the Queen I hereby assent to this Act.

FRED. A. WELD, Governor.

### SCHEDULE (A.)

Western Australia,  
(Perth,)

Name of Mother of Bastard applying.	Date of issue of Summons.	Date of Petty Sessions.	Result of Application.	Name the putative Father in all Cases in which Orders are made.
			[Here state if the Summons was never served, or if the alleged father absconded, or the complaint was abandoned or heard, and the Order refused, or if made, the Amount of the Order.]	

I certify the above List to be correct in all particulars.

\_\_\_\_\_ (Signed) A.B., Clerk to the Justices.