any such sum as aforesaid be so poor as to be unable to pay the said "The Neglected sum, any two justices may upon the application of any such parent 1887" a. 55. from time to time make an order suspending payment of the whole or Persons too any part of such sum for any time not exceeding six months, or be relieved from reducing the amount payable or altogether dispensing with payment payment of the said sum, and any two justices may from time to time upon the application of any person authorized as aforesaid vary or revoke any such order, and payment of such sum or any part thereof of which payment may be suspended shall not be enforced while such suspension lasts, but no such parent shall be therefore discharged from liability to pay the same.

55. In addition to any other remedy for the recovery thereof Payment may every such sum and every part thereof may be recovered before any two before justices. justices on the complaint of any person authorized as aforesaid to sue 16. s. 56. for the same; and if such parent do not pay the amount due forthwith or within any time not exceeding seven days that such justices may fix or prove to the satisfaction of such justices that he has not then and has not had since the order made against him sufficient means and ability to pay the amount due or any part thereof and that he does not intend to go away with intent to evade payment such parent shall be liable to be imprisoned with or without hard labour if the amount due do not exceed Twenty pounds for any term not exceeding one month, and if the amount due exceed Twenty pounds for any time not exceeding three months unless the amount due together with the costs of the proceedings be sooner paid, or unless security be given with one or more sufficient sureties to the satisfaction of any two justices for payment of such amount and costs by instalments or otherwise within such reasonable time as to such justices may seem fit.

56. No imprisonment as aforesaid shall discharge any parent Imprisonment from his liability to pay any sum he has not paid, but no parent shall only once for the be imprisoned twice for non-payment of the same arrears.

57. If it be made to appear to any justice upon the complaint in Warrant may writing of any person authorized as aforesaid to sue for the same that instance for any parent has neglected to pay any such sum or any part thereof to arrest of parent. the Člerk of the Court or other collector of imposts appointed to receive 15. 4. 58. the same on any day on which the same is payable, such justice may issue his warrant for apprehending such parent and bringing him before any two justices to answer the said complaint and to be further dealt with according to law, but a summons may issue in the first instance instead of a warrant if that be thought more desirable.

Definition of " parent." 58. In this Part of this Act "parent" (a) shall include "father" Ib. 4.59.

(a) An order for the maintenance of an illegitimate child, made by a Court of Petty Sessions against the alleged father, was quashed by the Court of General Sessions. The child was subsequently made a ward of the Department for Neglected Children. On an information on behalf of the Department, an order was made under this Act against the alleged father, as being the "parent of the child, for the payment of a weekly sum for the child's maintenance: Held, that the justices had jurisdiction to make the last-mentioned order. The facts that a man, alleged to be the father of "The Neglected Children's Act 1887."

"mother" "stepfather" or "stepmother" and any person against whom an order of affiliation has been made as the putative father of any illegitimate child, and shall include mother or stepmother notwithstanding a father or stepfather of the child is alive, also the putative father of any illegitimate child which he may have recognised as his though no order of affiliation may have been made against him.

Where several liable.

And where more persons than one are liable to contribute to the maintenance of any child under the provisions of this Part of this Act 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 Judge chairman or justices may seem fit, so that such persons shall not be liable to pay more than Twelve shillings a week in the aggregate in respect of any one child.

Ib. s. 60.

Constables to assist in collecting money from every collector of imposts appointed to receive the same in the recovery parents.

of the moneys payable to Har Majesty by the parents of wards of the 59. All clerks of Courts constables and peace officers shall assist of the moneys payable to Her Majesty by the parents of wards of the Department and inmates, and in particular by obtaining and furnishing information as to the residence occupation movements and means of every such parent who may be in or may leave any district of which such clerk constable or peace officer has charge or in which he is on duty.

Percentage payable to sons assist. persons assis covery of moneys from parents. Ib. s. 61.

60. For the more effectual enforcing the liability of parents of wards of the Department and inmates to contribute to their maintenance a percentage upon the moneys received from parents hereunder or under any previous Act may be paid out of the consolidated revenue to any persons authorized by the Governor in Council who have assisted in recovering such moneys not being persons bound to devote their whole time to the public service by virtue of any other engagement, and the consolidated revenue is hereby appropriated for that purpose accordingly; and such percentage shall be of such amount and payable to such persons and on such conditions as may be for the time being determined by the regulations of the Governor in Council.

PART VIII.—COMMITTAL TO THE CARE OF PRIVATE PERSONS.

Council to an-

61. Any private person and any institution formed by private persons empowered in that behalf desirous of taking charge of a

an illegitimate child, has written to the mother in such terms as are to be construed to be a recognition of the child as his, and has sent her a sum of money, are evidence upon which justices may find that he is a putative father, who has recognised the child, and, therefore, a parent within the meaning of this section.—Buswell v. White, 4 A.L.R. (C.N.), 74; 24 V.L.R., 486.

To bring a man within the definition of "parent" it is not sufficient to prove facts from which an inference may be drawn that he is the father of the child, but it must be shown either

that an affiliation order has been made against him in respect of the child, or that he has recognised the child as his.—Nedwell v. Shirley, 14

A.L.T., 159.

The word "stepfather" in this section means the husband of the mother of a child, who is the offspring of the mother by a former husband of hers, and does not apply to the illegitimate offspring of the woman, born before marriage, of a man other than her present husband.—Irwin v. Sholl, 22 V.L.R., 640; 18 A.L.T., 232; 3 A.L.R., 69.

neglected child or neglected children gratuitously may be from time to "The Neglected time approved by the Governor in Council as a person or institution to 1887" s. 62. whose care neglected children may be committed under the provisions prove private of this Act, and the Governor in Council may revoke any such order; institutions to and every such order approving of any such institution and every neglected revocation of any such order approving of any such institution shall be published in the Government Gazette.

62. Every order approving any institution as an institution to Managers of the care of which neglected children may be committed hereunder be approved by shall name some person as the manager of such institution, and when Council Gazette from time to time the manager of any such institution is changed every evidence of new manager shall be submitted to the Governor in Council for his ment. approval, and the order approving of such manager shall be published 16.5.69. in the Government Gazette, and any copy of the Government Gazette purporting to contain any such order shall be conclusive evidence that the person named therein on that behalf is the manager of any such institution.

63. Where under the provisions of this Act any Judge chairman power to judge of any Court or any justices may be empowered to commit any child commit to the care of the Department for Neglected Children such Judge chairman or justices may commit such child to the care of any person person instead or institution for the time being approved by the Governor in Council ment. hereunder as a person or institution to whose care neglected children 16. 8. 64. may be committed, which person or institution by writing under his hand or the hand of its manager (as the case may be) may consent to accept the care of such child.

64. Whenever any child is committed to the care of any person Approved or institution as aforesaid such person or the manager of such manager of institution shall become the guardian of the person and estate of such manager of such child to the exclusion of the father and every other guardian until are committed such child attains the age of eighteen years or such greater age not to become their exceeding twenty-one years as the Governor in Council may direct, 15. s. 65. unless such child is sooner discharged, and such person shall have the unless such child is sooner discharged, and such person shall have the sole right to the custody of such child, and such manager shall have the sole right to the custody of such child as on behalf of such institution, subject in both cases to the provisions of this Act and to the regulations of the Governor in Council in force hereunder.

65. Upon the publication of any order of the Governor in Council New managers hereunder in the Government Gazette approving of any person as the institutions to the succeed to the manager of any such institution in the place of any other person, the guardianship. manager so approved shall become the guardian of the person of every 10. s. 66. child of whose person and of the estate of every child of whose estate the manager in whose place he is so approved was the guardian under the provisions of this Part of this Act in the place of the manager in whose place he is so approved.

66. No Judge chairman or justices shall commit any child to the child not to be care of any such person or institution if the father or other person care of approved Children's Act 1887 " s. 67. religion.

"The Neplected having the right to direct in what religion such child shall be educated object, or so that such child may be educated in a do. object or so guardian of such child appointed by the Supreme Court to direct cated in a such child to be educated.

Power to father or mother being guardian to approved person or institution. Ib. s. 68.

67. The father of any child or the mother of any child being the guardian of such child may by writing signed before a justice of the transfer the guardienship of peace commit the care of such child to any person or institution any child to approved by the Governor in Council as a person or institution to approved by the Governor in Council as a person or institution to whose care neglected children may be committed, and such person or institution by writing under his hand or the hand of its manager (as the case may be) may consent to accept the care of such child, and thereupon such person or the manager of such institution on behalf of such institution shall become the guardian of the person and estate of such child during its minority, to the exclusion of such father or mother and every other guardian.

Approved visited and inspected. Ib. s. 69.

68. Every person or institution to whose care any child may be berson or institution to permit committed under the provisions of this Act, whether by any Judge
children to be chairman or justices or by the father or mother of such child and chairman or justices or by the father or mother of such child, and every person intrusted with the care of any such child by any such person or institution shall from time to time permit such child to be visited and any place where such child may be or reside to be inspected by the inspector or any person authorized by or under the regulations of the Governor in Council for the time being in force in that behalf.

Transmission of guardianship upon death of approved person or revocation of approval of person or institution.

Ib. s. 70.

69. Upon the death of any person having the care of any child by virtue of any order made under this Part of this Act, or upon the revocation of the order approving of any such person or of any institution, the Governor in Council may appoint some other person or institution approved as aforesaid in place of the person so dying or the person or institution the order approving of whom or which is revoked, and thereupon the same consequences shall ensue as upon an order of any Judge chairman or justices made under the provisions of this Part of this Act committing the care of every child of whom such person or institution was guardian by virtue of any order made under this Part of this Act to the care of the person or institution so appointed, and in the meantime unless and until such other person or institution be so appointed the same consequences shall ensue as if upon the date of such death or of the revocation of such order an order had been made hereunder committing every child of whom such person or institution was guardian by virtue of any order made under the provisions of this Part of this Act to the care of the Department for Neglected Children.

A person or institution may be appointed in the place of a person or institution the order approving of whom or which is revoked by the order by which the revocation is made or by any subsequent order.

The order appointing an institution in the place of another institution shall be published in the Government Gazette.

70. Upon the revocation of any order approving of any person "The Neglected or institution as a person or institution to whose care neglected 1887." children may be committed, such person or the manager of such Guardianship of institution shall cease to be guardian of the person or estate of any person or insti-child under the provisions of this Part of this Act, whether such child tution to cease on revocation of be under the care of such person or institution by virtue of any order approval. made under this Part of this Act or of any writing signed as aforesaid 16. s. 71. by the father or mother of such child.

71. Every order committing a child to the care of any approved Form of order person or institution hereunder may be in such form as may be child to care of prescribed by the regulations of the Governor in Council for the time approved person or instibeing in force in that behalf or to the like effect, and such order or an tution. office copy thereof without any warrant shall be a sufficient authority 15. a.72. for any constable to take such child to such person or institution.

72. No warrant shall be necessary to authorize the detention of Warrant for detention of child 72. No warrant shall be necessary to authorize the detention of child any child in the care of any approved person or institution hereunder, by approved person or institution have been or institution by person or institution have been or institution by person or institution have been or institut but if the right to the custody of such child be called in question by person habeas corpus or otherwise, it shall be sufficient to give in evidence the 10. s. 78. order committing such child to the care of such person or institution and to show that such child is detained by the authority of such person or institution or the manager of such institution.

73. If any person or institution having the care of any child by Power to transvirtue of any order made under the provisions of this Part of this Act care of the or the manager of any such institution desire for any cause sufficient Department for Neglected in the opinion of any two justices to be relieved of the care of such Children. child, such justices may order such child to be committed to the care 16. s. 74. of the Department for Neglected Children.

74. No person who whether as manager of any institution or child not to be otherwise is guardian of the person of any child by virtue of any order victoria, under the provisions of this Part of this Act shall remove such child or 15. s. 75. suffer such child to be removed out of Victoria without the consent of the Minister being first obtained.

75. Every person who whether as the manager of any institution Guardian of or otherwise is guardian of the estate of any child under the provisions accounts. of this Part of this Act shall keep proper accounts of his receipts and no. s. 76. expenditure as such guardian in such form (if any) as may be for the time being prescribed by the regulations of the Governor in Council in force hereunder, and shall once at least in every year forward copies of such accounts to the Attorney-General.

76. Where any child being then destitute has been without children objection on the part of its father or other guardian received and maintained into any asylum for the care and management of destitute children in asylums with incorporated under Part I. of the Hospitals and Charities Act 1890 or the part of their the Act No. 220 the by-laws of which have been approved by the guardians for Gavernor in Council and maintained at the expense of such asylum removable Governor in Council and maintained at the expense of such asylum two years necessary removable

without the consent of the committee or order of the Governor in Council.

"The Neglected Children's Act such child shall not be entitled to remove such child out of the custody of such asylum or the committee thereof without the consent of such committee or the order of the Governor in Council unless such father or guardian can show that he was ignorant that such child was being so maintained and that he has not been guilty of negligence with regard to such child during the period such child has been so maintained, and the committee of such asylum shall have the custody of the person of such child until such child attains the age of eighteen years.

PART IX.—EMPLOYMENT OF CHILDREN.

Registration of children under certain age. Ib. s. 78.

77. Any child under the age at which attendance at school ceases to be compulsory under any law now or hereafter to be in force relating to education may be registered for the purpose of this Act in manner hereinafter appearing. Such child accompanied by its parent, or if the child is not resident with its parent by some adult person with whom such child resides, may apply to a clerk of petty sessions at a place near where such child resides and deliver to such clerk either a certificate of an inspector of schools that such child has been educated up to the standard or a certificate or certificates by the head master or teacher of some State or other school showing that such child has attended school the number of days required by law during the preceding twelve months, and inform such clerk of the name age and residence of such child and of the name residence and occupation of its father, or if it has no father of its mother, or if the child has neither father nor mother of some adult person with whom the child is or has recently been residing, and the clerk shall enter the said particulars in a book, and the parent or other adult person accompanying such child shall sign the same, and thereupon the clerk shall certify under his hand that the child had been registered on that date, and the registration of any child may be renewed in like manner. Every registration of a child for the purposes of this Act shall continue in force for a period of twelve months and not longer.

Penalty on em-

Ib. s. 79.

78. If any person after the commencement of this Act knowingly child or without reasonable excuse the proof whereof shall be on such person age who is not keep or take in or into any casual employment any child under the age registered. at which attendance at school ceases to be compulsory under any law now or hereafter to be in force relating to education not duly registered under the provisions of this Act or after the registration of any such child has expired, every person so offending on conviction of any such offence before any two justices shall be liable to a penalty not exceeding One pound for every day such child is so in his employ and not exceeding Five pounds in the whole.

Penalty on forging or fraudulently obtaining or using a certi-ficate of registration of a child.

Ib. s. 80.

79. If any person for the purpose of obtaining a certificate of registration under the provisions of this Act of any child sign any statement not true to the best of such person's knowledge information and belief, he shall on conviction before any two justices be liable to a penalty not exceeding Ten pounds or to be imprisoned for any time not exceeding fourteen days, and if any person forge any such certificate "The Neglected Children's Act or produce or use any such certificate which is to the knowledge of 1867." such person forged or fraudulently obtained every such person so offending on conviction of any such offence before any two justices shall be liable to be imprisoned for any time not exceeding six months.

PART X.—OFFENCES PENALTIES AND LEGAL PROCEEDINGS.

80. If any person without lawful authority or excuse—

O. If any person without lawful authority or excuse—

(1) Holds or attempts to hold any communication with any communication ward of the Department for Neglected Children in any with wards receiving depôt industrial or probationary school or any Department. child in any institution approved by the Governor in Ib. s. 81. Council hereunder: or

(2) Enters any receiving depôt industrial or probationary school or any building yard or ground belonging thereto or to any such institution as aforesaid and does not depart therefrom when required to do so by the superintendent matron or other officer or servant of such depôt institution or school-

every person so offending on conviction of any such offence before any two justices shall be liable to a penalty not exceeding Twenty pounds.

81. If the superintendent or matron of any receiving depôt renalty for industrial or probationary school or any teacher officer or servant the Department thereof negligently or voluntarily permits any ward of the Department to escape, every person so offending shall on conviction of any such ^{1b. s. 82}. offence before any two justices be liable to a penalty not exceeding Twenty pounds.

82. If any person directly or indirectly—

(1) Withdraws unlawfully any ward of the Department for beginding any ward of the Neglected Children or child or counsels or induces any abscond &c. or such ward or child to abscond from any receiving depôt such ward. industrial or probationary school or institution. industrial or probationary school or institution approved 15. s. 88. by the Governor in Council hereunder or from any person to or with whom such ward or child is licensed placed or boarded out or who has custody of such child under the provisions of this Act; or

- (2) Knowing any such ward or child to have been so withdrawn or to have so absconded harbours or conceals or assists in harbouring or concealing such ward or child or prevents such ward or child from returning to the depôt school or institution from which or the person from whom such ward or child has been so withdrawn or has so absconded; or
- (3) Being a person to or with whom any such ward or child is licensed placed or boarded out or having the control of any such child ill-treats or neglects to discharge his duty to such ward or child-

"The Neglected Children's Act two justices shall be liable to a penalty not exceeding Ten pounds or to two justices shall be liable to a penalty not exceeding Ten pounds or to be imprisoned for any time not exceeding fourteen days.

Penalty for seducing ward of the Department. Ib. s. 84.

83. If any person—

- (1) For the purpose of prostitution or defilement inveigles or entices any unmarried female ward of the Department for Neglected Children or child apparently under the age of eighteen years from any receiving depôt industrial or probationary school or institution or from the house or other place where or from any person to or with whom she may be licensed placed boarded out or apprenticed under the provisions of this Act or to whose custody she may be committed; or
- (2) Carnally knows any such female who is apparently under the age of fifteen years in any such depôt school house institution or place; or
- (3) Being the person to or with whom such female is licensed placed or apprenticed carnally knows any such female who is apparently under the age of eighteen years; or
- (4) Aids or assists any person in any of the foregoing offences-

every person so offending shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be imprisoned for any term not exceeding three years. Provided that no conviction shall be had under the provisions of this section on the unsupported testimony of any one witness, nor unless proceedings be taken within six months after the commission of the offence. Provided also that nothing in this section shall exempt any person from prosecution under any other law but no person shall be punished for the same offence both under this section and any other law.

84. If any ward of the Department for Neglected Children is Power to forfeit 84. If any ward of the Department for Neglected Children is or retain earn-guilty of any misbehaviour, of which the Minister shall be the sole misbehaviour. judge judge-Ib. s. 85.

> (1) The Minister may order the whole or any part of any moneys to which such ward is entitled, invested on deposit with the Postmaster-General under any law now or hereafter to be in force relating to post-office deposit for savings, te be applied in making good to Her Majesty or any other person any loss or expense occasioned by the misbehaviour of such ward. And for the purpose of carrying out the powers contained in this section the Minister may sign an order on the Postmaster-General directing payment to the secretary or his order of the whole or any part of such money, and the Postmaster-General shall pay the same accordingly.

- (2) The Minister may direct the whole of such moneys to be "The Neglected withheld from such ward, notwithstanding such ward 1887." may have come of age, until proof of the good conduct of such ward for a period of twelve months be given to the satisfaction of the Minister.
- 85. For the more effectual prosecution of all offences against constable to this Act, any person found committing any such offence may be apprehend offenders with-immediately apprehended without a warrant by any constable and out warrant. forthwith taken before some neighbouring justice to be dealt with according to law.

86. No proceedings shall be taken in any court touching the Consent of the conduct of the secretary as guardian of the person or estate of any General person or in respect of anything done or omitted or purported to be ceedings against done or omitted under the provisions of this Act without the previous consent in writing of the Attorney-General. consent in writing of the Attorney-General.

87. When for the purpose of exercising any of the powers Determination conferred by this Act it is necessary to determine the age of any court to be comperson the court or justices dealing with the case shall determine the age as they may be best able having regard to the evidence before them, or if there is no other sufficient evidence to the appearance of such person, and every order directing any person to be committed to the care of the Department for Neglected Children or to a reformatory school or to the care of any person or institution shall state the age of the person so committed as determined by the Court or justices making such order, and the statement of the age of any such person contained in any such order shall be conclusive for the purposes of this Act.

PART XI.—REGULATIONS OF THE GOVERNOR IN COUNCIL.

88. The Governor in Council may from time to time by Order, Power to make to be published in the Government Gazette, make alter and repeal regulations. regulations for the following purposes:—

- (1) The conduct management inspection and supervision of receiving depôts industrial and probationary schools:
- (2) The employment education supervision and correction of wards of the Department for Neglected Children. Provided that no such regulation shall permit any corporal punishment except such as may be lawfully inflicted by schoolmasters:
- (3) The boarding out of wards of the Department for Neglected Children:
- (4) The placing out at service or apprenticing of wards of the Department for Neglected Children either on land or at sea:

" The Neglected Children's Act 1887."

- (5) Fixing what (if any) percentage upon moneys recovered from parents shall be paid to persons who have assisted in recovering the same, and the persons to whom and the times at which and the conditions on which such percentage is to be paid:
- (6) Prescribing the forms of orders warrants bonds and other instruments to be used by Courts judges justices the various officers mentioned in this Act and others in carrying into execution this Act:
- (7) The collection and investment either with the Postmaster-General under any law now or hereafter to be in force relating to post-office deposit for savings or otherwise of any earnings of any ward of the Department for Neglected Children and the application thereof or any part thereof:
- (8) Prescribing the method of keeping accounts of payments and moneys payable under the provisions of this Act:
- (9) Prescribing the times and conditions during and under which and not longer or otherwise children committed under the provisions of this Act to the care of any private person or institution may be boarded together in any school or asylum or establishment of a like nature:
- (10) For the various purposes mentioned in this Act and generally for carrying this Act into effect.

Regulations to be laid before Parliament. Ib. s. 90.

89. All regulations of the Governor in Council made hereunder shall be laid before both Houses of Parliament within ten days after the publication thereof if Parliament is then sitting, or if not then sitting then within ten days from the next assembling of Parliament.

Continuation of Acts. Ib. s. 91.

90. The regulations of the Governor in Council relating to regulations under repealed neglected children in force at the commencement of this Act under any repealed Acts shall until repealed or altered have the same force and effect as if made under this Act.

SCHEDULES.

FIRST SCHEDULE. Section 2. Date of Act. Title of Act. Extent of Repeal. 51 Vict. No. 941 .. | "The Neglected Children's Act 1887" The whole. SECOND SCHEDULE. Section 24. FORM A .-- ORDER OF COMMITTAL TO THE CARE OF A REFORMATORY SCHOOL. Neglected Children's Act 1890, Section 24. The Colony of Victoria, Bailiwick. To Wit. Be it remembered that on the of the 1. Name of last past child. in the said colony, a3 of2 years on the day of age of is proved to the satisfaction of us the undersigned justices of the peace for the said 2 Place where bailiwick,5 and we adjudge the said to be committed to the Reformatory School at in the said colony, and we further adjudge 3. Boy or girl. pay the sum of every week for and towards the maintenance of serted only if to be made on the clerk of petty sessions at cling be appointed by the Governor in Council to mined. the parent of the said shillings the first payment to be made on the said such payments are to be made to or such other person as may for the time being be appointed by the Governor in Council to 5. Here state receive the same. charge or offence, an particulars thereof. Given under our hands and seals at in the said colony the of 18 6. Name of parent. FORM B .- ORDER OF COMMITTAL TO THE CARE OF THE DEPARTMENT FOR NEGLECTED CHILDREN. Neglected Children's Act 1890, Section 24. The Colony of Victoria, Bailiwick. 1. Name of child. To Wit. Be it remembered that on the day of 2. Place where found. in the said colony, as of2 of the age of years on the day of proved to the satisfaction of us the undersigned justices of the peace for and we adjudge the said to be commuted by the Department for Neglected Children; and we further adjudge that last past is 3, Boy or girl, ne peace for to be committed to the care of inserted only if the exact the parent of the said shillings every week for or pay the sum of determined. the first payment to be made on the clerk of 5. State the charge or towards the maintenance of the said day next; and such payments are to be made to charge or offence, and particulars thereof. petty sessions at or such other person as may for the time being be appointed by the Governor in Council to receive the same. Given under our hands and seals at in the said colony the day 6. Name of οf 18 parent.

Acts of the Parliament (of Victoria) [electronic resource] Corporate Author: Victoria

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