

*This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed as now printed, is transmitted to the HOUSE OF REPRESENTATIVES for its concurrence.*

*Legislative Council,  
16th July, 1890.*

*Hon. Sir. F. Whitaker.*

CHILDREN'S PROTECTION.

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A BILL INTITULED

AN ACT for the Prevention of Cruelty to and Better Protection of Children. Title.

BE IT ENACTED by the General Assembly of New Zealand, in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is "The Children's Protection Act, 1890." Short Title.
2. In this Act, if not inconsistent with the context,— Interpretation.
  - 10 "Committed for trial" means committed to prison, or admitted to bail in manner provided in "The Justices of the Peace Act, 1882:"
  - "Magistrate" means a Resident Magistrate:
  - 15 "Parent," when used in relation to a child, includes guardian and every person who is by law liable to maintain the child:
  - "Place of safety" means any place certified by the Colonial Secretary from time to time under this Act for the purposes of this Act:
  - 20 "Street" includes any highway or other public place, whether a thoroughfare or not.
3. Any person who, having the custody, control, or charge of a child, being a boy under the age of fourteen years, or being a girl under the age of sixteen years, wilfully ill-treats, neglects, abandons, or exposes such child, or causes or procures such child to be ill-treated, neglected, abandoned, or exposed, in a manner Punishment for ill-treatment and neglect of children.

likely to cause such child unnecessary suffering, or injury to its health, shall be guilty of a misdemeanour, and,

- (1.) On conviction thereof on indictment, shall be liable, at the discretion of the Court, to a penalty not exceeding *one hundred* pounds, or alternatively, or in default of payment of such penalty, or in addition to payment thereof, to imprisonment, with or without hard labour, for any term not exceeding *two* years; or 5
- (2.) On conviction thereof in a summary way, shall be liable, at the discretion of the Court, to a penalty not exceeding *fifty* pounds, or alternatively, or in default of payment of such penalty, or in addition thereto, to imprisonment, with or without hard labour, for any term not exceeding *three* months. 10

Power to increase fine where offender interested in death of child.

4. If it be proved that a person convicted on indictment as aforesaid was interested in any sum of money accruable or payable in the event of the death of the child, and had knowledge that such sum of money was accruing or becoming payable, the Court may, in its discretion, increase the amount of the said fine so that the fine shall not exceed *two hundred* pounds. 15 20

Such interest as aforesaid in any sum of money accruable or payable in the event of the death of the child shall be charged in the indictment and put to the jury in the same way, as far as may be, as a previous conviction is now charged and put.

Restrictions on employment of children.

5. Any person who— 25
- (a.) Causes or procures any child, being a boy under the age of fourteen years, or being a girl under the age of sixteen years, to be in any street for the purpose of begging, or receiving alms, or of inducing the giving of alms, whether under the pretence of singing, playing, performing, offering anything for sale, or otherwise; or 30
- (b.) Causes or procures any child, being a boy under the age of fourteen years, or being a girl under the age of sixteen years, to be in any street, or in any premises licensed for the sale of any intoxicating liquor, other than premises licensed according to law for public entertainments, for the purpose of singing, playing, or performing for profit, or offering anything for sale, between nine p.m. and six a.m.; or 35
- (c.) Causes or procures any child under the age of ten years to be at any time in any street or in any premises licensed for the sale of any intoxicating liquor, or in premises licensed according to law for public entertainments, or in any circus or other place of public amusement to which the public are admitted by payment, for the purpose of singing, playing, or performing for profit, or offering anything for sale, 40 45

shall, on conviction thereof in a summary way, be liable, at the discretion of the Court, to a penalty not exceeding *twenty-five* pounds, or alternatively, or in default of payment of the said penalty, or in addition thereto, to imprisonment, with or without hard labour, for any term not exceeding *three* months. 50

Any Resident Magistrate may, if he think it necessary or desirable so to do, from time to time by a written permission extend or restrict the hours mentioned in subsection (b) of this section, either on every day or on any specified day or days of the week, and either  
5 as to the whole of his district or as to any specified area therein.

In the case of any entertainment or series of entertainments to take place in premises licensed according to law for public entertainments, or in any circus or other place of public amusement as aforesaid, where it is shown to the satisfaction of a Resident Magistrate  
10 that proper provision has been made to secure the health and kind treatment of any children proposed to be employed thereat, the said Magistrate, anything in this Act notwithstanding, may grant a license, for such time and during such hours of the day and subject to such restrictions and conditions as he may think fit, for any child  
15 exceeding seven years of age, of whose fitness to take part in such entertainment or series of entertainments without injury the said Magistrate is satisfied, to take part in such entertainment or series of entertainments, and such license may at any time be varied, added to, or rescinded by the same Magistrate or any other Resident Magistrate,  
20 upon sufficient cause being shown; and such license shall be sufficient protection to all persons acting under or in accordance with the same.

A Resident Magistrate may assign to any person appointed or to be appointed under section eleven of "The Employment of Females and Others Act, 1881," specially and in addition to any other usual  
25 duties, the duty of seeing whether the restrictions and conditions of any license under this section are duly complied with, and any such person shall have the same power to enter, inspect, and examine any place of public entertainment at which the employment of a child is  
30 for the time being licensed under this section as he has to enter, inspect, and examine a factory under the above-mentioned section.

So much of subsection (c) of this section as makes it an offence to cause or procure a child to be in premises licensed according to law for public entertainment, or in any circus or other place of public  
35 amusement, for the purpose of singing, playing, or performing for profit, shall not come into operation until the first day of January, one thousand eight hundred and *ninety-one*.

6. (1.) Any constable may take into custody without warrant any person who within view of such constable commits an offence  
40 under this Act, where the name and residence of such person are unknown to such constable and cannot be ascertained by such constable; and any constable may take to a place of safety any child in respect of whom an offence under section *three* or subsection (a) of section *five* of this Act has been committed, and the child may there  
45 be detained until it can be brought before a Justice of the Peace, and such Justice may cause the child to be dealt with as circumstances may admit and require until the charge made against any person in respect of the said offence has been determined by the committal for trial, or conviction, or discharge of such person.

50 (2.) Where a constable arrests any person without warrant in pursuance of this section the Inspector or constable in charge of the station to which such person is conveyed shall, unless in his belief

Taking of offender into custody, and protection of child.

the release of such person on bail would tend to defeat the ends of justice, or to cause injury or danger to the child against whom the offence is alleged to have been committed, release the person arrested on his entering into such a recognizance, with or without sureties, as may in his judgment be required to secure the attendance of such person upon the hearing of the charge. 5

Disposal of child by  
order of Court.

7. (1.) Where a person having the custody or control of a child, being a boy under the age of fourteen or a girl under the age of sixteen years, has been—

(a.) Convicted of committing in respect of such child an offence 10  
under section *three* of this Act, or any offence involving  
bodily injury to the child and punishable with penal  
servitude; or

(b.) Committed for trial for any such offence; or

(c.) Bound over to keep the peace towards such child, 15

any person may bring such child before a Resident Magistrate; and the Magistrate, if satisfied on inquiry that it is expedient so to deal with the child, may order that the child be taken out of the custody of such person and committed to the charge of a relation of the child, or some other fit person named by the Magistrate, such relation or other person being willing to undertake such charge until it attains 20  
the age of fourteen years, or in the case of a girl sixteen years, or in either case for any shorter period; and such Magistrate or any other Resident Magistrate may of his own motion, or on the applica-  
tion of any person, from time to time renew, vary, and revoke any 25  
such order.

No order shall be made under this section unless a parent of the child is under committal for trial for having been, or has been proved to have been, party or privy to the offence, or has been bound over to keep the peace towards such child. 30

(2.) Any person to whom a child is so committed shall, whilst the order is in force, have the like control over the child as if he were its parent, and shall be responsible for its maintenance, and the child shall continue under the control of such person, notwithstanding that it is claimed by its parent; and any Resident Magistrate 35  
having power so to commit a child shall have power to make the like orders under "The Destitute Persons Act, 1877," on the parent of the child to contribute to its maintenance during such period as aforesaid as if the child were detained in an industrial school under "The Industrial Schools Act, 1882," and such orders may be 40  
made on the complaint or application of the person to whom the child is for the time being committed; and the sums contributed by the parent shall be paid to such person as any Resident Magistrate from time to time may name, and be applied for the maintenance of 45  
the child.

In determining on the person to whom the child shall be so committed, the Magistrate shall endeavour to ascertain the religious persuasion to which the child belongs, and shall, if possible, select a person of the same religious persuasion, and such religious persuasion shall be specified in the order; and, in any case where the child 50  
has been placed pursuant to any such order with a person not of the same religious persuasion as that to which the child belongs, the

Magistrate who made the original order, or any other Resident Magistrate, shall, on the application of any person in that behalf, and on its appearing that a fit person of the same religious persuasion is willing to undertake the charge, make an order to secure his being placed with a person of the same religious persuasion.

But if the order to commit the child to the charge of some relation or other person be made in respect of any person having been committed for trial for an offence, as specified in paragraph (b) of subsection one of this section, the Magistrate shall not be empowered to order the parent of the child to contribute to its maintenance prior to the trial of such person; and if he be acquitted of such charge, or if such charge be dismissed for want of prosecution, then any order that may have been made under this section shall forthwith be void, except with regard to anything which may have been lawfully done under it.

(3.) The Colonial Secretary may at any time in his discretion discharge a child from the custody of any person to whom it is committed in pursuance of this section, either absolutely or on such conditions as he approves, and may, if he shall think fit, from time to time make, alter, or revoke rules in relation to children so committed to any person, and to the duties of such persons with respect to such children.

8. (1.) If it appears to any Resident Magistrate or to any two Justices of the Peace, on information made before him or them on oath by any person who, in the opinion of the Magistrate or Justices, is *bonâ fide* acting in the interest of any child, that there is reasonable cause to suspect that such child, being a boy under the age of fourteen years or a girl under the age of sixteen years, has been or is being ill-treated or neglected in any place within the jurisdiction of such Magistrate or Justices in a manner likely to cause the child unnecessary suffering or to be injurious to its health, such Magistrate or Justices may issue a warrant authorising any person named therein to search for such child, and, if it is found to have been or to be ill-treated or neglected in manner aforesaid, to take it to and detain it in a place of safety until it can be brought before a Justice of the Peace; and any such Justice before whom the child is brought may cause it to be dealt with in the manner provided by section *six*.

The powers hereinbefore conferred on any two Justices may be exercised by any one Justice, if upon the information it appears to him to be a case of urgency.

(2.) The Magistrate or Justices or Justice issuing such warrant may by the same warrant cause any person accused of any offence in respect of the child to be apprehended and brought before a Resident Magistrate or two Justices, and proceedings to be taken for punishing such person according to law.

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

(4.) Provided always that every warrant issued under this section shall be addressed to and executed by some Inspector or other superior

officer of police, who shall be accompanied by the person making the information, if such person so desire, unless the Magistrate, Justices, or Justice otherwise direct, and may also, if the Magistrate, Justices, or Justice so direct, be accompanied by a registered medical practitioner.

Evidence of  
accused person.

9. In any proceeding against any person for an offence under this Act, such person shall be competent but not compellable, and the wife or husband of such person may be required, to attend to give evidence as an ordinary witness in the case, and shall be competent but not compellable to give evidence.

Evidence of child of  
tender years.

10. Where, in any proceeding against any person for an offence under this Act, the child in respect of whom the offence is charged to have been committed, or any other child of tender years who is tendered as a witness, does not, in the opinion of the Court, understand the nature of an oath, the evidence of such child may be received, though not given upon oath, if, in the opinion of the Court, such child is possessed of sufficient intelligence to justify the reception of the evidence, and understands the duty of speaking the truth. And the evidence of such child, though not given on oath or affirmation, but otherwise taken and reduced into writing, in accordance with the provisions of sections one hundred and twenty-nine and one hundred and thirty of "The Justices of the Peace Act, 1882," shall be deemed to be a deposition within the meaning of those sections :

Provided that—

(a.) A person shall not be liable to be convicted of the offence unless the testimony admitted by virtue of this section and given on behalf of the prosecution is corroborated by some other material evidence in support thereof implicating the accused ; and

(b.) Any child whose evidence is received as aforesaid, and who shall wilfully give false evidence, shall be liable to be indicted and tried for such offence, and on conviction thereof may be adjudged such punishment as is provided for by section one hundred and seventy-six of "The Justices of the Peace Act, 1882," in the case of juvenile offenders.

Presumption of age  
of child.

11. Where a person is charged with an offence under this Act in respect of a child who is alleged in the charge or indictment to be under any specified age, and the child appears to the Court to be under that age, such child shall for the purposes of this Act be deemed to be under that age unless the contrary is proved.

Recovery of  
penalties.

12. Every penalty imposed by or under this Act for any act or offence may be proceeded for and recovered in a summary way under the provisions of "The Justices of the Peace Act, 1882;" but nothing herein shall extend to any offence under this Act punishable on indictment.

Appeal from sum-  
mary conviction to  
Supreme Court.

13. When, in pursuance of this Act, any person is convicted in a summary way of an offence, and such person did not plead guilty or admit the truth of the information, or when in the case of any application to a Resident Magistrate under section seven of this Act any party thereto thinks himself aggrieved by any order or decision of the Court or Magistrate, he may appeal against such conviction, or order, or decision to the Supreme Court in accordance with the provisions of "The Justices of the Peace Act, 1882."

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14. Nothing in this Act contained shall be construed to take away or affect the right of any parent, teacher, or other person having the lawful control or charge of a child to administer reasonable punishment to such child.

Act not to take away right of parent &c., to administer punishment.

5 15. Where any offence against this Act is also punishable under any other Act, or at common law, it may be prosecuted and punished either under this Act, or under the other Act, or at common law, but so that no person be punished twice for the same offence.

Saving for proceedings under other laws.