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CHAPTER 31.

CHILDREN.

AN ORDINANCE RELATING TO THE PROTECTION OF CHILDREN AND YOUNG PERSONS, INDUSTRIAL SCHOOLS AND ORPHANAGES, AND JUVENILE OFFENDERS. *Ordinance No. 4 of 1925.*

DIVISION OF ORDINANCE.

	PRELIMINARY	...	...	...	Sections 1 and 2.
Part I.—	PREVENTION OF CRUELTY TO CHILDREN AND YOUNG PERSONS...			„	3 to 23.
Part II.—	JUVENILE SMOKING	...	...	„	24 „ 28.
Part III.—	INDUSTRIAL SCHOOLS AND ORPHANAGES...	...	...	„	29 „ 70.
Part IV.—	JUVENILE OFFENDERS	...	...	„	71 „ 88.
Part V.—	MISCELLANEOUS AND GENERAL	...	...	„	89 „ 92.

[17th March, 1925.]

1. This Ordinance may be cited as the Children Ordinance. Short title.

2. In this Ordinance—

“ Child ” means a person under the age of fourteen years;

“ Constable ” includes any member of the Constabulary Force;

“ Guardian,” in relation to a child, young person, or youthful offender, includes any person who, in the opinion of the Court having cognizance of any case in relation to the child, young person, or youthful offender, or in which the child, young person, or youthful offender is concerned, has for the time being the charge of or control over the child, young person, or youthful offender;

Interpretation.

- “ Legal Guardian,” in relation to an infant, child, young person, or youthful offender, means a person appointed, according to law, to be his guardian by deed or will, or by order of a Court of competent jurisdiction;
- “ Magistrate ” includes a Justice;
- “ Place of Safety ” means any Constabulary Station, or any hospital, surgery, or any other suitable place, the occupier of which is willing temporarily to receive an infant, child, or young person;
- “ Public Place ” includes any public park, garden, wharf, jetty, or railway station, and any ground to which the public for the time being have or are permitted to have access, whether on payment or otherwise;
- “ Street ” includes any highway and any public bridge, road, lane, footway, square, court, alley, or passage, whether a thoroughfare or not;
- “ Young person ” means a person who is fourteen years of age or upwards and under the age of sixteen years.

PART I.

PREVENTION OF CRUELTY TO CHILDREN AND YOUNG PERSONS.

Punishment
for cruelty to
children and
young
persons.

3. (1) If any person over the age of sixteen years, who has the custody, charge, or care of any child or young person, wilfully assaults, ill-treats, neglects, abandons, or exposes such child or young person, or causes or procures such child or young person to be assaulted, ill-treated, neglected, abandoned, or exposed, in a manner likely to cause such child or young person unnecessary suffering or injury to his health (including injury to or loss of sight, or hearing, or limb, or organ of the body, and any mental derangement) that person shall be guilty of a misdemeanor, and shall be liable—

- (a) on conviction on indictment, to a fine not exceeding one hundred pounds, or alternatively, or in default of payment of such

fine, or in addition thereto, to imprisonment, with or without hard labour, for any term not exceeding two years; and

- (b) on summary conviction, to a fine not exceeding twenty-five pounds, or alternatively, or in addition thereto, to imprisonment, with or without hard labour, for any term not exceeding six months;

and for the purposes of this section, a parent or other person legally liable to maintain a child or young person shall be deemed to have neglected him in a manner likely to cause injury to his health if, being able to do so, he fails to provide adequate food, clothing, medical aid, or lodging for the child or young person.

(2) A person may be convicted of an offence under this section, either on indictment or summarily, notwithstanding that actual suffering or injury to health, or the likelihood of such suffering or injury to health, was obviated by the action of another person.

(3) A person may be convicted of an offence under this section, either on indictment or summarily, notwithstanding the death of the child or young person in respect of whom the offence is committed.

(4) Upon the trial of any person over the age of sixteen indicted for the manslaughter of a child or young person of whom he had the custody, charge, or care, it shall be lawful for the jury, if they are satisfied that the accused is guilty of an offence under this section in respect of such child or young person, to find the accused guilty of such offence.

(5) If it is proved that a person convicted under this section was directly or indirectly interested in any sum of money accruable or payable in the event of the death of the child or young person, and had knowledge that such sum of money was accruing or becoming payable, then—

Punishment to be increased if money accruable to offender on death of child.

- (a) in the case of a conviction on indictment, the Court may, in its discretion, either increase the amount of the fine under this section so that the fine does not exceed two hundred pounds; or, in lieu of awarding

any other penalty under this section, sentence the person to imprisonment, with or without hard labour, for any term not exceeding five years; and

(b) in the case of a summary conviction, the Court in determining the sentence to be awarded shall take into consideration the fact that the person was so interested and had such knowledge.

Interest in share.

(6) A person shall be deemed to be directly or indirectly interested in a sum of money under this section if he has any share in or any benefit from the payment of that money, though he is not a person to whom it is legally payable.

Policy of insurance proved by certified copy.

(7) A copy of a policy of insurance, certified by an officer or agent of the insurance company granting the policy to be a true copy, shall, in any proceedings under this section, be *prima facie* evidence that the child or young person therein stated to be insured has been in fact so insured, and that the person in whose favour the policy has been granted is the person to whom the money thereby insured is legally payable.

"Offence of cruelty."

(8) An offence under this section is in this Part of this Ordinance referred to as an offence of cruelty.

Suffocation of infants.

4. Where it is proved that the death of an infant under three years of age was caused by suffocation (not being suffocation caused by disease or the presence of any foreign body in the throat or air passages of the infant) whilst the infant was in bed with some other person over sixteen years of age, and that the other person was at the time of going to bed under the influence of drink, that other person shall be deemed to have neglected the infant in a manner likely to cause injury to its health within the meaning of this Part of this Ordinance.

Other Offences in relation to Children and Young Persons.

Begging.

5. (1) If any person causes or procures any child or young person, or, having the custody, charge, or care of a child or young person, allows that child or young person, to be in any street, premises, or place for the purpose of begging or receiving alms, or of inducing the giving of

alms, whether or not there is any pretence of singing, playing, dancing, performing, offering anything for sale, or otherwise, that person shall, on summary conviction, be liable to a fine not exceeding twenty-five pounds, or alternatively, or in addition thereto, to imprisonment, with or without hard labour, for any term not exceeding three months.

(2) If a person having the custody, charge, or care of a child or young person is charged with an offence under this section, and it is proved that the child or young person was in any street, premises, or place for any such purpose as aforesaid, and that the person charged allowed the child or young person to be in the street, premises, or place, he shall be presumed to have allowed him to be in the street, premises, or place for that purpose unless the contrary is proved.

6. If any person over the age of sixteen years who has the custody, charge, or care of any child under the age of seven years allows that child to be in any room or yard containing a coalpot, stove, or other fire not sufficiently protected to guard against the risk of the child being burnt or scalded, without taking reasonable precautions against that risk, and by reason thereof the child is killed, or suffers serious injury, he shall, on summary conviction, be liable to a fine not exceeding ten pounds :

Exposing children to risk of burning.

Provided that this section shall not, nor shall any proceedings taken thereunder, affect any liability of any such person to be proceeded against by indictment for any indictable offence.

7. (1) If any person having the custody, charge, or care of a child or young person between the ages of four and sixteen allows that child or young person to reside in or to frequent a brothel, he shall be guilty of a misdemeanor, and shall be liable, on conviction on indictment or summarily, to a fine not exceeding twenty-five pounds, or alternatively, or in default of payment of such fine, or in addition thereto, to imprisonment, with or without hard labour, for any term not exceeding six months.

Allowing children or young persons to be in brothels.

(2) Nothing in this section shall affect the liability of a person to be indicted under section 38 of the Offences against the Person Ordinance, but upon the trial of a

Cap. 8.

person under that section it shall be lawful for the jury, if they are satisfied that the accused is guilty of an offence under this section, to find the accused guilty of such offence.

Causing, encouraging, or favouring seduction or prostitution of young girl.

8. (1) If any person having the custody, charge, or care of a girl under the age of sixteen years causes or encourages the seduction or prostitution or unlawful carnal knowledge of that girl, he shall be guilty of a misdemeanor, and shall be liable to imprisonment, with or without hard labour, for any term not exceeding two years.

(2) For the purpose of this section, a person shall be deemed to have caused or encouraged the seduction or prostitution or unlawful carnal knowledge (as the case may be) of a girl who has been seduced or become a prostitute or been unlawfully carnally known, if he has knowingly allowed the girl to consort with, or to enter or continue in the employment of, any prostitute or person of known immoral character.

Binding over persons having custody of young girl.

9. (1) Where it is shown to the satisfaction of a Magistrate, on the complaint of any person, that a girl under the age of sixteen years is, with the knowledge of her parent or guardian, exposed to the risk of seduction or prostitution or of being unlawfully carnally known or living a life of prostitution, the Magistrate may adjudge her parent or guardian to enter into a recognizance to exercise due care and supervision in respect of the girl.

Cap. 24.

(2) The provisions of the Summary Conviction Offences (Procedure) Ordinance with respect to recognizances to be of good behaviour (including the provisions as to the enforcement thereof) shall apply to recognizances under this section.

Arrest of Offenders and Provision for Safety of Children.

Power of arrest.

10. (1) Any constable may take into custody, without warrant, any person—

(a) who, within view of the constable, commits an offence under this Part of this Ordinance, or any of the offences mentioned in the Schedule to this Ordinance, where the name and residence of such person are

unknown to the constable and cannot be ascertained by the constable; or

- (b) who has committed, or who the constable has reason to believe has committed, an offence of cruelty, or any of the offences mentioned in the Schedule to this Ordinance, if he has reasonable ground for believing that such person will abscond, or if the name and address of such person are unknown to and cannot be ascertained by the constable.

(2) Where a constable arrests any person without warrant in pursuance of this section, the officer in charge of the Constabulary Station to which such person is brought shall, unless in his belief the release of such person on bail would tend to defeat the ends of justice or to cause injury or danger to the child or young person against whom the offence is alleged to have been committed, release the person arrested on his entering into such recognizance, with or without sureties, as may in the judgment of such officer be required to secure the attendance of such person upon the hearing of the charge.

Release on bail of persons arrested without warrant.

11. (1) A constable, or any person authorized by a Magistrate, may take to a place of safety any child or young person in respect of whom an offence under this Part of this Ordinance, or any of the offences mentioned in the Schedule to this Ordinance, has been, or there is reason to believe has been, committed.

Detention of child or young person in place of safety.

(2) A child or young person so taken to a place of safety, and also any child or young person who seeks refuge in a place of safety, may there be detained until he can be brought before a Magistrate, and such Magistrate may make such order as is mentioned in the next following sub-section, or may cause the child or young person to be dealt with as circumstances may admit and require, until the charge made against any person in respect of any offence as aforesaid with regard to the child or young person has been determined by the conviction or discharge of such person.

Order pending hearing.

(3) Where it appears to any Magistrate that an offence under this Part of this Ordinance, or any of the offences mentioned in the Schedule to this Ordinance, has

Order pending enquiry.

been committed in respect of any child or young person who is brought before him, and that it is expedient in the interests of the child or young person that an order should be made under this sub-section, the Magistrate may, without prejudice to any other power under this Ordinance, make such order as circumstances require for the care and detention of the child or young person until a reasonable time has elapsed for a charge to be made against some person for having committed the offence, and, if a charge is made against any person within that time, until the charge has been determined by the conviction or discharge of that person, and, in case of conviction, for such further time not exceeding twenty-one days as the Court which convicted may direct, and any such order may be carried out notwithstanding that any person claims the custody of the child or young person.

Disposal of
child or
young person
by order of
Court.

12. (1) Where a person having the custody, charge, or care of a child or young person has been—

- (a) convicted of committing in respect of such child or young person an offence under this Part of this Ordinance or any of the offences mentioned in the Schedule to this Ordinance; or
- (b) committed for trial for any such offence; or
- (c) bound over to keep the peace towards such child or young person,

by any Court, that Court, either at the time when the person is so convicted, committed for trial, or bound over, and without requiring any new proceedings to be instituted for the purpose, or at any other time, may, if satisfied on enquiry that it is expedient so to deal with the child or young person, order that the child or young person be taken out of the custody, charge, or care of the person so convicted, committed for trial, or bound over, and be committed to the care of a relative of the child or young person or some other fit person named by the Court (such relative or other person being willing to undertake such care), until he attains the age of sixteen years, or for any shorter period, and that Court or any Court of like jurisdiction may of its own motion, or on the application of any person, from time to time by order renew, vary, and revoke any such order.

(2) If the child or young person has a parent or legal guardian, no order shall be made under this section unless the parent or legal guardian has been convicted of or committed for trial for the offence, or is under committal for trial for having been, or has been proved to the satisfaction of the Court making the order to have been, party or privy to the offence, or has been bound over to keep the peace towards the child or young person, or cannot be found.

No order if
child has
fit legal
guardian.

(3) Every order under this section shall be in writing, and any such order may be made by the Court in the absence of the child or young person; and the consent of any person to undertake the care of a child or young person in pursuance of any such order shall be proved in such manner as the Court may think sufficient to bind him.

Order, how
made.

(4) Where an order is made under this section in respect of a person who has been committed for trial, then, if that person is acquitted of the charge, or if the charge is dismissed for want of prosecution, the order shall forthwith be void, except with regard to anything that may have been lawfully done under it.

Order void on
acquittal.

(5) The Governor may at any time, in his discretion, discharge a child or young person from the care of any person to whose care he is committed in pursuance of this section, either absolutely or on such conditions as the Governor approves, and may, if he thinks fit, make rules in relation to children or young persons so committed to the care of any person, and to the duties of such persons with respect to such children or young persons.

Discharge.

Rules.

(6) The Governor, in any case where it appears to him to be for the benefit of a child or young person who has been committed to the care of any person in pursuance of this section, may empower such person to procure the emigration of the child or young person, but, except with such authority, no person to whose care a child or young person is so committed shall procure his emigration.

Emigration.

(7) Nothing in this section shall be construed as preventing the Court, instead of making an order as respects a child under this section, from ordering the child to be sent to an Orphanage in any case in which the Court is authorized to do so under Part III of this Ordinance.

Orphanage.

Maintenance and control of child or young person committed to care of any person under order of Court.

13. (1) Any person to whose care a child or young person is committed under this Part of this Ordinance shall, whilst the order is in force, have the like control over the child or young person as if he were his parent, and shall be responsible for his maintenance, and the child or young person shall continue in the care of such person, notwithstanding that he is claimed by his parent or any other person; and if any person—

- (a) knowingly assists or induces, directly or indirectly, a child or young person to escape from the person to whose care he is so committed; or
- (b) knowingly harbours, conceals, or prevents from returning to such person, a child or young person who has so escaped, or knowingly assists in so doing,

he shall, on summary conviction, be liable to a fine not exceeding twenty pounds, or to be imprisoned, with or without hard labour, for any term not exceeding two months.

Parent to contribute to maintenance.

(2) Any Court having power so to commit a child or young person shall have power to make the like orders on the parent of or other person liable to maintain the child or young person to contribute to his maintenance during such period as aforesaid, and such orders shall be enforceable in like manner as if the child or young person were ordered to be sent to a certified school under Part III of this Ordinance.

Payment of contributions.

(3) Any such order may be made on the complaint or application of the person to whose care the child or young person is for the time being committed, and either at the time when the order for the committal of the child or young person to his care is made, or subsequently, and the sums contributed by the parent or such other person shall be paid to such person as the Court may name, and be applied for the maintenance of the child or young person.

No contributions by parent pending trial.

(4) Where an order under this Part of this Ordinance to commit a child or young person to the care of some relative or other person is made in respect of a person who has been committed for trial for an offence, the Court shall not have power to make an order under this section on the

parent or other person liable to maintain the child or young person prior to the trial of the person so committed.

(5) Any Court making an order under this section for contribution by a parent or such other person may, in any case where there is any pension or income payable to such parent or other person and capable of being attached, after giving the person by whom the pension or income is payable an opportunity of being heard, further order that such part as the Court may see fit of the pension or income be attached and be paid to the person named by the Court. Such further order shall be an authority to the person by whom such pension or other income is payable to make the payment so ordered, and the receipt of the person to whom the payment is ordered to be made shall be a good discharge to such first mentioned person.

Attachment
of pension or
income.

(6) An order under this section may be made by any Court before which a person is charged with an offence under this Part of this Ordinance, and without regard to the place in which the person to whom the payment is ordered to be made may reside.

14. (1) In determining on the person to whose care the child or young person shall be committed under this Part of this Ordinance, the Court shall endeavour to ascertain the religious persuasion to which the child or young person belongs, and shall, if possible, select a person of the same religious persuasion, or a person who gives such undertaking as seems to the Court sufficient that the child or young person shall be brought up in accordance with its own religious persuasion, and such religious persuasion shall be specified in the order.

Religious
persuasion
of persons to
whom child
or young
person is
committed.

(2) In any case where the child or young person has been placed pursuant to any such order with a person who is not of the same religious persuasion as that to which the child or young person belongs, or who has not given such undertaking as aforesaid, the Court which made the order, or any Court of like jurisdiction, shall, on the application of any person in that behalf, and on its appearing that a fit person, who is of the same religious persuasion, or who will give such undertaking as aforesaid, is willing to undertake the care of the child or young person, make an order to secure his being placed with a person who either is of

Transfer
order.

the same religious persuasion or gives such undertaking as aforesaid.

Transfer if undertaking not observed.

(3) Where a child or young person has been placed with a person who gives such undertaking as aforesaid, and the undertaking is not observed, the child or young person shall be deemed to have been placed with a person not of the same religious persuasion as that to which the child belongs, as if no such undertaking had been given.

Warrant to search for or remove a child or young person.

15. (1) If it appears to a Magistrate on complaint on oath laid by any person who, in the opinion of the Magistrate, is acting in the interests of a child or young person, that there is reasonable cause to suspect—

- (a) that the child or young person has been or is being assaulted, ill-treated, or neglected in any place within the jurisdiction of the Magistrate, in a manner likely to cause the child or young person unnecessary suffering, or to be injurious to his health; or
- (b) that an offence under this Part of this Ordinance, or any offence mentioned in the Schedule to this Ordinance, has been or is being committed in respect of the child or young person,

the Magistrate may issue a warrant authorizing any constable to search for such child or young person, and, if it is found that he has been or is being assaulted, ill-treated, or neglected in manner aforesaid, or that any such offence as aforesaid has been or is being committed in respect of the child or young person, to take him to and detain him in a place of safety until he can be brought before a Magistrate, or authorizing any constable to remove the child or young person with or without search to a place of safety and detain him there until he can be brought before a Magistrate; and the Magistrate before whom the child or young person is brought may commit him to the care of a relative or other fit person in like manner as if the person in whose care he was had been committed for trial for an offence under this Part of this Ordinance.

(2) A Magistrate issuing a warrant under this section may, by the same warrant, cause any person accused of any offence in respect of the child or young person to be

apprehended and brought before a Magistrate, and proceedings to be taken against such person according to law.

(3) Any constable authorized by warrant under this section to search for any child or young person, or to remove any child or young person with or without search, may enter (if need be by force) any house, building, or other place specified in the warrant, and may remove the child or young person therefrom.

Entry by force.

(4) Every warrant issued under this section shall be executed by a constable, who shall be accompanied by the person laying the information, if such person so desire, unless the Magistrate by whom the warrant is issued otherwise directs, and may also, if the Magistrate by whom the warrant is issued so directs, be accompanied by a duly qualified medical practitioner.

Execution of warrant.

(5) It shall not be necessary in any information or warrant under this section to name the child or young person.

Evidence and Procedure.

16. As respects proceedings against any person for an offence under this Part of this Ordinance, or for any of the offences mentioned in the Schedule to this Ordinance, the Criminal Evidence Ordinance shall apply.

Evidence of accused person.

Cap. 30.

17. (1) Where a Magistrate is satisfied by the evidence of a duly qualified medical practitioner that the attendance before a Court of any child or young person, in respect of whom an offence under this Part of this Ordinance, or any of the offences mentioned in the Schedule to this Ordinance, is alleged to have been committed, would involve serious danger to the life or health of the child or young person, the Magistrate may take in writing the deposition of the child or young person on oath, and shall thereupon subscribe the deposition and add thereto a statement of his reason for taking the deposition, and of the day when and place where the deposition was taken, and of the names of the persons (if any) present at the taking thereof.

Special power to take deposition.

(2) The Magistrate taking any such deposition shall transmit it with his statement—

Preservation of deposition.

- (a) if the deposition relates to an offence for which any accused person is already committed for trial, to the proper officer of the

Court for trial at which the accused person has been committed; and

- (b) in any other case, to the Clerk of the Peace of the magisterial district in which the deposition has been taken;

and the Clerk of the Peace to whom any such deposition is transmitted shall preserve, file, and record the deposition.

Admission of deposition in evidence.

18. Where, on the trial of any person on indictment for an offence of cruelty, or any of the offences mentioned in the Schedule to this Ordinance, the Court is satisfied by the evidence of a duly qualified medical practitioner that the attendance before the Court of any child or young person in respect of whom the offence is alleged to have been committed would involve serious danger to the life or health of the child or young person, any deposition of the child or young person taken under the Indictable Offences (Preliminary Enquiry) Ordinance, or this Part of this Ordinance, shall be admissible in evidence either for or against the accused person without further proof thereof—

Cap. 23.

- (a) if it purports to be signed by the Magistrate by or before whom it purports to be taken; and
- (b) if it is proved that reasonable notice of the intention to take the deposition has been served upon the person against whom it is proposed to use it as evidence, and that that person or his counsel or his solicitor had, or might have had if he had chosen to be present, an opportunity of cross-examining the child or young person making the deposition.

Evidence of child of tender years.

19. Where, in any proceeding against any person for an offence under this Part of this Ordinance, or for any of the offences mentioned in the Schedule to this Ordinance, 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 that child may be received though not given upon oath, if, in the opinion of the Court, the 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 the child, though not given on oath, but

otherwise taken and reduced into writing in accordance with the provisions of the Indictable Offences (Preliminary Enquiry) Ordinance, or of this Part of this Ordinance, shall be deemed to be a deposition within the meaning of that Ordinance and that Part respectively: Cap. 23.

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 wilfully gives false evidence under such circumstances that, if the evidence had been given on oath, he would have been guilty of perjury, shall, subject to the provisions of this Ordinance, be liable, on summary conviction, to be adjudged such punishment as might have been awarded had he been charged with perjury and the case dealt with summarily under section 95 of the Summary Conviction Offences (Procedure) Ordinance. Cap. 24.

20. Where, in any proceedings with relation to an offence under this Part of this Ordinance, or any of the offences mentioned in the Schedule to this Ordinance, the Court is satisfied that the attendance before the Court of any child or young person in respect of whom the offence is alleged to have been committed is not essential to the just hearing of the case, the case may be proceeded with and determined in the absence of the child or young person. Power to proceed in absence of child.

21. (1) Where a person is charged with committing an offence under this Part of this Ordinance, or any of the offences mentioned in the Schedule to this Ordinance, in respect of two or more children or young persons, the same information or summons may charge the offence in respect of all or any of them, but the person charged shall not be liable to a separate penalty for each child or young person except upon separate informations. Mode of charging offence and limitation of time.

(2) The same information or summons may also charge any person as having the custody, charge, or care, alternatively or together, and may charge him with the Different offences may be charged, but only one penalty inflicted.

offences of assault, ill-treatment, neglect, abandonment, or exposure, together or separately, and may charge him with committing all or any of these offences in a manner likely to cause unnecessary suffering or injury to health, alternatively or together; but when those offences are charged together, the person charged shall not be liable to a separate penalty for each.

Limitation
of time for
prosecution.

(3) A person shall not be summarily convicted of an offence under this Part of this Ordinance, or of an offence mentioned in the Schedule to this Ordinance, unless the offence was wholly or partly committed within six months before the information was laid; but, subject as aforesaid, evidence may be taken of acts constituting, or contributing to constitute, the offence, and committed at any previous time.

Continuous
offence.

(4) When an offence under this Part of this Ordinance, or any offence mentioned in the Schedule to this Ordinance, charged against any person is a continuous offence, it shall not be necessary to specify in the information, summons, or indictment, the date of the acts constituting the offence.

Supplemental.

Right of
parent, etc.,
to administer
punishment.

22. Nothing in this Part of this Ordinance 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 or young person to administer reasonable punishment to such child or young person.

Interpreta-
tion.
"Fit
person."

23. (1) In this Part of this Ordinance, the expression "fit person," in relation to the care of any child or young person, includes any society or body corporate established for the reception or protection of poor children or the prevention of cruelty to children.

Person liable
for main-
tenance.

(2) For the purposes of this Part of this Ordinance—

Any person who is the parent or legal guardian of a child or young person or who is legally liable to maintain a child or young person shall be presumed to have the custody of the child or young person, and, as between father and mother, the father shall not be deemed to have ceased to have the custody

of the child or young person by reason only that he has deserted, or otherwise does not reside with, the mother and child or young person; and

Any person to whose charge a child or young person is committed by any person who has the custody of the child or young person shall be presumed to have charge of the child or young person; and

Person who has charge of child.

Any other person having actual possession or control of a child or young person shall be presumed to have the care of the child or young person.

Person who has care of child.

PART II.

JUVENILE SMOKING.

24. If any person sells to a person apparently under the age of sixteen years any cigarettes or cigarette papers, whether for his own use or not, he shall be liable, on summary conviction, in the case of a first offence to a fine not exceeding two pounds, and in the case of a second offence to a fine not exceeding five pounds, and in the case of a third or subsequent offence to a fine not exceeding ten pounds.

Sale of tobacco to children.

25. It shall be the duty of a constable to seize any cigarettes or cigarette papers in the possession of any person apparently under the age of sixteen whom he finds smoking in any street or public place, and any cigarettes or cigarette papers so seized shall be disposed of in such manner as the Inspector-General may direct, and such constable shall be authorized to search any boy so found smoking, but not a girl.

Forfeiture of tobacco.

26. (1) Where it is shown to the satisfaction of a Magistrate, on the complaint of any person, that any automatic machine for the sale of cigarettes kept on any premises is being extensively used by children or young persons, the Magistrate may order the owner of the machine or the person on whose premises the machine is kept to take such precautions to prevent the machine being so used as may be specified in the order, or, if necessary, to remove the machine, within such time as may be specified in the order.

Automatic machines for sale of tobacco.

(2) If any person against whom any such order has been made fails to comply with the order, he shall be liable, on summary conviction, to a fine not exceeding five pounds, and to a further fine not exceeding one pound for each day during which the offence continues.

Exemptions.

27. The provisions of this Part of this Ordinance which make it an offence to sell cigarettes or cigarette papers, and which authorize the seizure of cigarettes and cigarette papers, shall not apply where the person to whom the cigarettes or cigarette papers are sold, or in whose possession they are found, was at the time employed by a manufacturer of or dealer in tobacco, either wholesale or retail, for the purposes of his business.

Application
of Part II.
"Cigarette"
defined.

28. (1) For the purposes of this Part of this Ordinance, the expression "cigarette" includes cut tobacco rolled up in paper, tobacco leaf, or other material in such form as to be capable of immediate use for smoking.

Tobacco.

(2) This Part of this Ordinance shall apply to tobacco other than cigarettes in like manner as it applies to cigarettes, except that a person shall not be guilty of an offence for selling such other tobacco to a person apparently under the age of sixteen years if he did not know, and had no reason to suspect, that it was for the use of that person.

Smoking
mixtures.

(3) This Part of this Ordinance shall apply to smoking mixtures intended as a substitute for tobacco in like manner as it applies to cigarettes.

PART III.

INDUSTRIAL SCHOOLS AND ORPHANAGES.

Definitions.

29. (1) For the purposes of this Part of this Ordinance—

"Certified School" means an Industrial School or Orphanage which is certified in accordance with the provisions of this Part of this Ordinance;

"Child," used in reference to a child ordered to be sent to a certified Orphanage or to be transferred from a certified Industrial School to a certified Orphanage, applies to that child during the whole period of detention, whether in the Orphanage or out on

licence, notwithstanding that the child attains the age of fourteen years before the expiration of that period;

“Industrial School” means a school for the industrial training of youthful offenders, in which youthful offenders are lodged, clothed, and fed, as well as taught;

“Inspector” means the Inspector of Industrial Schools and Orphanages appointed under this Part of this Ordinance;

“Orphanage” means a school for the industrial training of children, in which children are lodged, clothed, and fed, as well as taught.

(2) The persons for the time being having the management or control of a school shall be deemed the managers thereof for the purposes of this Part of this Ordinance. Managers of school.

30. (1) It shall be lawful for the Governor in Executive Council to establish Government Industrial Schools and Orphanages and to appoint all necessary and proper officers in connection therewith; and the provisions of this Part of this Ordinance, with the exception of the provisions of sections 33 to 42 (both inclusive), shall apply to all such schools as if they were certified schools. Government schools.

(2) The expense attendant upon the establishment, conduct, and maintenance of such schools shall be paid out of moneys to be voted by the Legislative Council.

31. (1) It shall be lawful for the Governor to appoint an Inspector of Industrial Schools and Orphanages at such salary as may be voted from time to time by the Legislative Council. Appointment of Inspector.

(2) The Inspector shall perform all the duties imposed on him by this Part of this Ordinance, and shall be charged with the general superintendence of all schools established under this Part of this Ordinance, or existing at the time of the commencement of this Ordinance, and shall, in particular, from time to time inspect all Industrial Schools and Orphanages and shall make such reports and in such form as the Governor may from time to time direct.

32. (1) The Industrial Schools and Orphanages in existence at the commencement of this Ordinance, and known respectively as the Diego Martin Boys' Industrial Application of Ordinance to existing schools and present inmates.

School, the Belmont Girls' Industrial School, the Belmont Orphanage, and the Tacarigua Orphanage, shall be deemed to be certified schools within the meaning of this Part of this Ordinance, and the provisions of this Part of this Ordinance shall apply to all such existing schools as if they had been schools originally certified under the provisions of this Part of this Ordinance, and to youthful offenders and children detained in such schools at the commencement of this Ordinance as if they were so detained in pursuance of this Part of this Ordinance.

(2) In any Order in Council, proclamation, bye-law, rule, or regulation, and in any legal document, references to a Reformatory School shall be deemed references to an Industrial School, and references to an Industrial School shall be deemed references to an Orphanage.

Land for site
of school.

33. (1) It shall be lawful for the Governor to convey, lease, or otherwise assure land for the site of a school to be established under the provisions of this Part of this Ordinance to such persons or person as managers or manager, upon such terms and subject to such conditions and stipulations relative to reconveyance, forfeiture, and resumption of such land or otherwise as to him shall seem fit and proper.

Resumption
of land.

(2) Upon the withdrawal of any certificate as herein-after provided, it shall be lawful for the Governor or any person authorized by him to make entry upon and resume possession of all lands which may have been conveyed, leased, or otherwise assured to any person under this section, and of all buildings and erections thereon. Such entry upon and resumption of any such lands and buildings by the Governor or any person so authorized by him shall operate as a reconveyance or surrender thereof, as the case may be, to His Majesty by the person to whom the same shall have been conveyed, leased, or otherwise assured; and such lands and buildings shall from thenceforth become absolutely vested in His Majesty.

Certification of Schools.

Certification
of schools.

34. (1) The Governor may, upon the application of the managers of any Industrial School or Orphanage, direct the Inspector to examine into the condition and regulations

of the school and its fitness for the reception of youthful offenders or children to be sent there under this Part of this Ordinance, and to report to him thereon.

(2) The Governor, if satisfied with the report of the Inspector, may certify that the school is fit for the reception of youthful offenders or children to be sent there in pursuance of this Part of this Ordinance.

35. The Governor, if dissatisfied with the condition, rules, management, or superintendence of a certified school, may, at any time, by notice served on the managers of the school, declare that the certificate of the school is withdrawn as from a time specified in the notice, being not less than six months after the date of the notice; and at that time the withdrawal of the certificate shall take effect, and the school shall cease to be a certified school :

Power of Governor to withdraw certificate.

Provided that the Governor may, if he thinks fit, instead of so withdrawing the certificate, by notice served on the managers of the school, prohibit the admission of youthful offenders or children to the school for such time as may be specified in the notice or until the notice is revoked.

36. The managers of a certified school may, on giving six months', and the executors or administrators of a deceased manager (if only one) of a certified school may, on giving one month's, notice in writing to the Governor of their intention so to do, resign the certificate for the school, and, accordingly, at the expiration of six months or one month (as the case may be) from the date of the notice (unless before that time the notice is withdrawn), the resignation of the certificate shall take effect, and the school shall cease to be a certified school.

Resignation of certificate by managers.

37. A youthful offender or child shall not be received into a certified school in pursuance of this Part of this Ordinance after the date of the receipt by the managers of the school of a notice of withdrawal of the certificate for the school or after the date of a notice of resignation of the certificate; but the obligation hereinafter mentioned of the managers to teach, train, lodge, clothe, and feed any youthful offenders or children detained in the school at the respective dates aforesaid shall, except so far as the Governor otherwise directs, continue until the with-

Effect of withdrawal or resignation of certificate.

drawal or resignation of the certificate takes effect, or until the discontinuance of payments under rules made under this Part of this Ordinance towards the expenses of the offenders and children detained in the school, whichever may first happen.

Disposal of inmates on withdrawal or resignation of certificate.

38. Where a school ceases to be a certified school, the youthful offenders or children detained therein shall be, by order of the Governor, either discharged or transferred to some other certified school in accordance with the provisions of this Part of this Ordinance relating to discharge and transfer.

Publication of grant, etc., of certificate.

39. A notice of the grant of a certificate to an Industrial School or Orphanage, or of withdrawal or resignation of such a certificate, shall within one month be published in the *Royal Gazette*.

Duties and Powers of Managers.

Liabilities of managers.

40. The managers of a certified Orphanage, though not of a certified Industrial School, may decline to receive any youthful offender or child proposed to be sent to them in pursuance of this Part of this Ordinance, but when the managers, whether of a certified Industrial School or Orphanage, have once accepted any such offender or child they shall be deemed to have undertaken to teach, train, lodge, clothe, and feed him during the whole period for which he is liable to be detained in the school, or until the withdrawal or resignation of the certificate for the school, or until the discontinuance of payments under rules made under this Part of this Ordinance towards the expenses of the offenders or children detained in the school, as hereinafter provided, whichever may first happen.

Power to make rules;

41. The managers of a certified school may at any time, and shall, whenever so required by the Governor in Executive Council, make rules for the management and discipline of the school, but the rules so made shall in all cases be subject to approval by the Governor in Executive Council

Approval of alteration, etc., of buildings.

42. No substantial addition to or alteration in the buildings of a certified school shall be made without the approval in writing of the Governor.

Mode of sending Offenders and Children to Certified Schools and their treatment therein.

43. Where a youthful offender is charged before the Supreme Court or before a Magistrate with an offence punishable in the case of an adult by imprisonment, and in the opinion of the Court before which he is charged such youthful offender is ten years of age or upwards but less than sixteen years of age, the Court, if satisfied on enquiry that it is expedient so to deal with the youthful offender, may order him to be sent to a certified Industrial School.

Commitment of offenders between 10 and 16 years of age to Industrial Schools.

44. (1) Any person may, without a warrant, bring before a Magistrate any person apparently under the age of fourteen years who—

Children liable to be sent to Orphanages:

- (a) is found begging or receiving alms (whether or not there is any pretence of singing, playing, performing, offering anything for sale, or otherwise), or being in any street, premises, or place for the purpose of so begging or receiving alms; or
- (b) is found wandering and not having any home or settled place of abode, or visible means of subsistence, or is found wandering and having no parent or guardian, or a parent or guardian who does not exercise proper guardianship; or
- (c) is found destitute, not being an orphan and having both parents or his surviving parent, or in the case of an illegitimate child his mother, undergoing imprisonment; or
- (d) has no parent, guardian, or other person able and willing to provide for or control him; or
- (e) is under the care of a parent or guardian, who, by reason of criminal or drunken habits, is unfit to have the care of the child; or
- (f) is the daughter, whether legitimate or illegitimate, of a father who has been convicted of an offence under section 36 or

Cap. 8.

section 37 of the Offences against the Person Ordinance, in respect of any of his daughters, whether legitimate or illegitimate; or

- (g) frequents the company of any reputed thief, or of any common or reputed prostitute; or
- (h) is lodging or residing in a house or the part of a house used by any prostitute for the purposes of prostitution, or is otherwise living in circumstances calculated to cause, encourage, or favour the seduction or prostitution of the child;

and the Magistrate before whom a person is brought as coming within one of these descriptions, if satisfied on enquiry of that fact, and that it is expedient so to deal with him, may order him to be sent to a certified Orphanage: Provided that a child shall not be treated as coming within the description contained in paragraph (g) if the only common or reputed prostitute whose company the child frequents is the mother of the child, and she exercises proper guardianship and due care to protect the child from contamination.

Detention of child under 10 years in Orphanage.

(2) Where a child apparently under the age of ten years is charged before the Supreme Court or before a Magistrate with an offence punishable in the case of an adult by imprisonment or a less punishment, the Court, if satisfied on enquiry that it is expedient so to deal with the child, may order him to be sent to a certified Orphanage.

Child of 10 or 11 years may be sent to Orphanage in lieu of Industrial School.

(3) Where a child, apparently of the age of ten or eleven years, who has not previously been convicted, is charged before a Magistrate with an offence punishable in the case of an adult by imprisonment or a less punishment, and the Magistrate is satisfied that the child should be sent to a certified school but, having regard to the special circumstances of the case, should not be sent to a certified Industrial School, and is also satisfied that the character and antecedents of the child are such that he will not exercise an evil influence over the other children in a certified Orphanage, the Magistrate may order the child to be sent to a certified Orphanage, having previously ascertained that the managers are willing to receive the child:

Provided that the Governor may, on the application of the managers of the Orphanage, by order transfer the child to a certified Industrial School.

(4) Where a parent or guardian of a child proves to a Magistrate that he is unable to control the child, and that he desires the child to be sent to an Orphanage under this Part of this Ordinance, the Magistrate, if satisfied on enquiry that it is expedient so to deal with the child, and that the parent or guardian understands the results which will follow, may order him to be sent to a certified Orphanage :

Inability of parent to control child.

Provided that, if the Magistrate thinks that it is expedient that the child instead of being sent to a certified Orphanage should be placed under the supervision of a probation officer, the Magistrate may deal with him in like manner as, if he had been charged with an offence, the Magistrate might have dealt with him under the Probation of Offenders Ordinance, so however that the recognizance on entering into which he is discharged shall bind him to appear for having a detention order made against him.

Probation in lieu of detention order.

Cap. 32.

(5) Where, under this section, a Court is empowered to order a child to be sent to a certified Orphanage, the Court, in lieu of ordering him to be so sent, may, in accordance with the provisions of Part I of this Ordinance, make an order for the committal of the child to the care of a relative or other fit person named by the Court, and the provisions of that Part shall, so far as applicable, apply as if the order were an order under that Part.

Committal to care of relative.

45. Any person may bring before a Magistrate any person apparently of the age of fourteen or fifteen years so circumstanced that if he were a child he would come within one or other of the descriptions mentioned in sub-section (1) of the last preceding section, and the Magistrate, if satisfied on enquiry of that fact and that it is expedient so to deal with him, may, in accordance with the provisions of Part I of this Ordinance, make an order for his committal to the care of a relative or other fit person named by the Magistrate, and the provisions of that Part shall, so far as applicable, apply as if the order were an order under that Part.

Committal of young person to care of relative or fit person in certain cases.

In such cases,
young
persons may
be placed
under super-
vision of
probation
officer.
Cap. 32.

46. Where, under the provisions of this Part of this Ordinance, an order is made for the committal of a child or young person to the care of a relative or other fit person named by the Court, the Court may, in addition to such order, make an order under the Probation of Offenders Ordinance that the child or young person be placed under the supervision of a probation officer :

Provided that the recognizance into which the child, if not charged with an offence, or the young person is required to enter, shall bind him to appear and submit to the further order of the Court.

Operation of
order may be
deferred.

47. An order of a Court ordering a youthful offender or child to be sent to and detained in a certified school (in this Ordinance referred to as a detention order) may, if the Court think fit, be made to take effect either immediately or at any later date specified therein, regard being had to the age or health of the youthful offender or child.

Choice of
school.

48. (1) The school to which a youthful offender or child is to be sent under a detention order shall be such school as may be specified in the order, being, in the case of a certified Orphanage, some school the managers of which are willing to receive the youthful offender or child.

(2) Pending the receipt of the approval or direction of the Governor, where required under this Part of this Ordinance, the youthful offender or child in respect of whom a detention order has been made may, by direction of the Court by which such order was made, be detained either in a place of detention or in the custody of any person named by the Court, and the provisions of this Part of this Ordinance with respect to the detention of youthful offenders or children under a detention order shall apply to an offender or child directed to be detained as aforesaid.

Conveyance
to school.

49. (1) The person by whom any youthful offender or child ordered to be sent to a certified school is detained shall, at the appointed time, deliver him into the custody of the constable responsible for his conveyance to school, who shall deliver him to the superintendent or other person in charge of the school in which he is to be detained, together with the order or other document in pursuance of which the offender or child was detained and is sent to the school.

(2) The detention order in pursuance of which the youthful offender or child is sent to a certified school shall be a sufficient authority for his conveyance to and detention in the school, or any other school to which he is transferred under this Part of this Ordinance.

Detention order effective on transfer.

50. (1) The detention order shall specify the time for which the youthful offender or child is to be detained in the school, being—

Period of detention.

(a) in the case of a youthful offender sent to an Industrial School, until such offender attains the age of eighteen years : Provided that the Court, if it thinks fit to do so, may, on the application of the managers of a certified Industrial School and with the consent of such offender, make an order extending the time of detention in the case of a female until she attains the age of twenty-one years; and

(b) in the case of a child sent to an Orphanage, until such child attains the age of sixteen years : Provided that the Court, if it thinks fit to do so, may, on the application of the managers of a certified Orphanage and with the consent of such child, make an order extending the time of detention in the case of a male until he attains the age of eighteen years and in the case of a female until she attains the age of twenty-one years.

51. (1) The Supreme Court or a Magistrate, in determining the school to which a youthful offender or child is to be sent, shall endeavour to ascertain the religious persuasion to which the offender or child belongs, and the detention order shall, where practicable, specify the religious persuasion to which the offender or child appears to belong, and a school conducted in accordance with that persuasion shall, where practicable, be selected.

Provision as to religious persuasion.

(2) In all cases in which the religion of the parents or guardians of any youthful offender or child is not known, such offender or child shall be deemed to belong to that religious persuasion in which he shall appear to have been baptized, or of which he shall profess to be a follower.

Presumption as to religious persuasion.

Order to
remove.

(3) Where an order has been made for sending a youthful offender or child to a certified school which is not conducted in accordance with the religious persuasion to which the offender or child belongs, the parent, step-parent, or guardian, or, if there be no parent, step-parent, or guardian, then the god-parent or nearest adult relative may apply—

- (a) if the detention order was made by a Magistrate, then to such Magistrate; and
- (b) in any other case, to the Governor,

to remove or send the offender or child to a certified school conducted in accordance with the offender's or child's religious persuasion, and the Magistrate or Governor, as the case may be, shall, on proof of the offender's or child's religious persuasion, comply with the request of the applicant :

Application
within 30
days.

Provided that—

- (i) the application must be made before the offender or child has been sent to a certified school, or within thirty days after his arrival at the school;
- (ii) the applicant must show to the satisfaction of the Magistrate or Governor that the managers of the school named by him are willing to receive the offender or child;
- (iii) nothing in this section shall be construed as preventing any such person as aforesaid from making an application to the Governor after the expiration of the said period of thirty days to exercise the powers of transfer conferred upon him by the other provisions of this Ordinance.

When no
school
conducted
according to
religion of
offender or
child.

52. If there be no school in the Colony conducted in accordance with the religious persuasion of any youthful offender or child, and the Supreme Court or Magistrate shall by reason thereof be unable to choose a school, then and in such case such youthful offender or child shall be sent to such school as the Governor may direct, or as may be prescribed for such cases by rules made under the authority of this Part of this Ordinance.

Exemption
from
religious
instruction,
etc.

53. The parent or guardian, or if there be no parent or guardian, then the Protector of Immigrants in the case of

a youthful offender or child whose parents are or were Indian Immigrants, or in any other case the god-parent or nearest adult relative, of any youthful offender or child directed to be sent to a school which is not conducted according to the religious persuasion of such youthful offender or child, may claim, by notice in writing addressed to the managers of such school, the exemption of such youthful offender or child from attending prayer, or religious worship, or from any lesson or series of lessons on a religious subject, and such youthful offender or child shall be exempted accordingly.

54. It shall be the duty of the managers to submit such notice to the Inspector for his information and guidance, and the managers shall, in every such case, make proper provision for enabling any such youthful offender or child to attend divine worship at his church or place of worship and to receive religious instruction according to the doctrines or formularies of the denomination, church, or sect to which he may belong.

Manager to submit notice claiming exemption to Inspector.

55. (1) If the managers of any school shall permit or suffer any youthful offender or child to attend prayer or religious worship, or to be taught any particular religious doctrine, from the attendance at which, or from the teaching of which, any exemption has been claimed by notice as in section 53 provided, it shall be the duty of the Inspector to make full enquiry into the matter and to report thereon to the Governor.

Inspector to report to Governor when exemption not observed.

(2) The Governor may on such report, if he shall think fit, order such youthful offender or child to be transferred to some other school.

Governor on report may transfer offender.

56. (1) When a youthful offender or child is detained in a certified school, the managers of the school may at any time, with the consent of the Governor, by licence, permit the offender or child to live with any trustworthy and respectable person named in the licence willing to receive and take charge of him.

Placing out on licence.

(2) Any licence so granted shall be in force until revoked or forfeited by the breach of any of the conditions on which it was granted.

Forfeiture of licence.

(3) The managers of the school may at any time, by order in writing made with the approval of the Governor,

Revocation of licence.

revoke any such licence, and order the offender or child to return to the school.

Escape.

(4) Any youthful offender or child escaping from the person with whom he is placed in pursuance of this section, or refusing to return to the school when required to do so on the revocation or forfeiture of his licence, shall be liable to the same penalty as if he had escaped from the school itself.

Licence period to be deemed part of time of detention.

(5) The time during which a youthful offender or child is absent from a certified school in pursuance of a licence under this section shall be deemed to be part of the time of his detention in the school :

Provided that where a youthful offender or child has failed to return to the school on the licence being forfeited or revoked, the time which elapses after his failure so to return shall be excluded in computing the time during which he is to be detained in the school.

Parent may be summoned to produce child.

(6) Where a licence has been revoked or forfeited, and the youthful offender or child refuses or fails to return to the school, a Magistrate, if satisfied by complaint on oath that there is reasonable ground for believing that his parent or guardian could produce the youthful offender or child, may issue a summons requiring the parent or guardian to attend before him on such day as may be specified in the summons, and to produce the child, and if he fails to do so without reasonable excuse he shall, in addition to any other liability to which he may be subject under the provisions of this Part of this Ordinance, be liable, on summary conviction, to a fine not exceeding one pound.

Discharge and transfer.

57. (1) The Governor may at any time order a youthful offender or a child to be discharged from a certified school, either absolutely or on such conditions as the Governor approves, and may, where the order of discharge is conditional, revoke the order on the breach of any of the conditions on which it was granted; and thereupon the youthful offender or child shall return to the school, and if he fails to do so he and any person who knowingly harbours or conceals him or prevents him from returning to school shall be liable to the same penalty as if the youthful offender or child had escaped from the school.

(2) The Governor may order—

Transfer orders.

- (a) a youthful offender or child to be transferred from one certified Industrial School to another or from one certified Orphanage to another;
- (b) a youthful offender under the age of fourteen years detained in a certified Industrial School to be transferred to a certified Orphanage;
- (c) a child over the age of twelve years detained in a certified Orphanage, who is found to be exercising an evil influence over the other children in the school, to be transferred to a certified Industrial School:

Provided that the whole period of detention of the offender or child shall not be increased by the transfer, and that, where the school to which a child is ordered to be transferred is a certified Orphanage, the order shall have no effect unless the managers signify their willingness to receive the child.

(3) The Governor may, by writing under his hand, order a youthful offender or child detained in a certified school to be transferred for medical treatment and care to a hospital or asylum, upon such terms and conditions and for such period as to him shall seem proper. When the Chief Medical Attendant of any hospital or asylum shall certify under his hand to the Governor that any such youthful offender or child is in a fit state to be discharged therefrom, the Governor shall, by writing under his hand, order such youthful offender or child to be sent back to the certified school from which he was originally transferred, there to be detained until completion of his unexpired term in such school.

Transfer for medical treatment.

(4) If such youthful offender or child fails to return to such school as in the last preceding sub-section mentioned, he and any person who knowingly harbours or conceals him or prevents him from returning to school shall be liable to the same penalty as if the youthful offender or child had escaped from the school.

Failure to return to school.

58. (1) Where a person who has been sent to a certified Industrial School, whether before or after the commencement of this Ordinance, is, either while at the school or

Re-committal to Industrial School.

after his discharge from the school, convicted, whether on indictment or summarily, of an offence for which he can, or could were he an adult, be sentenced to imprisonment without the option of a fine, and is, in the opinion of the Court before which he is charged, not more than seventeen years of age, the Court may, in addition to or in lieu of sentencing him according to law to any other punishment, order that he be again sent to a certified Industrial School for any period not less than one year nor more than five years, but not in any case extending beyond the date on which such person will, in the opinion of the Court, attain the age of eighteen years.

(2) A person ordered to be sent to a certified Industrial School shall not in addition be sentenced to imprisonment.

Transfer from
prison to an
Industrial
School.

59. The Governor may, if he thinks fit, at any time order a person sentenced to imprisonment, whether before or after the commencement of this Ordinance, who, in the opinion of the Governor, is under the age of seventeen years, to be transferred from prison to a certified Industrial School and there to be detained for any period not less than one year nor more than five years, but not in any case extending beyond the date on which such person will, in the opinion of the Governor, attain the age of eighteen years.

Power to
apprentice.

60. The managers of a certified school may, if a youthful offender or child detained in or placed out on licence from such certified school has conducted himself well for at least twelve months, bind such youthful offender or child, provided he is over thirteen years of age and consents thereto, apprentice to any trade, calling, or service, for such term, in such form, and under such conditions as are approved of by the Governor, notwithstanding that the period of detention of such youthful offender or child has not expired, and such apprenticing shall be valid and effectual to all intents as if the managers were his parents :

Provided that no such term of apprenticeship shall continue for a longer period than five years or beyond the day when the apprentice attains the age of twenty-one years in the case of a youthful offender, or, in the case of a child, of eighteen years.

Offences in relation to Certified Schools and Apprentices.

61. (1) If a youthful offender detained in a certified Industrial School is guilty of a serious and wilful breach of the rules of the school, or of inciting other inmates of the school to such a breach, he shall be liable, on summary conviction, to have the period of his detention in the school increased by such period not exceeding six months as the Magistrate directs, or, if of the age of sixteen years or upwards, to be imprisoned, with or without hard labour, for any term not exceeding three months; and if sentenced to imprisonment he shall, at the expiration of the term thereof, be brought back to the school, there to be detained during a period equal to so much of his period of detention as remained unexpired at the time of his being sent to prison.

Refusal to conform to rules.

(2) If a child of the age of twelve years or upwards detained in a certified Orphanage is guilty of a serious and wilful breach of the rules of the school, or of inciting other inmates of the school to such a breach, he shall be liable, on summary conviction, to be sent to a certified Industrial School, and to be there detained subject and according to the provisions of this Part of this Ordinance.

(3) A period of detention may be increased in pursuance of this section notwithstanding that the period as so increased will extend beyond the limits imposed by this Part of this Ordinance.

62. (1) If a youthful offender detained in a certified Industrial School escapes from the school, he may, at any time before the expiration of his period of detention, be apprehended without warrant, and may be then brought before a Magistrate; and he shall be liable, on conviction, to be brought back to the school from which he escaped and to have the period of his detention therein increased by such period, not exceeding six months, as the Magistrate directs, or, if of the age of sixteen years or upwards, to be imprisoned, with or without hard labour, for any term not exceeding three months; and if sentenced to imprisonment he shall, at the expiration of the term thereof, be brought back to the school.

Escaping from Industrial School.

(2) If a child detained in a certified Orphanage escapes therefrom, he may, at any time before the expiration of his period of detention, be apprehended without

Escaping from Orphanage.

warrant, and may be then brought before a Magistrate; and he shall be liable, on conviction, to be brought back to the Orphanage from which he escaped, or, if of the age of twelve years or upwards, to be sent to a certified Industrial School, and to be there detained subject and according to the provisions of this Part of this Ordinance.

Period of escape not reckoned in period of detention.

(3) In computing the time during which a youthful offender or child, who, having escaped, is brought back to a certified school, is thereafter liable to be detained in that school, the time during which he was absent from the school, including the time (if any) during which he was imprisoned under this section, shall not be reckoned as part of the period of detention.

Detention beyond limitation period.

(4) Where the period for which a youthful offender or child, on being brought back to the school from which he escaped, is liable to be detained therein would, by virtue of this section, whether on account of any increase in the period of detention or otherwise, extend beyond the limits imposed by this Part of this Ordinance, the youthful offender or child may, notwithstanding anything in this Part of this Ordinance, be detained in the school in accordance with this section.

Assisting to escape and harbouring, etc.

(5) If any person—

(a) knowingly assists or induces, directly or indirectly, an offender or child detained in or placed out on licence from a certified school to escape from the school or from any person with whom he is placed out on licence; or

(b) knowingly harbours, conceals, or prevents from returning to school, or to any person with whom he is placed out on licence, an offender or child who has so escaped, or knowingly assists in so doing,

he shall, on summary conviction, be liable to a fine not exceeding thirty pounds, or to imprisonment, with or without hard labour, for any term not exceeding three months.

Offences by apprentice.

63. If any youthful offender or child apprenticed under this Part of this Ordinance, or under any former Ordinance, wilfully neglects or refuses to conform to the terms

and conditions of his apprenticeship, or quits his master's service without the leave of such master, he shall be liable, on summary conviction, to be sent back to the school from which he came, there to be detained during a period equal to so much of his term of apprenticeship as remains unexpired at the time of committing the offence; or the Magistrate may order him to be sent to an Industrial School, there to be detained for an equal period; and every apprentice absent without leave from his master's service may be arrested without a warrant by any constable.

64. Where a master is made liable by law or by contract to provide his apprentice with good and sufficient food, lodging, and clothing, and with medical care and attendance when ill, and to procure the regular attendance of the apprentice at the place of worship of the religious denomination in which he has been brought up, and to send the apprentice to the office of the Inspector, and to allow the Inspector to visit the apprentice at his residence, and such master wilfully and without lawful excuse refuses or neglects to provide such good and sufficient food, lodging, clothing, and medical care and attendance, whereby the health of the apprentice is or is likely to be seriously or permanently injured, or wilfully and without lawful excuse refuses or neglects to procure the attendance of the apprentice at a place of worship, or to send the apprentice to the Inspector, or allow the Inspector to visit the apprentice, or to comply with any condition in respect of the apprentice for which such master is by law or by contract made liable, such master shall be liable, on summary conviction, to a fine not exceeding twenty pounds, or to imprisonment, with or without hard labour, for any term not exceeding six months.

Offences by
masters.

Contributions by Parents.

65. (1) The parent or other person legally liable to maintain a youthful offender or child ordered to be sent to or detained in a certified school, shall, if able to do so, contribute to his maintenance therein a sum not exceeding four shillings per week.

Contributions
by parents.

For the purposes of this section, the term "parent" includes the putative father of an illegitimate child.

(2) A Magistrate may, upon the hearing of the complaint, as hereinafter provided, against any person in

respect of the maintenance of an illegitimate child, if it be alleged in such complaint that he is the father of such child, adjudge him to be the father thereof, but shall not so adjudge him upon the evidence of the mother unless her evidence be corroborated in some material particular : Provided always, that the amount directed to be paid by a putative father shall not exceed, together with the amount, if any, payable under a maintenance order under the Bastardy Ordinance, the sum of four shillings per week, and that the Court making an order under this section may direct that any amount payable under a maintenance order under the Bastardy Ordinance, shall for the future be paid to the Inspector and to the extent thereof be applied towards the payment of the amount ordered to be paid under this Part of this Ordinance.

Cap. 65.

Order of Court.

- (3) (a) The Court by which a detention order is made shall, at the time of making that order, unless it considers that it is not in possession of the necessary information; and
- (b) any Magistrate may, on complaint being made by or at the instance of the Inspector, at any time whilst the offender or child is detained in the school,

make an order on such parent or other person for the payment to the Inspector of such weekly sum, not exceeding such sum as aforesaid, as, having regard to the ability of the parent or other person, seems reasonable during the whole or any part of the time for which the offender or child is liable to be detained in the school :

Provided that if the Court making the detention order is the Supreme Court, such Court may, if it thinks fit, remit the case to the Magistrate of the district in which the youthful offender or child was committed for trial, for the purpose of making an order under this section, and, upon the case being so remitted, such Magistrate shall have power to make any such order under this section as the Supreme Court might have made.

(4) Every such order may specify the time during which the payment is to be made, or may direct the payment to be made until further order.

(5) Any order made under this section may, on application being made either by the person on whom the order

Variation of order.

is made or by or at the instance of the Inspector, and on fourteen days' notice of such application being given to the Inspector or person on whom the order was made, be varied by any Court which would have had power to make the order.

(6) An order made under this section shall be binding on the person on whom it is made : Order binding.

Provided that if that person was not summoned to attend the sitting of the Court at which the order was made, the order shall be served on him, and shall be binding on him unless he makes an application against it within three weeks from the date of such service to the Court by which the order was made, on the ground either that he is not liable to maintain the offender or child, or that he is unable to contribute the sum specified in the order, and, on any such application being made, the Court may confirm the order with or without modifications or may rescind it. Application to modify or rescind.

(7) Where a parent or other person has been ordered under this section to contribute to the maintenance of a youthful offender or child, he shall give notice of any change of address to the Inspector, and if he fails to do so without reasonable excuse he shall be liable, on summary conviction, to a fine not exceeding two pounds. Change of address of parent.

(8) All sums received under this section shall be paid into the Treasury.

(9) The Governor may, in his discretion, remit wholly or partially any payment ordered to be made under this section. Remission of contributions.

(10) It shall be the duty of a constable, if so required by the Inspector, to take proceedings under this section on behalf of the Inspector.

(11) Where there is some person, other than the parent, liable to maintain a youthful offender or child, an order under this section may be made on that person notwithstanding that there may be also a parent. Contribution by person other than parent.

(12) Any Court making an order under this section for contribution by a parent or other such person may, in any case where there is any pension or income payable to such parent or other person and capable of being attached, after giving the person by whom the pension or income is payable an opportunity of being heard, further order that Attachment of pension or income.

such part as the Court may see fit of the pension or income be attached and be paid to the person named by the Court. Such further order shall be an authority to the person by whom such pension or other income is payable to make the payment so ordered, and the receipt of the person to whom the payment is ordered to be made shall be a good discharge to such first named person.

Enforcement
of payment
of con-
tributions.

(13) All sums of money ordered to be paid under this section may be recovered summarily by distress and sale of the goods and chattels of the person upon whom such order is made, and in case no sufficient distress is found, such person may be imprisoned, with or without hard labour, for any term not exceeding two months.

Supplemental Provisions.

Power to send
offenders
conditionally
pardoned to
Industrial
School.

66. Where a youthful offender has been sentenced to imprisonment, and has been pardoned by His Majesty on condition of his placing himself under the care of some charitable institution for the reception and reformation of youthful offenders, the Governor may direct him, if under the age of sixteen years, to be sent to a certified Industrial School for a period of not less than three and not more than five years, but not in any case extending beyond the time when he will, in the opinion of the Governor, attain the age of eighteen years; and thereupon the offender shall be subject to all the provisions of this Part of this Ordinance as if he had been originally sentenced to detention in a certified Industrial School.

Persons in
charge of
youthful
offenders to
have powers
of constable.

67. Every person authorized by the managers of a certified school to take charge of any youthful offender or child ordered to be detained under this Part of this Ordinance for the purpose of conveying him to or from the school, or of apprehending and bringing him back to the school in case of his escape or refusal to return, shall, for that purpose and while engaged in that duty, have all the powers, protection, and privileges of a constable.

Orders and
notices.

68. (1) An order or other act of the Governor under this Part of this Ordinance may be signified under the hand of the Governor or of the Colonial Secretary.

(2) An order or other act of the managers of a certified school under this Part of this Ordinance may be

signified under the hands of the managers or their secretary or clerk.

(3) Any notice may be served on the managers of a certified school by being delivered personally to any one of them, or by being sent by post or otherwise, in a letter addressed to them or any of them at the school, or at the usual or last known place of abode of any of the managers or of their secretary or clerk.

(4) No summons issued, notice given, or order made for the purpose of carrying into effect the provisions of this Part of this Ordinance shall be invalidated for want of form only.

69. (1) The production of the *Royal Gazette* containing a notice of the grant, or of the withdrawal or resignation, of a certificate to a certified school shall be sufficient evidence of the fact of a certificate having been duly granted to the school named in the notice, or of the withdrawal or resignation of such a certificate.

Rules
respecting
evidence of
documents

(2) The grant of a certificate to a certified school may also be proved by the production of the certificate itself, or of a document purporting to be a copy of the certificate and to be attested as such by the Inspector.

(3) A certificate purporting to be signed by one of the managers of a certified school, or by their secretary or clerk, or by the superintendent or other person in charge of the school, to the effect that the youthful offender or child therein named was duly received into, and is at the date of the signing thereof detained in, the school, or has been otherwise dealt with according to law, shall be evidence of the matters therein stated.

(4) An instrument purporting to be an order of a Court under this Part of this Ordinance and to be signed by the person constituting the Court which made the order, or purporting to be a copy of such an order, and to be certified as such a copy by the clerk to that Court, shall be evidence of the order.

(5) A copy of the rules purporting to be the rules of a certified school, and to be signed by the Inspector, shall be evidence of the rules of that school.

(6) A certificate purporting to be under the hand of the Inspector stating that any sum due from a parent or other person for the maintenance of a child or young person is overdue and unpaid, shall be evidence of the facts stated therein.

(7) A school to which any youthful offender or child is directed to be sent in pursuance of this Part of this Ordinance shall, until the contrary is proved, be deemed to be a certified school.

Rules.

70. (1) The Governor in Executive Council may, for the purposes of this Part of this Ordinance, make rules with respect to the following matters, that is to say :—

- (a) As to the management and discipline of any certified school or place of detention, and to prescribe the punishment for all offences against the rules or discipline of any certified school or place of detention;
- (b) To determine the sums or allowances to be from time to time paid or made out of moneys voted by the Legislative Council for the upkeep and the expenses incidental thereto of any certified school or place of detention;
- (c) As to the allowances to be from time to time made out of moneys voted by the Legislative Council for the maintenance and support of children and youthful offenders detained in any certified school or place of detention, including the expenses of removal in the case of any child or offender ordered to be transferred from one school to another and the expenses attendant upon dealing with children or offenders under the provisions of this Part of this Ordinance;
- (d) As to all such other matters and things as may appear necessary or expedient for effectually carrying into operation the provisions of this Part of this Ordinance or as to which specific authority is given in this Ordinance to make rules :

Provided always, that no offender who shall be punished in pursuance of such rules shall be liable to be punished under section 61 of this Ordinance.

(2) All such rules shall be laid before the Legislative Council for approval, and when so approved shall have the same force and effect as if they were contained in this Ordinance. Approval by Legislative Council.

(3) The Governor in Executive Council may also prescribe the forms to be used for the purposes of this Part of this Ordinance. Forms.

(4) All rules made and forms prescribed under this Part of this Ordinance shall be published in the *Royal Gazette*.

PART IV.

JUVENILE OFFENDERS.

71. Where a person apparently under the age of sixteen years is apprehended with or without warrant, and cannot be brought forthwith before a Magistrate, the officer in charge of the Constabulary Station to which such person is brought shall enquire into the case and may in any case, and shall— Bail of children and young persons arrested.

- (a) unless the charge is one of homicide or other grave crime; or
- (b) unless it is necessary in the interest of such person to remove him from association with any reputed criminal or prostitute; or
- (c) unless the officer has reason to believe that the release of such person would defeat the ends of justice,

release such person on a recognizance, with or without sureties, for such an amount as will, in the opinion of the officer, secure the attendance of such person upon the hearing of the charge, being entered into by him or by his parent or guardian.

72. Where a person apparently under the age of sixteen years having been apprehended is not so released as aforesaid, the officer in charge of the Constabulary Station to which such person is brought shall cause him to be detained Custody of children and young persons not discharged on bail after arrest.

in a place of detention provided under this Part of this Ordinance until he can be brought before a Magistrate, unless the officer certifies—

- (a) that it is impracticable to do so; or
- (b) that he is of so unruly a character that he cannot be safely so detained; or
- (c) that by reason of his state of health or of his mental or bodily condition it is inadvisable so to detain him;

and the certificate shall be produced to the Magistrate before whom the person is brought.

Association with adults during detention in Constabulary Station.

73. It shall be the duty of the Inspector-General to make arrangements for preventing, so far as practicable, a child or young person while being detained in a Constabulary Station from associating with an adult, other than a relative, charged with an offence.

Remand or committal to custody in place of detention.

74. (1) A Magistrate, on remanding or committing for trial a child or young person who is not released on bail, shall, instead of committing him to prison, commit him to custody in a place of detention provided under this Part of this Ordinance and named in the commitment, to be there detained for the period for which he is remanded or until he is thence delivered in due course of law :

Provided that, in the case of a young person, it shall not be obligatory on the Magistrate so to commit him if the Magistrate certifies that he is of so unruly a character that he cannot be safely so committed, or that he is of so depraved a character that he is not a fit person to be so detained.

(2) A commitment under this section may be varied or, in the case of a young person who proves to be of so unruly a character that he cannot be safely detained in such custody, or to be of so depraved a character that he is not a fit person to be so detained, revoked by any Magistrate, and if it is revoked the young person may be committed to prison.

Attendance before Magistrate of parent of child or young person charged with an offence, etc.

75. (1) Where a child or young person is charged with any offence, or where a child is brought before a Magistrate on an application for an order to send him to a certified Orphanage, his parent or guardian may in any case, and

shall if he can be found and resides within a reasonable distance and the person so charged or brought before the Magistrate is a child, be required to attend at the Court before which the case is heard or determined during all the stages of the proceedings, unless the Court is satisfied that it would be unreasonable to require his attendance.

(2) Where the child or young person is arrested, the constable by whom he is arrested or the officer in charge of the Constabulary Station to which he is brought shall cause the parent or guardian of the child or young person, if he can be found, to be warned to attend at the Court before which the child or young person will appear.

Parent of arrested child to be warned to attend Court.

(3) Where a child or young person is arrested or charged with any offence, or where an application is made to a Magistrate for an order to send a child to a certified Orphanage, a summons or warrant may be issued by a Magistrate to enforce the attendance of the parent or guardian for the purpose of enabling such parent or guardian to take part in the proceedings and enabling orders to be made against him, in the same manner as if a complaint were made upon which a summons or warrant could be issued against a defendant under the Summary Conviction Offences (Procedure) Ordinance; and a summons to the child or young person may include a summons to the parent or guardian to enforce his attendance for the said purpose.

Enforcing attendance of parent.

Cap. 24.

(4) The parent or guardian whose attendance shall be required under this section shall be the parent or guardian having the actual possession and control of the child or young person :

Provided that if that person is not the father, the attendance of the father may also be required.

(5) The attendance of the parent of a child or young person shall not be required under this section in any case where the child or young person was, before the institution of the proceedings, removed from the custody or charge of his parent by an order of a Court of Justice.

No attendance if child removed from custody of parent.

76. (1) Where a child or young person is charged before any Court with any offence for the commission of which a fine, damages, or costs may be imposed, and the Court is of opinion that the case would be best met by the imposition

Power to order parent to pay fine, etc., instead of child or young person.

of a fine, damages, or costs, whether with or without any other punishment, the Court may in any case, and shall if the offender is a child, order that the fine, damages, or costs awarded be paid by the parent or guardian of the child or young person instead of by the child or young person, unless the Court is satisfied that the parent or guardian cannot be found or that he has not conducted to the commission of the offence by neglecting to exercise due care of the child or young person.

Security for good behaviour of child.

(2) Where a child or young person is charged with any offence, the Court may order his parent or guardian to give security for his good behaviour.

Order on parent without conviction of child.

(3) Where a Magistrate thinks that a charge against a child or young person is proved, he may make an order on the parent or guardian under this section for the payment of damages or costs or requiring him to give security for good behaviour, without proceeding to the conviction of the child or young person.

Order though parent fails to attend.

(4) An order under this section may be made against a parent or guardian who, having been required to attend, has failed to do so, but, save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.

Sums recoverable from parent by distress.

(5) Any sums imposed and ordered to be paid by a parent or guardian under this section, or on forfeiture of any such security as aforesaid, may be recovered from him by distress in like manner as if the order had been made on the conviction of the parent or guardian of the offence with which the child or young person was charged.

Removal of disqualifications attaching to felony.

77. The conviction of a child or young person shall not be regarded as a conviction of felony for the purposes of any disqualification attaching to felony.

Limitation of costs.

78. Where a child or young person is himself ordered by a Magistrate to pay costs in addition to a fine, the amount of the costs so ordered to be paid shall in no case exceed the amount of the fine, and (except so far as the Magistrate may think fit expressly to order otherwise) all fees payable or paid by the complainant in excess of the amount of costs so ordered to be paid shall be remitted or repaid to him, and the Magistrate may also order the fine or any part thereof to be paid to the complainant in or towards the payment of his costs.

79. (1) A child shall not be sentenced to imprisonment for any offence or committed to prison in default of payment of a fine, damages, or costs.

Restrictions on punishment of children and young persons.

(2) A young person shall not be sentenced to imprisonment with hard labour for any offence.

(3) A young person shall not be sentenced to imprisonment for an offence or committed to prison in default of payment of a fine, damages, or costs, unless the Court certifies that the young person is of so unruly a character that he cannot be detained in a place of detention provided under this Part of this Ordinance, or that he is of so depraved a character that he is not a fit person to be so detained. *Sec 54 11/1921*

80. Sentence of death shall not be pronounced on or recorded against a child or young person, but in lieu thereof the Court shall sentence the child or young person to be detained during His Majesty's pleasure, and, if so sentenced, he shall, notwithstanding anything in the other provisions of this Ordinance, be liable to be detained in such place and under such conditions as the Governor may direct, and whilst so detained shall be deemed to be in legal custody.

Abolition of death sentence in case of children and young persons.

81. Where a child or young person is convicted on indictment of an attempt to murder, or of manslaughter, or of wounding with intent to do grievous bodily harm, and the Court is of opinion that no punishment which, under the provisions of this Ordinance, it is authorized to inflict is sufficient, the Court may sentence the offender to be detained for such period as may be specified in the sentence; and, where such a sentence is passed, the child or young person shall, during that period, notwithstanding anything in the other provisions of this Ordinance, be liable to be detained in such place and on such conditions as the Governor may direct, and whilst so detained shall be deemed to be in legal custody.

Detention in case of certain crimes committed by children or young persons.

82. (1) A person in detention pursuant to the directions of the Governor under the two last preceding sections may, at any time, be discharged by the Governor on licence.

(2) A licence may be in such form and may contain such conditions as the Governor may direct.

Provisions as to discharge of children and young persons detained in accordance with directions of Governor.

(3) A licence may at any time be revoked or varied by the Governor, and, where a licence has been revoked, the person to whom the licence related shall return to such place as the Governor may direct, and if he fails to do so may be apprehended without warrant and taken to that place.

Substitution
of custody in
place of
detention for
imprison-
ment.

83. Where a child or young person is convicted of an offence punishable, in the case of an adult, with imprisonment, or would, if he were an adult, be liable to be imprisoned in default of payment of any fine, damages, or costs, and the Court considers that none of the other methods in which the case may legally be dealt with is suitable, the Court may, in lieu of sentencing him to imprisonment or committing him to prison, order that he be committed to custody in a place of detention provided under this Part of this Ordinance and named in the order, for such term as may be specified in the order, not exceeding the term for which he might, but for this Part of this Ordinance, be sentenced to imprisonment or committed to prison, nor in any case exceeding one month.

Methods of
dealing with
children and
young
persons
charged with
offences.

84. Where a child or young person charged with any offence is tried by any Court, and the Court is satisfied of his guilt, the Court shall take into consideration the manner in which, under the provisions of this or any other Ordinance enabling the Court to deal with the case, the case should be dealt with, namely, whether—

- (a) by dismissing the charge; or
- (b) by discharging the offender on his entering into a recognizance; or
- (c) by so discharging the offender and placing him under the supervision of a probation officer; or
- (d) by committing the offender to the care of a relative or other fit person; or
- (e) by sending the offender to an Industrial School; or
- (f) by sending the offender to an Orphanage; or
- (g) by ordering the offender to be whipped; or
- (h) by ordering the offender to pay a fine, damages, or costs; or
- (i) by ordering the parent or guardian of the offender to pay a fine, damages, or costs; or

- (j) by ordering the parent or guardian of the offender to give security for his good behaviour; or
- (k) by committing the offender to custody in a place of detention provided under this Part of this Ordinance; or
- (l) where the offender is a young person, by sentencing him to imprisonment; or
- (m) by dealing with the case in any other manner in which it may legally be dealt with :

Provided that nothing in this section shall be construed as authorizing the Court to deal with any case in any manner in which it could not deal with the case apart from this section.

85. (1) It shall be the duty of the Inspector-General to provide such places of detention for each magisterial district as may be required for the purposes of this Ordinance; but nothing shall prevent the same place of detention being provided for two or more magisterial districts.

Provision of
places of
detention.

(2) If more than one place of detention is provided for any magisterial district, the Inspector-General may determine that any such place shall be used for some only of the purposes for which places of detention are required to be provided and another place for the other purposes.

(3) It shall be lawful for the authority or persons responsible for the management of any institution other than a prison, whether supported out of public funds or by voluntary contributions, but subject in the case of an institution supported out of public funds to the approval of the Governor, to agree with the Inspector-General for the use of the institution or any part thereof as a place of detention on such terms as may be agreed upon between them and the Inspector-General.

(4) In selecting the place of detention to which a child or young person is to be committed, the Court or officer of Constabulary shall have regard, where practicable, to the religious persuasion of the child or young person.

(5) Where it is intended to bring a person before a Magistrate as coming, or as being a person who, if a child,

would come, within one of the descriptions mentioned in sub-section (1) of section 44 of this Ordinance, and it is necessary that accommodation should be temporarily provided for him, a place of detention may be used for his accommodation until he can be brought before a Magistrate in like manner as if he had been apprehended.

Provisions as to custody of children and young persons in places of detention.

86. (1) The order or judgment in pursuance of which a child or young person is committed to custody in a place of detention provided under this Part of this Ordinance shall be delivered with the child or young person to the person in charge of the place of detention, and shall be a sufficient authority for his detention in that place in accordance with the tenor thereof.

(2) A child or young person whilst so detained and whilst being conveyed to and from the place of detention shall be deemed to be in legal custody, and if he escapes may be apprehended without warrant and brought back to the place of detention in which he was detained.

(3) The Governor shall cause places of detention provided under this Part of this Ordinance to be inspected, and may make rules as to the places to be used as places of detention, and as to their inspection, and as to the classification, treatment, employment, and control of children and young persons detained in custody in a place of detention provided under this Part of this Ordinance, and for the children and young persons whilst so detained being visited from time to time by persons appointed in accordance with those rules.

Expenses of maintenance of child or young person.

87. The expenses incurred by the Inspector-General in respect of any place of detention provided by him, including the expenses of the maintenance of any child or young person detained therein, whether detained on apprehension or committed to custody on remand or commitment for trial or in lieu of imprisonment or in default of payment of a fine, damages, or costs, shall be defrayed out of such moneys as are from time to time appropriated for the purpose by the Legislative Council.

Juvenile Courts.

88. (1) A Magistrate, when hearing charges against children or young persons, or when hearing applications relating to a child or young person at which the attendance of the child or young person is required, shall, unless the

child or young person is charged jointly with any other person not being a child or young person, sit either in a different building or room from that in which the ordinary sittings of the Court are held, or on different days or at different times from those at which the ordinary sittings are held, and a Magistrate's Court so sitting is in this Ordinance referred to as a Juvenile Court.

(2) Where, in the course of any proceedings in a Juvenile Court, it appears to the Court that the person charged or to whom the proceedings relate is of the age of sixteen years or upwards, or where, in the course of any other proceedings before a Magistrate, it appears that the person charged or to whom the proceedings relate is under the age of sixteen years, nothing in this section shall be construed as preventing the Court, if it thinks it undesirable to adjourn the case, from proceeding with the hearing and determination of the case.

(3) Provision shall be made for preventing persons apparently under the age of sixteen years whilst being conveyed to or from Court, or whilst waiting before or after their attendance in Court, from associating with adults charged with any offence other than an offence with which the person apparently under the age of sixteen years is jointly charged.

(4) In a Juvenile Court no persons other than the Magistrate and officers of the Court and the parties to the case, their solicitors and counsel, and other persons directly concerned in the case, shall, except by leave of the Magistrate, be allowed to attend: *see S. 6(p) (a) & (b) 1/1/82*

Provided that *bonâ fide* representatives of a newspaper shall not be excluded.

PART V.

MISCELLANEOUS AND GENERAL.

89. In addition and without prejudice to any powers which a Court may possess to hear proceedings *in camerâ*, the Court may, where a person who, in the opinion of the Court, is a child or young person, is called as a witness in any proceedings in relation to an offence against, or any

Power to clear Court whilst child or young person is giving evidence in certain cases.

conduct contrary to, decency or morality, direct that all or any persons, not being officers of the Court or parties to the case, their counsel or solicitors, or persons otherwise directly concerned in the case, be excluded from the Court during the taking of the evidence of the child or young person :

Provided that nothing in this section shall authorize the exclusion of *bonâ fide* representatives of a newspaper.

Prohibition on children being present in Court during the trial of other persons.

90. No child (other than an infant in arms) shall be permitted to be present in Court during the trial of any person charged with an offence, or during any proceedings preliminary thereto, and if so present he shall be ordered to be removed, unless he is the person charged with the alleged offence, or during such time as his presence is required as a witness or otherwise for the purposes of justice.

Presumption and determination of age.

91. (1) Where a person, whether charged with an offence or not, is brought before any Court otherwise than for the purpose of giving evidence, and it appears to the Court that he is a child or young person, the Court shall make due enquiry as to the age of that person, and for that purpose shall take such evidence as may be forthcoming at the hearing of the case, but an order or judgment of the Court shall not be invalidated by any subsequent proof that the age of that person has not been correctly stated to the Court, and the age presumed or declared by the Court to be the age of the person so brought before it shall, for the purposes of this Ordinance, be deemed to be the true age of that person, and, where it appears to the Court that the person so brought before it is of the age of sixteen years or upwards, that person shall, for the purposes of this Ordinance, be deemed not to be a child or young person.

Presumption of age.

(2) Where, in a charge or indictment for an offence under this Ordinance, or any of the offences mentioned in the Schedule to this Ordinance, it is alleged that the person by or in respect of whom the offence was committed was a child or young person, or was under or above any specified age, and he appears to the Court to have been at the date of the commission of the alleged offence a child or young person or to have been under or above the specified age, as the case may be, he shall, for the purposes of this

Ordinance, be presumed at that date to have been a child or young person or to have been under or above that age, as the case may be, unless the contrary is proved.

(3) Where, in any charge or indictment for an offence under this Ordinance, or any of the offences mentioned in the Schedule to this Ordinance, it is alleged that the person in respect of whom the offence was committed was a child or was a young person, it shall not be a defence to prove that the person alleged to have been a child was a young person or the person alleged to have been a young person was a child, in any case where the acts constituting the alleged offence would equally have been an offence if committed in respect of a young person or child respectively.

Charge or indictment not bad for misdescription.

(4) Where a person is charged with an offence under this Ordinance in respect of a person apparently under a specified age, it shall be a defence to prove that the person was actually of or over that age.

Defence of over age.

92. (1) All orders of a Magistrate under this Ordinance shall be made, and all proceedings in relation to any such orders shall be taken, in the manner provided by the Summary Conviction Offences (Procedure) Ordinance.

Procedure.

Cap. 24.

(2) Any party to such proceedings who thinks himself aggrieved by the order or decision of a Magistrate under this Ordinance may appeal from such order or decision in the manner provided by the Summary Conviction Offences (Procedure) Ordinance.

Appeals.

Cap. 24.

SCHEDULE.

Any offence under sections 25, 49, or 55 of the Offences against the Person Ordinance, and any offence against a child or young person under sections 6, 36 to 42 inclusive, 46 or 62 of that Ordinance, or under sections 4 or 5 of the Summary Conviction Offences Ordinance.

Cap. 8.

Cap. 25.

Any other offence involving bodily injury to a child or young person.