CHILD WELFARE LEGISLATION IN NEWFOUNDLAND AND LABRADOR

1944 – 1989

GOVERNMENT OF
NEWFOUNDLAND & LABRADOR

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The legislation compiled begins in 1944 and continues to the period before the Revised Statutes of Newfoundland and Labrador 1990 which are available online at http://www.assembly.nl.ca/legislation/default.htm.

TABLE OF CONTENTS

Welfare of Children Act, SN 1944, No 57, as amended 1

Welfare of Children (Amendment) Act, SN 1945, No 46

Welfare of Children (Amendment) Act, SN 1948, No 1

Welfare of Children (Amendment) Act, SN 1951, No 73

Welfare of Children (Amendment) Act, SN 1952, No 78

Corrections Act, SN 1953, No 62, s 68

Welfare of Children Act, RSN 1952, No 60, as amended 2

Welfare of Children (Amendment) Act, SN 1954, No 34

Welfare of Children (Amendment) Act, SN 1957, No 20

Welfare of Children (Amendment) Act, SN 1958, No 15

Welfare of Children (Amendment) Act, SN 1959, No 23

Welfare of Children (Amendment) Act, SN 1960, No 6

Welfare of Children (Amendment) Act, SN 1961, No 7

Welfare of Children (Amendment) Act, SN 1962, No 2

Adoption of Children Act, SN 1964, No 23, s 22

Children of Unmarried Parents Act, SN 1964, No 40, s 49

Welfare of Children (Amendment) Act, SN 1970, No 6

Child Welfare Act, 1964, SN 1964, No 45 3

Welfare of Children (Amendment) Act, SN 1965, No 54

Welfare of Children (Amendment) Act, SN 1966, No 71

Welfare of Children (Amendment) Act, SN 1968, No 20

Welfare of Children (Amendment) Act, SN 1969, No 26

Welfare of Children (Amendment) Act, SN 1969, No 79

Welfare of Children (Amendment) Act, SN 1970, No 12

Child Welfare Act, RSN 1970, C 37 4

Child Welfare Act, 1972, SN 1972, No 37 5

Statutes Amendment Act, SN 1972, No 11

Department of Social Services Act, SN 1973, No 31, schedule

Child Welfare (Amendment) Act, SN 1974, No 34

Judicature (Amendment) Act, SN 1974, No 57, s 38

Judicature (Amendment) Act, SN 1974, No 57, schedule C

Child Welfare (Amendment) Act, SN 1974, No 100

Child Welfare (Amendment) Act, SN 1975-76, No 16

Labour Standards Act, SN 1977, C 52, s 77

Child Welfare (Amendment) Act, SN 1977, No 69

Municipalities Act, SN 1979, C 33, s

Child Welfare (Amendment) Act, SN 1981, C 54

Young Persons Offences Act, SN 1984, C 2, s 28

Attorney General Statutes Amendment Act, 1985, SN 1985, C 13, s 2

Judicature Act, 1986, SN 1986, C 42, schedule A

Charter of Rights Amendment Act, SN 1988, C 39, s 4

Charter of Rights Amendment Act, SN 1988, C 39, s 17

Charter of Rights Amendment Act, SN 1988, C 39, s 9

Child Welfare (Amendment) Act, SN 1988, C 45

Family Law Act, SN 1988, C 60, s 82

Children's Law Act, SN 1988, C 61, s 85

Family Law Omnibus Act, SN 1989, C 11, s 3

Attorney General Statutes Amendment Act, 1989, SN 1989, C 12, s 6

Child Welfare (Amendment) Act, SN 1990, C 33

Juveniles Act, RSN 1970, C 190 **6**

Government Reorganization (General and Miscellaneous Provisions) Act, SN 1973, No 48, s 12

Young Persons Offences Act, SN 1984, C 2, s 32

Short Title	Citation	Amendments	In Force
Child Welfare	SN 1964 No 45	.	June 10, 1964
		SN 1965 No 54	April 15, 1965
		SN 1966 No 71	March 28, 1966
		SN 1968 No 20	May 23, 1968
		SN 1969 No 26	March 31, 1969
		SN 1969 No 79	October 14, 1969
		SN 1970 No 12	June 18, 1970; s. 2(a) in force July 7, 1970
Welfare of **Children**	RSN 1952 No 60	.	December 31, 1953
		SN 1954 No 34	June 22, 1954
		SN 1957 No 20	May 28, 1957
		SN 1958 No 15	February 11, 1958
		SN 1959 No 23	July 6, 1959
		SN 1960 No 6	May 30, 1960
		SN 1961 No 7	March 13, 1961
		SN 1962 No 2	March 20, 1962
		SN 1964 No 23	June 10, 1964
		SN 1964 No 40	June 10, 1964
		SN 1968 No 5	April 1, 1968
		SN 1970 No 6	April 28, 1970
Welfare of **Children**	SN 1944 No 57	.	December 30, 1944
		SN 1945 No 46	November 16, 1945
		SN 1948 No 1	February 7, 1948
		SN 1951 No 73	June 22, 1951
		SN 1952 No 78	May 20, 1952
		SN 1953 No 62	June 1, 1953

Table of Public General Statutes

Act or Subject	RSN 1970	Amendments, etc.
		s.6, 1989 c.11 s.3(1) s.7, 1989 c.11 s.3(2) s.8, 1989 c.11 s.3(3) s.26, 1989 c.11 s.3(4) s.27, 1989 c.11 s.3(5) s.36, 1989 c.11 s.3(6) & (7) s.39, 1990 c.62 s.5 s.43.1 added, 1989 c.11 s.3(8) s.54, 1989 c.11 s.3(9) s.67, 1989 c.11 s.3(10) s.70, 1989 c.11 s.3(11) & (12) s.74, 1989 c.11 s.3(13) s.85, R&S 1989 c.11 s.3(14) s.89, 1989 c.11 s.3(15)
Child Welfare	37	R&S 1972 No.37
Child Welfare, 1972	...	1972 No. 37 s.2 s.2, 1972 No.11 s.2; 1973 No. 31 s.36(1) Sch. Item3; 1974 No.34 s.2; 1974 No. 100 ss. 2 & 3; 1977 c.69 s.1; 1981 c.54 ss.1 & 2; 1984 c.2 s.28; 1988 c.61 s.85(1) (to come into force July 1, 1989) s.2A, added 1974 No. 34 s.3; 1977 c. 52 s.77 s.2.1, added 1981 c.54 s.3 s.4, R&S 1990 c.33 s.1 s.6, 1972 No. 11 s.2 s.8, 1981 c.54 s.7 s.10, 1974 No. 100 s.4; 1981 c.54 s.7 s.11, 1974 No. 100 s.4; 1981 c.54 s.4; R&S 1988 c.45 s.1 s.11.1, added 1988 c.45 s.1; 1989 c.12 s.6 s.12, 1974 No. 100 s.4; R&S 1988 c.45 s.1 s.12.1, added 1988 c.45 s.1 s.13, 1988 c.45 s.2 s.15, 1972 No. 11 s.2; 1974 No. 100 s.4; 1981 c. 54 s.5; 1985 c.13 s.2; 1988 c.45 s.3; 1988 c.60 s.82(1); 1988 c.61 s.85(2); 1989 c.11 s.3(14) s.16, Rep. 1988 c.39 s.4(1)

Table of Public General Statutes

Act or Subject	RSN 1970	Amendments, etc.
		s.19, 1981 c.54 s.7; 1986 c.42 Sch. A Item 13; 1988 c.39 s.4(2) s.20, 1974 No. 100 s.4; R&S 1988 c.39 s.19 ss.21-33, Rep. 1990 c.33 s.2 s.34, R&S 1988 c.39 s.28 s.38, R&S 1988 c.39 s.4(3) s.39, 1972 No. 11 s.2; 1975-76 No. 16 s.2; 1988 c.39 s.17(1) s.40, Rep. 1988 c.39 s.17(2) s.43, 1974 No. 100 s.4 s.44, 1972 No. 11 s.2; 1979 c.33 Sch.C; 1988 c.39 s.4(4) s.45, 1974 No. 100 s.31 s.47, 1981 c.54 s.7; 1986 c.42 Sch. A Item 13; 1988 c.39 s.4(5) s.46, 1988 c.60 s.82(2) s.48, 1974 No. 100 s.4 s.49, 1974 No. 100 s.4; 1981 c.54 s.6 s.52, 1974 No. 100 s.4; 1975-76 No. 16 s.3 s.53, 1972 No. 11 s.2 s.54, R&S 1984 c.2 s.28 s.56, 1974 No. 57 s.38(263(1) Sch.C Item 5); 1986 c.42 Sch. A Item 13; R&S 1988 c.45 s.4 s.59, 1972 No. 11 s.2
Children of Unmarried Parents	38	R&S 1972 No. 33
Children of Unmarried Parents, 1972	...	1972 No. 33 Repealed by 1988 c.61 s.89(1)
Chiropractors	...	1990 c.63 (not in force December 31, 1990)
City of Corner Brook	...	Rep. 1985 c.15 s.445
City of Corner Brook, 1985	...	1985 c.15 s.2, 1989 c.30 Sch. B Item 7 s.21, 1986 c.42 Sch. B Item 14 ss.45-48 R&S. 1986 c.33 s.2 s.162, R&S 1988 c.54 s.6(1) s.268, 1987 c.41 s.4 s.279.1, added 1988 c.47 s.1 s.298, 1989 c.12 s.7(1)

Table of Public General Statutes

Act or Subject	RSN 1970	Amendments, etc.
Justices and Other Public Authorities (Protection)	189	s.2, 1986 c.42 Sch. B Item 44 (q)); 1986 c.42 Sch. A Item 46 & Sch. B Item 44; 1989 c.12 s.17 s.10, 1974 No. 57 s.38 (264(q)); 1986 c.42 Sch. A Item 46 & Sch. B Item 44 s.19, Rep. 1986 c.6 s.1
Juveniles (see Welfare of Children)	190	1973 No.48 s.12
L		
Labour Relations	191	R&S 1977 c.64
Labour Relations, 1977	..	1977 c.64 s.2, 1979 c.33 Sch.C; 1983 c.60 s.1 (in force Feb. 1, 1984); 1984 c.40 Sch. B Item 14; 1989 c.25 Sch. B Item 11; 1990 c.22 s.1 s.4, 1983 c.60 s.2 (in force Feb. 1, 1984) s.6, 1983 c.60 s.3 (in force Feb. 1, 1984) s.7, 1983 c.60 s.4 (in force Feb. 1, 1984) s.16.1, added 1986 c.33 s.9 s.17, 1983 c.60 s.5 (in force Feb. 1, 1984) s.18, 1983 c.60 s.6 (in force Feb. 1, 1984) s.22, 1985 c.5 s.1 s.29, R&S 1983 c.60 s.7 (in force Feb. 1, 1984) s.36, 1983 c.60 s.8 (in force Feb. 1, 1984) s.36.1, added 1983 c.60 s.9 (in force Feb. 1, 1984) s.37, 1985 c.5 s.2 s.40, Rep. 1983 c.60 s.10 (in force Feb. 1, 1984) s.51, 1985 c.5 s.3; 1988 c.49 s.3 s.57, 1980 c.24 s.10 s.63, 1983 c.60 s.11 (in force Feb. 1, 1984) s.70, 1978 c.35 s.12; 1990 c.22 s.2 s.80.1, added 1985 c.5 s.4 s.80.2, added 1985 c.5 s.4

Table of Public General Statutes

Act or Subject	RSN 1970	Amendments, etc.
Weekly Day of Rest	395	Rep. 1977 c.52 s.75
Weights and Measures	396	Repealed by 1990 c.47 Sch. Item 32
Welfare Institutions	397	Long Title, 1978 c.22 s.1 s.1, 1978 c.22 s.2 s.2, 1973 No.56 s.2; 1975 No. 52 s.2; 1978 c.22 s.3; 1979 c.49 Sch. C Item 6; s.4, R&S 1973 No.56 s.3; R&S 1978 c.22 s.4; 1990 c.37 s.1 s.5, 1978 c.22 s.5; 1990 c.37 s.2 s.7, 1978 c.22 s.5 s.8, 1978 c.22 s.5 s.9, 1978 c.22 s.5 s.10, 1978 c.22 s.5; 1985 c.11 s.67; 1987 c.41 s.23 s.11, 1978 c.22 s.5 s.13, 1978 c.22 s.5 s.14, 1978 c.22 s.5 s.16, 1978 c.22 s.5
Welfare of Children	190	1973 No.48 s.12 Rep. 1984 c.2 s.32
Well Drilling	...	1981 c.14 s.2, 1988 c.43 Sch.A
Western Labrador (Public Building) Construction, 1966	...	1966 No.11
Western Memorial Hospital Corporation, 1947	...	1947 No.3 s.1, 1953 No.20 s.2 s.2, 1990 c.53 s.1 s.4, R&S 1953 No.20 s.3; 1983 c.76 s.15; 1990 c.53 s.2 s.5, R&S 1953 No.20 s.3; 1983 c.76 s.15; 1990 c.53 s.3 s.6, R&S 1953 No.20 s.3; 1983 c.76 s.15 s.6A, added 1960 No.8 s.2; 1983 c.76 s.15 s.9, 1990 c.53 s.4 s.14, R&S 1977 c.62 s.1 General, 1953 No.20 s.4

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		SN 1953 No 62	May 20, 1952
			June 1, 1953

ICC-1581 ICCI Exhibit P-059 Page 13

AN ACT RESPECTING THE WELFARE OF CHILDREN.

[30th December, 1944]

SECTION

1.—Interpretation.
2.—Director of Child Welfare.
3.—Duties of Director.
4.—Director may appear in Court.
5.—Assistant Director.
6.—Welfare Officers, etc.
7.—Duties of Welfare Officers, etc.
8.—Child Welfare Board.
9.—Receiving Homes.
10.—Psychiatrist.
11.—Interpretation.
12.—Certain children who may be brought to Receiving Home.
13.—Parents of child to be notified. Examination.
14.—Temporary detention.
15.—Wishes of child.
16.—Orders may be made.
17.—Custody of child; regard had to religion.
18.—Trial of child.
19.—Examination respecting child on certain premises.
20.—Society to be guardian of child.
21.—Guardianship until age of 17.
22.—Parent loses right to custody of child in certain cases.
23.—Children and tobacco, liquor, etc., etc.
24.—Order for payment of support of child.

SECTION

25.—Liability of custodian for ill-treating child.
26.—Offence to cause child to beg in public place.
27.—Proper entertainments; child may take part; licence.
28.—Cruelty to children; arrest.
29.—Removal of child from custody of a person.
30.—Taking deposition from child in case of illness, etc.
31.—Giving child tobacco, liquor, etc.; offence.
32.—Employment of girls in restaurants, hotels, etc.
33.—Unlawful to employ child between 9 p.m. and 8 a.m.
34.—Apparent age of child.
35.—Offences; one summons for two or more children.
36.—Procedure to search for child and to summon person guilty of neglect.
37.—(1) Certain offences respecting child.
(2) Penalty.
38.—Interpretation.
39.—Juvenile Court.
40.—Judge of the Juvenile Court.
41.—Deputy Judge.
42.—Powers of Judge of Juvenile Court.

SECTION

43.—Delinquency.
44.—Court's jurisdiction.
45.—All cases to go to the Juvenile Court.
46.—Procedure when offence is indictable.
47.—(1) Notices to parents.
(2) Judge directs who shall be served.
(3) Police Officer to serve process.
48.—Powers and duties of clerk
49.—Trials to be private.
50.—(1) Detention home.
(2) Where there is no detention home.
(3) Promise to attend may be accepted.
(4) Child not to be put with adult prisoners.
51.—Court may accept bail.
52.—Court may adjourn or postpone hearing.
53.—(1) Proceedings may be informal.
(2) Not affected by irregularities.
54.—Seal not required.
55.—(1) Child's oath may be dispensed with.
(2) Corroborative evidence.
56.—(1) Dispositions.
(2) Parents liable to contribute, etc.
(3) Return of juvenile delinquent to court.
57.—Imprisonment shall not be imposed.
58.—(1) Parent or guardian may be ordered to pay fine, damages or costs.
(2) Limit of amount.
(3) Recovery of amount.
(4) Parent or guardian to be heard.

SECTION

(5) Appeal.
(6) Aditional action.
59.—(1) Children not allowed to be in Court.
(2) Exception.
60.—(1) Adults liable who contribute to delinquency; penalty.
(2) Liability of parents or guardians; penalty.
(3) Adjournment.
(4) No delinquency an invalid defence.
61.—Penalty for inducing, etc., child to leave home, etc., where he was placed under provisions.
62.—(1) Contempt of court.
(2) Enforcing of process.
63.—Interpretation.
64.—Establishing Training Schools.
65.—Purpose of Training Schools.
66.—Certain children under 17 may be sent to training school.
67.—Copies of evidence to be sent to Director and Superintendent.
68.—School Wardship over boys and girls.
69.—Powers of Commissioner.
70.—Term in training.
71.—Ministers of religion.
72.—Records of children in training school.
73.—Neglect to support child in institution.
74.—Escape.
75.—Placing out of boys and girls.
76.—What to be deemed an "escape".

ICC-1581 ICCI Exhibit P-059 Page 14

SECTION

77.—Penalties for aiding to escape.
78.—Release or discharge.
79.—Examination of child.
80.—Inquiry by judge.
81.—Parent not to interfere.
82.—Inspection by Commissioner, Director, etc.
83.—Annual returns.
84.—Penalties.
85.—Regulations.
86.—Interpretation.
87.—Registrar to notify Director.
88.—(1) Institution to notify Director.
(2) Director to secure information.
(3) Regulations.
(4) Penalty.
89.—Mother may apply to Director.
90.—Information may be laid.
91.—Summons against alleged father.
92.—Bond and sureties for appearance.
93.—Deposit instead of bond.
94.—After birth of illegitimate child; summons and procedure.
95.—One complaint sufficient.
96.—Information to be laid within 12 months after birth.
97.—If defendant in gaol.
98.—Respecting adjournments of hearings.
99.—Commit to gaol in default of bond, etc.
100.—Hearing evidence; secrecy.
101.—Order for maintenance of child by father.
102.—Bond to carry out order.
103.—(1) Separate order respecting mother.
(2) Child may be declared neglected.
(3) Custody of child in other cases.

SECTION

104.—Order.
105.—Order may be made in absence of reputed father.
106.—In default of Bond; imprisonment.
107.—Warrant to levy on goods of reputed father.
108.—(1) Order shall bind estate of putative father after his death.
(2) When order may be varied.
109.—Death of mother; proceedings by parents, etc.
110.—Appeal to Supreme Court.
111.—Conditions for appeal.
112.—Supreme Court may vary, set aside or confirm order.
113.—Appeals governed by usual rules.
114.—Sureties to justify.
115.—Liability of reputed father for certain expenses, etc.
116.—Action against reputed father for expenses.
117.—Action for debt.
118.—Court to decide amount of defendant's liability.
119.—Weekly payments.
120.—Enforcement of judgment.
121.—When Secs. 115 to 120 not to apply.
122.—Order is conclusive of paternity.
123.—In cases where two or more are defendants.
124.—Magistrate may vary affiliation order.
125.—Director may institute proceedings.
126.—Director, etc., entitled to appear.
127.—Private hearing.
128.—(1) Corroborative evidence.
(2) Married woman a compellable witness.

1944 Welfare of Children Act No. 57 293

SECTION

129.—Payments to be made to Director.
130.—Duties of Director.
131.—Interpretation.
132.—(1) Application for order.
(2) "Adopting parent", "adopted child", "child".
(3) Joint application.
133.—Supporting statements.
134.—(1) Judge to keep records.
(2) Director to be notified.
135.—(1) When consent of Commissioner to be obtained.
(2) Special circumstances.
136.—(1) Consents required.
(2) When child's consent may be dispensed with.
(3) When consent of guardian not required.
137.—Judge may require further information.
138.—Certificate of Director.
139.—(1) Judge may make order.
(2) Fact of illegitimacy shall not appear.
(3) Adoption Order Form supplied by Director.
140.—Effect of adoption order.
141.—Right to inherit property.
142.—When "child" shall mean an adopted child.
143.—Legitimation not to affect adoption order.
144.—Power to make interim orders.
145.—Power to make subsequent order in respect of child already subject to an order.
146.—(1) Jurisdiction and procedure.
(2) Regulations made by Commissioner.
(3) Hearing in camera.

SECTION

(4) Guardian ad litem.
147.—Restrictions on payments.
148.—Provisions as to existing de facto adoptions.
149.—Order may not be set aside after one year, etc.
150.—Adopted children register.
151.—Defective children; classes.
152.—Receiving home for defective children.
153.—Parent to give notice to Director.
154.—Physician, etc., to give notice.
155.—Inquiry as to defective child.
156.—Investigation into facts.
157.—Witnesses.
158.—Notice of investigation to parents, etc.
159.—Custody of defective child.
160.—Any person being defective.
161.—Procedure.
162.—Defective child may be detained.
163.—Powers of Commissioner.
164.—Inducing defective child to leave institution.
165.—Application for registration of associations; child welfare.
166.—Signatures to be verified.
167.—Duty of Society.
168.—Appointment of Child Welfare Committee.
169.—Director may take charge of defunct associations.
170.—Duty of owner of newspapers, etc., to get name, etc., of advertiser.
171.—Occupation of children; license to work.
172.—Visits to child.
173.—Suspension of officials.
174.—Rules may be made

ICC-1581 ICCI Exhibit P-059 Page 15

SECTION
175.—Ministers of religion have right of admission to institutions.
176.—Suits to be before a Juvenile Court Judge or magistrate.
177.—Penalty where not otherwise specified.
178.—Fines, etc., to be paid to Department.
179.—Appeal to Supreme Court.
180.—Act to be liberally construed.
181.—Repeal.
182.—Short title.
Schedule A
Schedule B.
Schedule C.

A.D. 1944. **Be it enacted by the Governor, by and with the advice of the Commission of Government, as follows:**

Interpretation. 1. In this Act, unless the context otherwise requires, the expression,—

(a) "boarding home" means a home in which a child is placed by the Director to be cared for as a member of the family, but for whose care payment is made;

(b) "child" means an unmarried boy or girl actually or apparently under the age of seventeen years;

(c) "Commissioner" means the Commissioner for Public Health and Welfare;

(d) "court", unless otherwise expressly provided, means a Juvenile Court established under this Act, or any other court of summary jurisdiction;

(e) "Department" means the Department of Public Health and Welfare;

(f) "Director" means the Director of Child Welfare appointed pursuant to the provisions of this Act;

(g) "foster home" means a home in which a child who lacks normal parental relations may be placed as a member of the family, except orphanages;

(h) "guardian", in addition to the natural parent or parents and the legally appointed guardian of the child, includes the Director when the child has been committed permanently to his care and custody;

(i) "home" means a private dwelling occupied by a householder or family whose members are closely related to each other;

(j) "institution" means a building or part of a building, other than the private building of a family set apart for the care and custody of children, other than a training school or orphanage, and shall include any infants home or maternity home, and also any society or organization occupying such building or part of a building;

(k) "judge" means the judge of a Juvenile Court established under this Act, or a Stipendiary Magistrate or two justices of the peace acting together as a magistrate;

(l) "probation home" means a home in which a child requiring special care because of delinquency, or physical or mental deficiency, or for any cause which in the judgment of the Director makes special treatment necessary, may be placed to receive such special care;

(m) "psychiatrist" means the physician appointed as such pursuant to the provisions of this Act;

(n) "receiving home" means a building or part of a building fitted for the reception and examination, physically or mentally, of any neglected or delinquent child, such building being under the direct supervision of the Director;

ICC-1581 ICCI Exhibit P-059 Page 16

(o) "regulations" means regulations made under the authority of this Act;

(p) "shelter" means any building or part of a building under the supervision of or approved by the Director which may be used for the temporary care of children;

(q) "situation" means a place where a child is placed for employment under the supervision of the Director;

(r) "Society" means any society, association or corporation provided for under this Act;

(s) "temporary home" means a home in which a child is placed temporarily pending further consideration of his case;

(t) "training school" means a school established pursuant to the provisions of this Act;

(u) "welfare officer" means a Welfare Officer appointed pursuant to the provisions of this Act.

Director of Child Welfare.

2. The Governor-in-Commission may appoint a person to administer and enforce the provisions of this Act under the control and direction of the Commissioner, which person shall be known as the Director of Child Welfare.

Duties of Director.

3. It shall be the duty of the Director of Child Welfare:—

(a) to encourage and promote the conservation of child life in Newfoundland;

(b) to encourage the formation of child welfare associations, children's aid societies and child welfare committees, to assist in their organization and to co-operate with them;

(c) to advise such societies and instruct them as to the manner in which their duties are to be performed;

(d) to see that a record is kept by such societies of all children to whom they are rendering assistance or treatment, such reports to be made to the Director monthly;

(e) to exercise such care of and control over neglected, dependent and delinquent children as by this Act is required;

(f) to keep records of all children who are dealt with under the Department;

(g) to secure where possible through child welfare associations, children's aid societies, child welfare committees and otherwise, a system of suitable foster homes, boarding homes, and probation homes adapted to the needs of children under supervision, and to prescribe regulations for the proper care of such children in such foster homes, boarding homes and probation homes consistent with this Act;

(h) to visit and inspect, or to provide for visiting and inspection of, foster homes, boarding homes, probation homes, temporary homes, situations, shelters, training schools and institutions in which children are cared for except orphanages, and to report the results of such visits and inspections as directed by order of the Commissioner or regulations of the Department in that behalf;

ICC-1581 ICCI Exhibit P-059 Page 17

(i) to take steps to collect from persons liable therefor moneys for the support and maintenance of any child;

(j) to prepare and submit an annual report of the work of his office and, from time to time, issue and distribute such reports, publications, pamphlets, circulars and other literature as the Commissioner deems expedient;

(k) to enforce the provisions of this Act, and generally to perform such other duties consistent therewith as may be prescribed by the Commissioner.

Director may appear in Court.

4. The Director shall be entitled to appear in any Court in respect of any matter arising out of any of the provisions of this Act, and to conduct any prosecution instituted in consequence of any alleged violation of this Act.

Assistant Director.

5. The Governor-in-Commission may appoint an Assistant Director of Child Welfare who shall perform such duties as the Director of Child Welfare shall direct.

Welfare Officers, etc.

6. The Governor-in-Commission may appoint such Welfare Officers, investigators or other officers or clerks as may from time to time be necessary for carrying out the provisions of this Act, and all such officers shall be under the direction of the Director, subject to the authority of the Commissioner.

Duties of Welfare Officers, etc.

7.—(1) Every Welfare Officer duly appointed under the provisions of this Act shall have in the discharge of his or her duties as such Welfare Officer all the powers of a constable, and shall be protected from civil actions for anything done in bona fide exercise of the powers conferred by this Act.

(2) Every Welfare Officer shall have all the powers of a constable under the provisions of The School Attendance Act, 1942.

Child Welfare Board.

8.—(1) The Governor-in-Commission may appoint a Board of not less than five members, nor more than nine, to be known as the Child Welfare Board, who shall serve without remuneration. It shall be the duty of the Child Welfare Board:

(a) to meet as often as may be necessary for the consideration of general questions pertaining to the welfare of the children of Newfoundland;

(b) to assist and advise the Director in the administration of this Act;

(c) to facilitate as fully as possible the proper treatment of children to whom this Act applies;

(d) to perform such other duties consistent with this Act as may be prescribed by the Commissioner.

(2) The Commissioner shall be ex officio Chairman of the Board.

(3) The Director and the psychiatrist shall be ex officio members of the Board.

Receiving homes.

9. Subject to the prior approval of the Governor-in-Commission, the Department may provide for the establishment of receiving homes for neglected, delinquent, or mentally defective children, which homes shall be subject to the supervision of the Director.

Psychiatrist.

10. The Governor in Commission may appoint a medical officer on the staff of the Department who shall be a trained psychiatrist and whose duty it shall be, on the instructions of the Commissioner, to make an ex-

ICC-1581 ICCI Exhibit P-059 Page 18

amination respecting the physical and mental condition of any child dealt with under this Act, and to report the same to the Commissioner.

PART I

NEGLECTED CHILDREN

Interpretation.

11. In this Part, unless the context otherwise requires, the expression,—

(a) "detention home" means a building or part of a building set apart for the custody or detention of children pending disposition of their cases by a court;

(b) "infants' home" means any building or part of a building where children are received or retained, for hire or reward or otherwise, apart from their parents, except orphanages;

(c) "neglected child" means a child

(i) who is abandoned or deserted by both parents, or if one parent is dead, by the survivor, or by his guardian, or whose parent (if one only be living) or parents has or have allowed him to be brought up by another person at that person's expense for such time and under such circumstances as to satisfy the Court that such parent or the parents has or have been unmindful of his or her or their parental duties, or whose surviving parent is undergoing imprisonment and there is no other person who may be required to maintain such child;

(ii) whose parents, only living parent, guardian, or other person in whose charge he may be, cannot by reason of disease, or misfortune, or infirmity, properly care for him;

(iii) who was born out of lawful wedlock and whose mother is unable to maintain him or unfit to care properly for him, or refuses or neglects to maintain such child;

(iv) who is found wandering about and not having any settled place of abode or proper guardianship, or is found sleeping at night in barns or outhouses or in the open air;

(v) who is found living or associating with vicious or disreputable persons;

(vi) who is found associating or dwelling with a thief, drunkard or vagrant or by reason of neglect or drunkenness or other vice of the parents or guardians of such child, is suffered to grow up without salutary control and education, or in circumstances exposing such child to an idle and dissolute life;

(vii) whose home, by reason of improvidence, neglect, cruelty or depravity on the part of parents, guardian or other person in whose care he may be, is an unfit place for such child;

(viii) whose parent or guardian neglects when able to do so, to provide medical, surgical or other remedial care necessary for his health and well being, or who refuses to permit such care to be supplied to the child when ordered by a competent authority;

(ix) who at any time is found begging in any street, building or place of public resort;

ICC-1581 ICCI Exhibit P-059 Page 19

or loitering in or near a public place after nine o'clock in the evening, not accompanied by his parent or guardian or by some adult person with the consent of such parent or guardian;

(x) who patronizes or habitually visits any tavern or other place where intoxicating liquors are sold, or who patronizes or habitually visits any public pool-room or gambling house;

(xi) who is employed in any restaurant or in any brewery or any shop, licensed premises, tavern or other place where intoxicating liquors are made, bottled, or sold;

(xii) who, being under the age of fourteen years, habitually hawks or peddles or sells articles in the streets or public places after nine o'clock at night;

(xiii) who by reason of inadequate parental control has been allowed to commit petty crimes, or who is growing up without salutary parental control or under circumstances tending to make him idle or dissolute;

(xiv) who, without just cause and without the consent of his parents, guardian or other custodian habitually absents himself from his home;

(xv) who habitually uses obscene, profane or indecent language, or is guilty of immoral conduct in any place whatsoever;

(xvi) who has been unlawfully assaulted or beaten by his parent, or is ill-used or treated with cruelty and neglect by his parent or the person with whom he resides;

(xvii) who is found to have in his possession obscene pictures or drawings or any obscene printed or written matter;

(xviii) who is employed anywhere between the hours of nine o'clock p.m. of one day and eight o'clock a.m. on the following day;

(xix) who

(i) being a female; or

(ii) being a male under the age of twelve years; or

(iii) being a male over the age of twelve years and under the age of fourteen years, without the written consent of his parents,

is found peddling or selling newspapers or other articles for hire or reward on any street or public place at any time during the day or night;

(xx) who is not in regular attendance or has not been enrolled at a public school, contrary to the provisions of The School Attendance Act, 1942, and its amendment or amendments;

(xxi) who, being under the age of fourteen years, is found attending a place of public amusement unaccompanied by his parent or guardian or by some adult person with the consent of such parent or guardian, after the hour of seven o'clock in the evening or during school hours.

(d) "parent" includes a guardian and every person who is by law liable to maintain a child.

ICC-1581 ICCI Exhibit P-059 Page 20

Certain children who may be brought to Receiving Home.

12. Any constable or welfare officer, or any officer of a child welfare association, children's aid society, or any investigator of the juvenile court, or the Director or any person duly authorized in writing by him, may apprehend without warrant and bring to the receiving home or a shelter or a detention home pending the disposition of his case, any child who on reasonable or probable grounds he believes to be a neglected child.

Parents of child to be notified. Examination.

13.—(1) Any person who has apprehended any child pursuant to Section 12 or the Director or any person duly authorized in writing by him shall within ten days from the date of the apprehension notify the parents or guardian of the child, stating the time and place for investigating the facts of the case, which time shall not be more than twenty days after the date of apprehension of the child, unless otherwise ordered by the judge.

(2) The person apprehending any child shall make a written report to the Director, setting out the circumstances of the case and time and place for investigating the facts, and the Director may permit the child to be returned, pending the investigation, to his parents, or either of them, or guardian or other person in whose care he may have been.

(3) The judge may compel the attendance of witnesses on such investigation, and in that behalf is hereby given all the powers of a Stipendiary Magistrate, and when he deems it necessary the judge may request the Commissioner for Justice to furnish counsel to assist him in such investigation.

(4) The judge shall investigate the facts of the case and ascertain whether the child is a neglected child, and his age, name and residence, and the religion of his parents or guardian.

(5) If on such investigation the judge finds that the child is not a neglected child, he shall order that the child be returned to his parents, guardian, or other person in whose care he may be.

(6) If on such investigation the judge finds that the child is a neglected child, he may so declare, and in such event he may make any of the orders specified in Section 16 hereof.

(7) The judge's order shall recite the facts so far as ascertained and the judge shall deliver a certified copy of such order to the Director and also to any society to whose care and custody the child may be committed, and the Director shall on request supply to the parents, or guardian, a copy of any such order free of charge.

Temporary Detention.

14. At any time pending the final determination of an examination the judge may make such order for the temporary detention and care of the child as he may deem proper.

Wishes of child.

15. Nothing in this Part shall affect the power of the Court to consult the wishes of a child declared to be a neglected child in determining what order ought to be made, or any right which a child now possesses to exercise his own free choice.

Orders may be made.

16. Where it appears to the judge that the public interest and the interest of a delinquent child or any child declared by him to be a neglected child or any child against whom an offence has been committed may be best served thereby the judge may make any of the following orders not inconsistent with the provisions of Section 168 hereof:

(1) that the child be returned to his parents or guardians or other person in whose care he may be,

ICC-1581 ICCI Exhibit P-059 Page 21

subject to supervision by a society or by the Director; or

(2) that the child be committed temporarily or permanently to the care and custody of a society, or of some suitable person, subject to supervision by the Director; or

(3) that the child be committed temporarily or permanently to the care and custody of the Director, who in his discretion may order that the child be placed in a training school or other institution which has been approved by the Department for the care of such children; provided, however, that it shall be unlawful to commit a neglected child apparently under the age of twelve years to any training school unless and until an attempt has been made to provide for such child in his own home or in a foster home or in the charge of a society, and unless the court finds that the best interests of the child and the welfare of the community require such commitment.

Custody of child; regard had to religion.

17.—(1) In determining the person to whose care a child shall be committed under this Act, the court shall endeavour to ascertain the religious persuasion to which the child 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 shall be brought up in accordance with his own religious persuasion and such religious persuasion shall be specified in the order.

(2) This section shall not apply to the placing of children in a situation or in a temporary home or shelter for children established under the authority of this Act; provided, however, that due regard shall be given to the religious preferences of any child so placed and proper time allowed for the exercise of religious duties.

(3) When there appears to be no suitable family, home or institution of the same religious faith as that professed by the child or his family with which he may be placed, or where there is a lack of evidence as to the religion of a child, the case shall be referred to the Child Welfare Board (in this Act provided) and the disposition of such child in this regard shall be within their discretion.

(4) For the purpose of this section, in the case of a child whose parents have not been married to each other, the first determining factor shall be the preference of the mother, if she is living, and, in case she is not living, the religion of the mother at the time of her death if it can be ascertained.

Trial of child.

18. The judge shall investigate the case of every child and dispose thereof, and conduct the trial of every child charged with an offence, in premises other than the open court room.

Examination respecting child on certain premises.

19. Where a child welfare association or a children's aid society or child welfare committee or relative or other suitable person possesses premises affording the necessary facilities and accommodation the child may, after apprehension under the provisions of this Part, be temporarily placed in charge of such association, society, committee, relative or person until his case is disposed of and the judge may hold the examination into the case of such child in the said premises, and the provisions of section 29 shall so far as applicable apply as if the order were an order under that section.

Society to be guardian of child.

20. When a neglected child is committed by order of a judge to the permanent care and custody of a society, the said society shall be the legal guardian of such child.

ICC-1581 ICCI Exhibit P-059 Page 22

Guardianship until age of 17.

21. When a society becomes the legal guardian of a child, such legal guardianship shall continue until such child has reached the age of seventeen years. The judge may, however, at any time deprive such society of such legal guardianship whenever in his opinion the best interests of such child can be best served otherwise.

Parent loses right to custody of child in certain cases.

22.—(1) Where a parent applies to the court for an order for the production of a child committed under this Part, and the court is of opinion that the parent has abandoned or deserted the child, or that he has otherwise so conducted himself that the court should refuse to enforce his rights to the custody of the child, the court may in its discretion decline to make the order.

(2) If at the time of the application the child is being brought up by another person, or has been placed out by a children's aid society, the court, if it directs the child to be given up to the parent, may order that the parent shall pay to such person or society the whole of the expense properly incurred in bringing up the child, or such portion thereof as may seem just.

(3) Where a parent has abandoned or deserted his child or allowed his child to be brought up by another person at that person's expense, or by a children's aid society, for such time and under such circumstances as to satisfy the court that the parent was unmindful of his parental duties, the court shall not make an order for the delivery of the child to the parent unless he satisfies the court that, having regard to the welfare of the child, he is a fit person to have the custody of the child.

(4) If the court is of opinion that the parent ought not to have the custody of the child, but that the child is being brought up in a different religion from that in

which the parent has a legal right to require that the child shall be brought up, the court may make such order as it may think fit to secure that the child be brought up in that religion.

Children and tobacco, liquor, etc., etc.

23. Any constable, or welfare officer or any officer of a child welfare association, children's aid society or children's welfare committee, or any school teacher, who suspects on reasonable grounds that any child has in his possession any cigarette or cigarette paper or tobacco, or intoxicating liquor, or any obscene book, or other printed, typewritten or other obscene matter, or any obscene picture, photograph, model or other object, shall have authority to take any such child to the home of such child, or to the receiving home, or to a detention home, or to a shelter or any other place in which children are cared for under the provisions of this Act, for the purpose of having the clothing of such child searched by a proper person and if any such thing is found upon such search the same shall be confiscated or destroyed.

Order for payment of support of child.

24.—(1) A court may, upon the application of the Director or of a society, make an order for the payment by the parents or guardian of a reasonable sum for the expense and support of the child in any home, shelter or institution in which a child may be placed by the Director or society.

(2) 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

ICC-1581 ICCI Exhibit P-059 Page 23

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

Offences Against Children

Liability of custodian for ill-treating child.

25.—(1) If any person over the age of seventeen years, who has the custody, control, charge or care of any child, wilfully assaults, ill-treats, neglects, abandons, or exposes such child, or causes or procures such child to be assaulted, ill-treated, neglected, abandoned or exposed in a manner likely to cause such child 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 five hundred dollars, or alternatively, or in default of payment of such fine, or in addition thereto, to imprisonment for any term not exceeding two years; or

(b) on summary conviction, to a fine not exceeding one hundred dollars or alternatively, or in default of payment of such fine, or in addition thereto, to imprisonment 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 shall be deemed to have neglected him in a manner likely to cause injury to his health if he fails to provide adequate food, clothing, medical aid or lodging for the child, or if being unable otherwise to provide such food, clothing, medical aid or lodging, he fails to take steps to procure the same to be provided under this and other Acts relating to the relief of the poor.

(2) A person may be convicted of an offence under this section either on indictment or by a court of summary jurisdiction, 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 by a court of summary jurisdiction, notwithstanding the death of the child in respect of whom the offence is committed.

(4) An offence under this section is in this Act referred to as an offence of cruelty.

Offence to cause child to beg in public place.

26. Any person who—

(a) causes a child to be in any public place for the purpose of begging or receiving alms, or of inducing the giving of alms, whether under the pretence of singing, playing, performing, offering anything for sale, or otherwise; or

(b) causes a child to be in any public place for the purpose of singing, playing or performing for profit, or offering anything for sale; or

(c) is wilfully guilty of an act or omission producing, promoting or contributing to a child being or becoming a neglected child,

shall be guilty of an offence against this Act, and on conviction thereof shall incur a penalty not exceeding two hundred dollars and in default of payment of the penalty, or alternatively, or in addition thereto shall be liable to imprisonment for a term not exceeding six months.

Proper entertainments; child may take part; licence.

27. In the case of an entertainment or series of entertainments conducted for charitable or educational purposes to take place in premises used for public entertainments or in any place of public amusement, where it is shown that proper provision has been made to secure the health and kind treatment of a child proposed to be employed thereat, the Director may grant a licence for such time and during such hours of the day, and subject to such supervision, restrictions and conditions as he may think fit, for any child over the age of ten years to be so employed of whose fitness to take part in such entertainment or series of entertainments without injury he is satisfied, and such licence may at any time be varied, added to or revoked by him, and the cost of investigation and all other expenses involved in the granting of such licence shall be paid by the person or persons making application therefor; provided that this and the next preceding section shall not apply to the participation by any child in any entertainment or other exercises conducted by any school, or under the supervision of the clergy of any church.

Cruelty to children; arrest.

28.—(1) Any welfare officer or constable may take into custody without warrant, any person:

(a) who within view of such welfare officer or constable commits an offence of cruelty or any of the offences mentioned in Schedule B of this Act, where the name and residence of such person are unknown to such welfare officer or constable and cannot be ascertained by such welfare officer or constable; or

(b) who has committed, or who he has reason to believe has committed, any offence of cruelty within the meaning of this Act, or any of the offences mentioned in Schedule B of this Act, 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 welfare officer or constable.

Removal of child from custody of a person.

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

(a) convicted of committing in respect of such child an offence of cruelty within the meaning of this Act, or any of the offences mentioned in Schedule B of this Act; or

(b) committed for trial for any such offence; or

(c) bound over to keep the peace towards such child;

by any court, that court, either at the time when the person is convicted, committed for trial or bound over, and without requiring any new proceedings to be instituted for the purpose, or at any time, and also any other court before which any person may bring such case, may, if satisfied on inquiry that it is expedient so to deal with the child, order that the child be taken out of custody, charge or care of the person so convicted, committed for trial or bound over, and be committed to the care of the Diretor until he attains the age of seventeen 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, but no order shall be made under this section unless a parent of the child 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 such child.

(2) 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; and the consent of any person to un-

ICC-1581 ICCI Exhibit P-059 Page 25

dertake the care of a child in pursuance of any order shall be proved in such manner as the court may think sufficient to bind him.

(3) When 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.

Taking deposition from child in case of illness, etc.

30.—(1) Where a judge is satisfied on the evidence of a registered medical practitioner that the attendance before a court of any child, in respect of whom an offence of cruelty within the meaning of this Act, or any of the offences mentioned in Schedule B of this Act, is alleged to have been committed, would involve serious danger to his life or health, the judge may take in writing the deposition of such child on oath or otherwise, and shall thereupon subscribe the same and add thereto a statement of his reason for taking the same, and of the day when and place where the same was taken, and of the names of the persons (if any) present at the taking thereof.

(2) The judge taking such deposition shall transmit it with his statement:—

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

the accused person has been committed; and to the proper officer of the court for trial at which

(b) in any other case to the magistrate of the district in which the deposition has been taken.

Giving child tobacco, liquor, etc.; offence.

31. Any person who sells or gives to or causes to come into the possession of any child cigarettes or cigarette paper, or tobacco or intoxicating liquor or any obscene

book or other printed, typewritten or other written obscene matter, or any obscene picture, photograph, model, or other object shall be guilty of an offence against this Act and on conviction thereof shall incur a penalty not exceeding two hundred dollars and in default of payment of the penalty or in addition thereto, shall be liable to imprisonment for a term not exceeding one year.

Employment of girls in restaurants, hotels, etc.

32. Any person who employs an unmarried girl under the age of seventeen in a restaurant, tavern, or a hotel without the written consent of her parents or guardian shall be guilty of an offence and liable upon summary conviction to a penalty not exceeding two hundred dollars, and in default of payment, to imprisonment for a term not exceeding six months or to both fine and imprisonment.

Unlawful to employ child between 9 p.m. and 8 a.m.

33. It shall be unlawful to employ any child between the hours of nine o'clock in the evening and eight o'clock in the morning, and it shall also be unlawful to employ any child in any occupation likely to be injurious to his life, limbs, health, education or morals, and any person guilty of a contravention of this section shall be liable, on summary conviction before a stipendiary magistrate or a judge of the juvenile court, to a fine not exceeding fifty dollars, and in default of payment to imprisonment for a term not exceeding three months

Apparent age of child

34. Where a person is charged with an offence under this Act in respect of a child who is alleged to be under a specified age, and the child appears to the Judge to be under that age, such child shall for the purpose of this Act be deemed to be under that age, unless the contrary is proved.

Offences; one summons for two or more children.

35.—(1) Where a person is charged with committing an offence under this Act. or any of the offences mentioned in Schedule B of this Act, in respect to two or more children, 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 unless upon separate informations.

(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 offences of assault, ill-treatment, neglect, abandonment or exposure, together or separately, and may charge him with committing all or any of those 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.

(3) A person shall not be summarily convicted of an offence under this Act, or of an offence mentioned in Schedule B of this Act, 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.

(4) When an offence under this Act, or any offence mentioned in Schedule B of this Act, 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.

Power Of Search

Procedure to search for child and to summon person guilty of neglect.

36.—(1) If it appears to a judge, on information laid before him on oath by any person who in the opinion of the judge is bona fide acting in the interests of the child, that there is reasonable cause to suspect that a child has been or is being ill-treated or neglected in any place within the jurisdiction of such judge in a manner likely to cause the child unnecessary suffering or to be injurious to his health or morals, such judge may issue a warrant, authorizing any person named therein to search for such child, and also if such person finds such child to forthwith bring such child before the judge, and the judge may cause him to be dealt with in the manner provided by this Act.

(2) The judge may by the same or a separate warrant cause any person accused of an offence in respect of the child to be apprehended and brought before him to be dealt with according to law.

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

(4) It shall not be necessary in any information laid or warrant issued under the provisions of this section to describe a child by name.

Interfering With Wards

Certain offences respecting child.

37.—(1) No person shall:—

(a) induce or attempt to induce any child to leave the building or premises or custody or control of any home or shelter or institution to which such child has been confined by competent authority; or

(b) induce or attempt to induce a child to leave any service or any place where the child has been lawfully placed for the purposes of being nursed, supported, educated or adopted; or

(c) induce or attempt to induce any child to break any agreement lawfully entered into by or with the authority of any society or the Director; or

ICC-1581 ICCI Exhibit P-059 Page 27

(d) detain or harbour any such child after demand made by or on behalf of the executive officer of a society or any welfare officer for delivery up of such child.

Penalty.

(2) Every person who violates any of the provisions of this section shall be guilty of an offence against this Act, and shall incur a penalty not exceeding one hundred dollars and, in default of payment of the penalty shall be liable to imprisonment for any period not exceeding three months.

PART II

JUVENILE OFFENDERS

Interpretation.

38. In this Part, unless the context otherwise requires, the expression,—

"Juvenile Delinquent" means any child who violates any provision of the criminal law (except homicide) or any by-law or ordinance of any municipality, or who is represented as being beyond parental control, or who is guilty of sexual immorality or any similar form of vice, or who, notwithstanding that he has been enrolled at a school according to law, wilfully refuses to attend, or who is liable by reason of any other act to be committed to a training school under the provisions of this Act.

Juvenile Court.

39. The Governor in Commission may establish and constitute in Newfoundland a Court or courts for the purpose of dealing with juvenile delinquents under the provisions of this Act.

Judge of the Juvenile Court.

40. The Governor in Commission may appoint the Judge of any Juvenile Court and may define the territorial limits of the jurisdiction of such Judge.

Deputy Judge.

41. The Governor in Commission may appoint the deputy Judge of the Court who shall have all the powers and authority of the Judge of a Juvenile Court in case of the absence or illness or other disability of such judge.

Powers of Judge of Juvenile Court.

42. The Judge of a Juvenile Court in the exercise of his jurisdiction as such shall have all the powers of a magistrate.

Delinquency.

43. The commission by a child of any of the acts enumerated in Section 38 of this Act shall constitute an offence to be known as a delinquency and shall be dealt with as hereinafter provided.

Court's jurisdiction.

44. Save as provided in Section 46 of this Act, a Juvenile Court shall have exclusive jurisdiction within the provisions of Section 45 in cases of delinquency including cases where after the committing of the delinquency the child has passed the age limit mentioned in paragraph (b) of Section 1 of this Act: Provided that a Juvenile Court shall have no jurisdiction to try a child charged with murder or manslaughter.

All cases to go to the Juvenile Court.

45.—(1) When a child is arrested:—

(a) within the territorial limits of the jurisdiction of a Juvenile Court, or

(b) where the offence in respect of which the child was arrested was committed within such limits, or

(c) where the child's usual place of abode is within such limits,

with or without a warrant such child shall, instead of being taken before a magistrate, be taken before a Juvenile Court; and if the child is taken before a magistrate upon a summons or under a warrant or for any other reason it shall be the duty of the magistrate to

transfer the case to the Juvenile Court or of the officer having the child in charge to take the child before that Court and in any such case the Juvenile Court shall hear and dispose of the case in the same manner as if such child had been brought before it upon information originally laid therein.

(2) Where a child is brought before a magistrate charged with any offence, such magistrate shall, upon the motion of the Director, commit such child for trial to a Juvenile Court.

Procedure when offence is indictable.

46.—(1) Where the act complained of is, under the provisions of any law in force in Newfoundland, an indictable offence and the accused child is apparently or actually over the age of fourteen years the Court may, in its discretion, order the child to be proceeded against by indictment in the ordinary courts; but such course shall in no case be followed unless the Court is of the opinion that the good of the child and the interest of the community demand it.

(2) A Court may, in its discretion, at any time before any proceedings have been initiated against the child in the ordinary criminal courts rescind an order so made.

Notices to parents.

47.—(1) Due notices of the hearing of any charge of delinquency shall be served on the parent or parents or guardian of the child or if there be neither parent nor guardian or if the residence of the parent or parents or guardian be unknown then on some near relative whose whereabouts is known and any person so served shall have the right to be present at the hearing.

Judge directs who shall be served.

(2) The judge may give directions as to the persons to be served under this section and such directions shall be conclusive as to the sufficiency of any notices given in accordance therewith.

Police Officer to serve process.

(3) It shall be the duty of every police officer to serve all processes issued out of any Juvenile Court and all orders made by the judge thereof in carrying out the provisions of this Act.

Powers and duties of clerk.

48. The clerk of a Juvenile Court shall have power ex officio to administer oaths and also in the absence of the judge and deputy judge to adjourn any hearing for a definite period not to exceed ten days.

Trials to be private.

49.—(1) The trials of children shall take place without publicity and separately and apart from the trials of other accused persons.

(2) Such trial may be held in the private office of the judge or in some other private room.

(3) When a child, or a parent or other person charged with an offence in respect of a child under this Act, is being tried or examined, the judge shall exclude or cause to be excluded from the room or place where such person is being tried or examined all persons other than the counsel and witnesses in the case, the Director, officers of the law or of any child welfare association or children's aid society or child welfare committee and the immediate friends or relatives or the parents of the child and such persons as the judge in his discretion may permit to be present.

(4) No report of the delinquency committed, or said to have been committed, by a child, or of the trial or of the disposition of the charge against a child, or of the charge against an adult brought before a court under this Act, in which the name of the child or of his parent or guardian or of any school or institution which the child is alleged to have been attending or of which he is alleged to have been an inmate is disclosed, or in which the identity of the child is otherwise indicated, shall without the special leave of the Court be published in

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ICC-1581 ICCI Exhibit P-059 Page 29

any newspaper or other publication or be published over the air by any broadcasting station.

Detention home.

50.—(1) The Governor in Commission may establish in connection with any juvenile court a detention home, or homes, for the care and detention of juvenile delinquents pending the disposition of the cases of such children by the juvenile court. and such detention home or homes shall be under the control and direction of the Director.

Where there is no detention home.

(2) Where a child has been arrested without a warrant in a place where there is no detention home used exclusively for children, such child shall not be incarcerated unless in the opinion of the magistrate such course is necessary to insure the attendance of the child in court.

Promise to attend may be accepted.

(3) In order to avoid, if possible, such incarceration, the verbal or written promise of the person served with notice of the proceedings as aforesaid, or of any other proper person, to be responsible for the presence of such child when required, may be accepted; and in case such child fails to appear, at such time or times as the court requires, the person or persons assuming responsibility as aforesaid, shall, unless in the opinion of the court there is reasonable cause for such failure to appear, be deemed guilty of an offence.

Child not to be put with adult prisoners.

(4) No child held in any place of confinement or detention pending the investigation of his case shall be placed or allowed to remain in company with adult prisoners.

Court may accept bail.

51. Pending the hearing of a charge of delinquency the court may accept bail for the appearance of the child charged at the trial as in the case of other accused persons.

Court may adjourn or postpone hearing.

52. The court may postpone or adjourn the hearing of a charge of delinquency for such period or periods as the court may deem advisable, or may postpone or adjourn the hearing sine die.

Proceedings may be informal.

53.—(1) Proceedings under this Act with respect to a child, including the trial and disposition of the case, may be as informal as the circumstances will permit, consistently with a due regard for a proper administration of justice.

Not affected by irregularities.

(2) No adjudication or other action of a juvenile court with respect to a child shall be quashed or set aside because of any informality or irregularity where it appears that the disposition of the case was in the best interests of the child.

Seal not required.

54. It shall not be necessary to its validity that any seal should be attached or affixed to any information, summons, warrant, conviction, order or other process or document filed, issued or entered in any proceeding had or taken under this Act.

Child's oath may be dispensed with.

55.—(1) When in a proceeding before a court a child of tender years who is called as a witness does not, in the opinion of the judge, understand the nature of an oath, the evidence of such child may be received, though not given under oath, if in the opinion of the judge such child is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth.

Corroborative evidence.

(2) No person shall be convicted upon the evidence of a child of tender years not under oath unless such evidence is corroborated in some material respect.

Dispositions

56.—(1) In the case of a child adjudged to be a juvenile delinquent the court may, in its discretion, take either one or more of the several courses of action here-

inafter in this section set out, as it may in its judgment deem proper in the circumstances of the case,—

(a) suspend final disposition;

(b) adjourn the hearing or disposition of the case from time to time for any definite or indefinite period;

(c) impose a fine not exceeding twenty-five dollars, which may be paid in periodical amounts or otherwise;

(d) commit the child to the care or custody of a welfare officer or of any other suitable person;

(e) allow the child to remain in his home, subject to the visitation of a welfare officer, such child to report to the court or to the welfare officer as often as may be required;

(f) cause the child to be placed in a suitable family home as a foster home, subject to the friendly supervision of a welfare officer and the further order of the court;

(g) commit the child temporarily or permanently to the care and custody of the Director who, if he deems it desirable, may place the child in a training school;

(h) impose upon the delinquent such further or other conditions as may be deemed advisable.

Parents liable to contribute, etc.

(2) In every such case it shall be within the power of the court to make an order upon the parent or parents of the child to contribute to its support such sum as the court may determine, and to require the parents or guardians of such child to take such measures respecting

the welfare of such child and meet such conditions imposed by the court as are consistent with this Act.

Return of juvenile delinquent to court.

(3) Where a child has been adjudged to be a juvenile delinquent and whether or not such child has been dealt with in any of the ways provided for in subsection (1) of this section, the court may at any time, before such juvenile delinquent has reached the age of twenty-one years cause by notice, summons, or warrant, said delinquent to be brought before the court, and the court may then take any action provided for in subsection (1) of this section, or may make an order with respect to such child under section 46 hereof.

Imprisonment shall not be imposed.

57. The punishment of imprisonment shall not be imposed on any child convicted of on offence otherwise than on indictment.

Parent or guardian may be ordered to pay fine, damages or costs.

58.—(1) Where a child is adjudged to have been guilty of an offence and the court is of the opinion that the case would be best met by the imposition of a fine, damages or costs, whether with or without restitution or any other action, the court may, if satisfied that the parent or guardian has conduced to the commission of the offence by neglecting to exercise due care of the child or otherwise, order that the fine, damages or costs awarded be paid by the parent or guardian of the child, instead of by the child.

Limit of amount.

(2) Where a fine is imposed and ordered to be paid by the parent or guardian, the limit of amount imposed by subsection (1) of section 56 shall not apply, but shall in no case exceed the amount fixed for a similar offence under any provision of the criminal law.

Recovery of amount.

(3) Where, under the provisions of this section or of section 56, a sum of money is ordered to be paid, the court may adjudge, either by the order respecting the payment of such sum or by an order made subsequently,

that the same shall be recoverable by distress and sale of the goods and chattels of the party and in default of such distress by imprisonment, and the amount shall be so recoverable or shall be recoverable in the same manner as a fine imposed under any provision of the criminal law is recoverable.

Parent or guardian to be heard.

(4) No order shall be made under this section without giving the parent or guardian an opportunity of being heard; but a parent or guardian who has been duly served with notice of the hearing pursuant to section 47 of this Act shall be deemed to have had such opportunity, notwithstanding the fact that he has failed to attend the hearing.

Appeal.

(5) A parent or guardian shall have the same right of appeal from an order made under the provisions of this section as if the order had been made on the conviction of the parent or guardian.

Additional action.

(6) Any action taken under this section may be additional to any action taken under section 56.

Children not allowed to be in Court.

59.—(1) 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 it is the person charged with the alleged offence, or unless his presence is required, as a witness or otherwise, for the purposes of justice.

Exception.

(2) This section shall not apply to messengers, clerks and other persons required to attend at any court for the purposes connected with their employment.

Adults liable who contribute to delinquency; penalty.

60.—(1) Any person, whether the parent or guardian of the child or not, who, knowingly or wilfully,

(a) aids, causes, abets or connives at the commission by a child of a delinquency; or

(b) does any act producing, promoting, or contributing to a child's being or becoming a juvenile delinquent or likely to make any child a juvenile delinquent;

shall be liable, apart from any other penalty that may be provided by law, on summary conviction before a court to a fine not exceeding two hundred dollars or to imprisonment for a period not exceeding six months or to both fine and imprisonment.

Liability of parents or guardians; penalty.

(2) Any person who, being the parent or guardian of the child and being able to do so, knowingly neglects to do that which would directly tend to prevent said child being or becoming a juvenile delinquent or to remove the conditions which render or are likely to render said child a juvenile delinquent shall be liable on summary conviction before a court to a fine not exceeding two hundred dollars or to imprisonment for a period not exceeding six months or to both fine and imprisonment.

Adjournment.

(3) The court may postpone or adjourn the hearing of a charge under this section for such periods as the court may deem advisable or may postpone or adjourn the hearing sine die and may impose conditions upon any person found guilty under this section and suspend sentence subject to such conditions, and on proof at any time that such conditions have been violated may pass sentence on such person.

No delinquency an invalid defence.

(4) It shall not be a valid defence to a prosecution under this section that notwithstanding the conduct of the accused the child did not in fact become a juvenile delinquent.

ICC-1581 ICCI Exhibit P-059 Page 32

Penalty for inducing, etc., child to leave home, etc., where he was placed under provisions.

61. Any person who induces or attempts to induce any child to leave any detention home, training school, foster home or any other institution or place where such child has been placed under the provisions of this Act or who removes or attempts to remove such child therefrom, without lawful authority, or who, when a child has unlawfully left the custody of an institution or foster home knowingly harbours or conceals such child without notice of the child's whereabouts to the institution or to the Director shall be guilty of an offence and shall be liable on summary conviction before a court to a penalty not exceeding one hundred dollars or to imprisonment for a period not exceeding one year, or to both fine and imprisonment.

Contempt of court.

62.—(1) A juvenile court shall have such and like powers and authority to preserve order in court during the sittings thereof and by the like ways and means as now by law are or may be exercised in like cases and for the like purposes by any court in Newfoundland and by the judges thereof, during the sittings thereof.

Enforcing of process.

(2) The judge of a juvenile court, whenever any resistance is offered to the execution of any summons, warrant of execution or other process issued by him, may enforce the due execution of the same by the means provided by the law for enforcing the execution of the process of other courts in like cases.

PART III

TRAINING SCHOOLS

Interpretation.

63. In this part, unless the context otherwise requires, the expression,—

(a) "Superintendent" means superintendent or other person in charge of a training school established under the provisions of this Act.

Establishing training schools.

64. The Governor-in-Commission may provide for the establishment of Newfoundland training schools.

Purpose of training schools.

65. The purpose of a training school shall be to provide the boys and girls therein with a moral, mental, physical and vocational education, training and employment.

Certain children under 17 may be sent to training school.

66. Where under the authority of any Statute of Newfoundland any child is found to be neglected or delinquent within the meaning of this Act, the judge shall make an order under the provisions of Section 56 of this Act.

Copies of evidence to be sent to Director and Superintendent.

67. The judge shall forward a copy of the evidence taken before him to the Director together with copies of a statement containing all important facts relating to the boy or girl.

School Wardship over boys and girls.

68.—(1) Every boy or girl admitted to a training school shall upon admission become a ward of the training school until he or she reaches the age of twenty-one years, and subject to the provisions of the regulations, shall be subject to the control of the Director and the Superintendent in the same manner and to the same extent as in the case of a guardian appointed by statute or by any court or by any will or instrument and all rights and powers of the parent or any such guardian over a boy or girl so admitted shall upon admission cease and determine unless the Commissioner provides that the wardship of the training school shall cease upon the boy or girl leaving the school or at any time after leaving the school.

(2) When the Commissioner provides that the wardship of the training school shall cease, the boy or girl shall thereupon become a ward of that person who but for the wardship of the training school was or would have been in law his or her guardian.

ICC-1581 ICCI Exhibit P-059 Page 33

(3) The Director shall exercise and maintain supervision over every boy and girl admitted to a training school after the boy or girl leaves the training school and until the termination of the wardship of the training school, and shall keep such records and provide for such visits as may be prescribed by the regulations.

Powers of Commissioner.

69. The Commissioner may, at any time, order that a child be transferred from one training school to another, or on the recommendation of the Director, may order that any child be discharged from a training school either absolutely or on such conditions as he may think expedient, and the child shall be transferred or discharged accordingly.

The Commissioner, on the recommendation of the Director, may at any time order that any child under the supervision of the Director as a neglected child who in the opinion of the Director is in need of the training and discipline offered by a training school, shall be admitted to a training school.

Term in training.

70. No child, except by order of the Commissioner, on the recommendation of the Director, shall be detained under the provisions of this Act for a longer period on the whole than four years, nor shall any parent or guardian be liable to contribute, either in whole or in part, for the maintenance of any child in a training school for a longer period than four years.

Ministers of religion.

71. Subject to such regulations as are approved by the Commissioner, all ministers of religion or persons authorized by the recognized head of any religious denomination, shall have admission to every training school, and access to such of the children placed or detained therein as belong to their respective denominations, and may give instruction to them on the days and at the times appointed by the regulations for the religious education of the children, and may enter in a book to be

kept for that purpose any remarks pertinent to the work of the training school.

Records of children in training school.

72.—(1) The Superintendent shall on the admission of a child enter in a register in the Schedule to be kept by him, the name, sex and age of the child and the date on which and the name and address and religion of the person from whom he was received, and shall also immediately after the removal of the child from the training school enter in the register the date on which and the name and address of the person by whom any such child is removed.

(2) The Superintendent shall keep such case histories and records in such manner and upon such forms as may be prescribed by the Commissioner.

(3) The Superintendent shall produce the register, case history and records of a child when required to do so by the Commissioner or any person authorized by him and in the event of his refusal so to produce the register, case history or records or neglecting to keep any of the case history or records or making any of the entries required to be made by him under this section, shall be guilty of an offence.

Neglect to support child in institution.

73.—(1) In case the lawful parents of a child who has been placed in a training school subject to payment being made by the parents, neglect to visit or to contribute to the support of the child, the Superintendent shall after the neglect has continued for a period of two months notify the Director in writing of the neglect.

(2) Upon receipt of the notification, the Director shall investigate the facts of the case and take such action against the parents in the interest of the child as he may deem necessary.

ICC-1581 ICCI Exhibit P-059 Page 34

Escape.

74. If a child sent to a training school under an order or commitment escapes from the training school, he may at any time, be apprehended without warrant and be brought back to the training 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 escape.

Placing out of boys and girls.

75. The Superintendent of any training school may, with the consent of the Director, permit any boy or girl upon leaving a training school, to live at a foster home or at the dwelling of any trustworthy and respectable person, and the control of the institution and Director shall not thereby be abated or diminished.

What to be deemed an "escape".

76. If such child leaves the foster home or dwelling without the permission of the management of the training school or refuses to return to the training school, he shall be deemed to have escaped from the training school.

Penalties for aiding to escape.

77. Every person who—

(a) aids or abets any boy or girl to escape from or unlawfully leave a training school or foster home;

(b) knowingly harbours or conceals a boy or girl who has escaped from or unlawfully left a training school or foster home without giving notice of the child's whereabouts to the training school or to the local police authorities;

(c) knowingly makes, or procures to be made, any false statement in return required under this Part; or

(d) contravenes any of the provisions of this Part or the regulations;

shall be liable on summary conviction to a penalty of not more than one hundred dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment.

Release or discharge.

78. When any child is released or discharged from a training school under the provisions of this Act the Superintendent of such school shall cause to be given to the Director such notice in writing as the Commissioner prescribes.

Examination of child.

79. If it appears to the Commissioner from information received in respect of any child in any training school, that the best interests of the child require that his case be inquired into, he may request the Superintendent to bring the child before a judge for investigation and examination.

Inquiry by judge.

80. The judge upon making any such inquiry may require the child to be taken to an observation home or other place approved by the Director, and may thereafter by order authorize the Director:—

(a) to return the child to the institution with or without special supervision by the Superintendent; or

(b) to take steps to have the child dealt with as a neglected child under this Act.

Parent not to interfere.

81. A parent of any age who, by instrument in writing approved by the Commissioner has surrendered the custody of a child to the Director or to any other person, shall not thereafter, contrary to the terms of the instrument, be entitled to the custody of or any control or authority over or any right to interfere with the child.

ICC-1581 ICCI Exhibit P-059 Page 35

Inspection by Commissioner, Director, etc.

82. The Commissioner shall provide for the inspection from time to time, and at least once during each year, of every training school, and the Director or any person appointed by the Commissioner to inspect, may enter any training school at any time and examine every part thereof and every child therein, and call for and examine the records kept by the training school and the inmates thereof.

Annual returns.

83. Every training school shall at least once annually supply the Director with information and particulars in accordance with regulations made by the Commissioner in that behalf, and shall furnish the Director on request without undue delay all further information or particulars that he may at any time require concerning any child with whom the training school has dealt or to whom the training school has given care.

Penalties.

84. Any person violating any of the provisions of this Part shall be guilty of an offence and liable on summary conviction to a fine of not more than one hundred dollars, and in default to a term of imprisonment, not exceeding three months.

Regulations.

85. Subject to the approval of the Governor in Commission, the Commissioner may make regulations in regard to all training schools,—

(i) providing for the appointment of Superintendents and such officers and employees as he may deem necessary and for remuneration of such persons;

(ii) prescribing the powers and duties of Superintendents, including the control which they may exercise over boys and girls;

(iii) providing for the use in a training school of such products and articles as may be produced on the premises thereof, and for the sale of any surplus products or articles that may be produced or manufactured on such premises;

(iv) fixing the age at which and conditions under which boys and girls may be admitted to training schools, the period during which they may be kept at training schools, and the conditions under which they may leave or be discharged therefrom;

(v) prescribing the type of moral, mental, physical and vocational education, training and employment to be provided and setting standards of instruction;

(vi) regulating the conduct and discipline of boys and girls in training schools;

(vii) prescribing the records, books, account systems, audits, reports and returns to be kept and made by or pertaining to training schools;

(viii) regarding the management, discipline, government and control of training schools and the maintenance of the buildings, premises and equipment thereof;

(ix) generally for the better carrying out of the provisions of this Part.

PART IV.

CHILDREN OF UNMARRIED PARENTS

Interpretation.

86. In this Part, unless the context otherwise requires, the expression,—

ICC-1581 ICCI Exhibit P-059 Page 36

(a) "Magistrate" means any stipendiary magistrate or the judge of a juvenile court who has been designated by the Governor in Commission a judge within the meaning of this Part, and shall include, where they have the jurisdiction under the laws of Newfoundland, two justices of the peace acting as a magistrate;

(b) "Maternity Home" means a building or part of a building wherein a female may be received for care or treatment during pregnancy or for accouchement, or where a female together with her child or children, may be cared for at any time during the first two years of the life of such child or children;

(c) "Mother" means any single woman or widow who has been delivered of an illegitimate child, or who is pregnant and likely to be delivered of an illegitimate child, or any married woman who is living apart from her husband and who has been delivered of an illegitimate child, or who is pregnant and likely to be delivered of an illegitimate child, and who was living apart from her husband at the time of the conception of the child.

General Provisions

Registrar to notify Director.

87. It shall be the duty of the Registrar of Vital Statistics on receiving notification of the birth of a child whose parents are not legally married to each other, or in respect to the marriage of whose parents there exists reasonable doubt, to send a record of such notification to the Director of Child Welfare within three days after the receipt of the same.

Institution to notify Director.

88.—(1) When any institution has received for care during pregnancy or accouchement any mother within

the meaning of this Part, the person in charge of such institution, shall within three days, notify the Director in such form as required by regulations in that behalf; and the birth in such institution of any child whose parents have not been legally married to each other, or in regard to the marriage of whose parents there exists reasonable doubt, shall be reported within three days to the Director, by the person in charge of such institution.

Director to secure information.

(2) The Director shall by inquiry through child welfare organizations, child-caring institutions, maternity homes and otherwise obtain all information possible with respect to every child born out of wedlock.

Regulations.

(3) The Commissioner may from time to time make regulations for the proper conduct of institutions under this Part.

Penalty.

(4) Any person violating the provisions of this section shall be liable on summary conviction to a fine of not less than ten dollars nor more than one hundred dollars and in default of payment to imprisonment for not more than one month.

Mother may apply to Director.

89. The mother of any child born out of wedlock or any person who has the custody of such a child or who has undertaken the care and maintenance of such a child or who has supplied the mother or the child with necessaries may apply to the Director for aid and advice in all matters pertaining to the child, and he shall thereupon take such lawful action as may seem to him to be in the interests of the mother or the child.

Affiliation Proceedings

Information may be laid.

90. If a mother is pregnant, she may make a complaint in writing under oath before a magistrate, stating that she is pregnant, where she is living, and the

name of the alleged father of the child; or her father or mother, or the Director, or any Relieving Officer, or the executive of a society, may lay such information.

Summons against alleged father.

91.—(1) Such magistrate shall forthwith issue a summons for service on the alleged father requiring his attendance before him, or he may in his discretion issue a warrant directed to any or all constables, requiring him or them to arrest the alleged father and cause him to be brought before him or some other magistrate.

(2) Such magistrate shall then proceed to take the evidence of the mother and of the alleged father and of any witness who may be brought before him on behalf of either party; which evidence shall be taken down in writing in the form of depositions and read over and signed in the same manner as is provided under the Summary Jurisdiction Acts for evidence upon an enquiry with a view to commitment for an indictable offence, and with the same rights of cross examination on the part of either party; and the complaint shall then be dismissed if thought fit, or adjourned sine die until after the birth of child, and the depositions shall be placed on file and safely kept by the magistrate with the records of his court, and shall form part of the evidence in any subsequent proceedings in relation to the matter in conjunction with any further or other evidence and subject to the right of either party to recall witnesses already examined, if available.

Bond and sureties for appearance.

92. The alleged father, when brought before the magistrate under said summons or warrant, may, unless the complaint be dismissed, be required to enter into a bond in a sum not exceeding one thousand dollars, with sufficient sureties, conditioned for his appearance at any proceedings taken or continued under this Act after the birth of such child.

Deposit instead of bond.

93 If he does not furnish such bond to the satisfaction of the magistrate, or pay into the hands of such magistrate such sum not exceeding one thousand dollars as such magistrate may prescribe as security in lieu of bond, he may be committed to gaol by warrant of commitment until an order of affiliation is made or refused, or until such bond is given or cash deposit made.

After birth of illegitimate child; summons and procedure.

94.—(1) As soon as is convenient after the birth of a child whose parents have not been legally married to each other, a magistrate applied to in that behalf by the mother of the child or by any person on her behalf, or by the Director, shall issue a summons for service on the alleged father, requiring his attendance before him or them, or may issue a warrant directed to any constable mentioned in the warrant, to bring before the magistrate, the mother and the alleged father; provided that if in the meantime an agreement has been entered into between the mother of the child and the father in respect of the support of the child and such agreement has been approved by the Director by endorsing or causing to be endorsed thereon the words, "The above agreement is hereby approved", attested by the signature of the Director, no such summons or warrant shall be applied for or issued against the said father, but further provided that in case the said father shall at any time neglect or refuse to carry out the terms of the said agreement, the mother of the child, or any person on behalf of the mother or child, or the Director, may then apply to a magistrate in accordance with the provisions of this section.

(2) No mother shall be incapable of entering into any agreement or taking any proceeding referred to in this Part merely because she is under the age of twenty-one years.

ICC-1581 ICCI Exhibit P-059 Page 38

One complaint sufficient.

95. Where a complaint is made under section 90 or section 123 of this Act before the birth of any child, and the magistrate is informed of the birth, a second complaint need not be made on the application for a summons or warrant after such birth.

Information to be laid within 12 months after birth.

96. Where no information is laid under section 90 or section 123 of this Act before the birth of any child the application for the summons or warrant after such birth shall be made within twelve calendar months thereafter. Provided that if the alleged father has paid money for or in any way contributed toward the maintenance of such child after its birth or has left Newfoundland within one year after its birth, the application for the summons or warrant may be made within one year of the last payment of such money or of the making of such contribution, or of his return to Newfoundland, as the case may be.

If defendant in gaol.

97. If an alleged father has remained in gaol under a warrant issued before such birth, he shall be delivered by the keeper of the gaol into the custody of the constable who produces a warrant requiring him to be brought before the magistrate.

Respecting adjournments of hearings.

98. If an alleged father has been arrested under a warrant issued upon a complaint laid after the birth of the child, and the mother is, through illness, unable to be forthwith brought before the magistrate in obedience to said warrant, or if the hearing cannot be proceeded with owing to the illness or absence of a material witness or any other good cause, the magistrate may, on application therefor, adjourn said hearing and release the alleged father, but may first require him to enter into a bond in a sum not more than one thousand dollars with sufficient sureties conditioned for his appearance on the date fixed for said adjourned heorinf, and at the hearing of any appeal from and dismissal of the case against him at the trial thereof, and to fulfil any

order of affiliation that may be made against him. In lieu of said bond the magistrate may accept from the said alleged father a cash deposit of such sum as the magistrate may think proper not exceeding one thousand dollars.

Commit to gaol in default of bond, etc.

99. If an alleged father does not furnish such bond or security to the satisfaction of the magistrate, and does not make such cash deposit, he shall be committed to gaol until such adjourned hearing or until such bond or security is sooner given or cash deposit made.

Hearing evidence; secrecy.

100. Upon the mother and the alleged father being brought before the magistrate, in obedience to such summons or warrant, he shall hear the evidence of the mother and of the alleged father, and any other evidence which is adduced before him, and the magistrate may exclude or cause to be excluded from the room or place where such evidence is being taken all other than the counsel and witnesses in the case, officers of the law and the immediate friends or relatives of the said mother or alleged father.

Order for maintenance of child by father.

101.—(1) Upon such evidence together with any depositions taken before himself or any other magistrate under section 91 hereof, the magistrate may discharge the alleged father or adjudged him to be the father of the child, and make an order of affiliation requiring him to pay to the Director on behalf of the mother of the child, or on behalf of the child:—

(a) the expenses incidental to the lying-in and maintenance of the mother at and before the birth of the child and during such period ofter the birth as may in the opinion of the magistrate have been or be necessary in connection with or as a consequence of the birth of the child and the birth and maintenance of the child up to the date of the order; and

(b) the expenses of the funeral of the child if it has died before the making of such order, or if it has not died, a sum of money weekly, monthly or yearly towards the maintenance and education of the child until he attains the age of seventeen years, or as long as he is mentally or physically incapable of earning his own living; and

(c) the expenses of the burial of the mother in case of her death at or in consequence of the birth of the child; and

(d) the costs of all proceedings taken under the provisions of this Part.

(2) In determining the weekly, monthly or yearly sums payable by the putative father under this section, the magistrate shall take into consideration the respective abilities of the putative father and of the mother to provide the same, and the means of the putative father to make provisions for the proper subsistence of his wife and legitimate children, if any, and for the education of the latter.

(3) Every order made by a magistrate under this Part shall be in duplicate and one of the duplicates shall be transmitted to the Director, the particulars of which shall be entered in a register to be kept by him for that purpose.

(4) The magistrate may order that the liability of a putative father under the provisions of this Part shall be satisfied upon payment of a specified sum not less than seven hundred and fifty dollars to be paid in full over a period of not more than three years.

Bond to carry out order.

102. The magistrate shall order a father to give a bond for the fulfilment of an affiliation order under the provisions of the preceding section in the sum of not less than two hundred and fifty nor more than one thousand dollars hereof, or in default thereof to make with him a cash deposit to be fixed by him as security for the payments in the preceding section mentioned.

Separate order respecting mother.

103.—(1) The magistrate may in a separate order direct that the mother bear such part of the expense of the maintenance of such child as to him seems just, and may require that she shall suckle the child for at least six months, or until she produces before him the certificate of a duly qualified medical practitioner that she is unable to do so, or he may make any other order in respect thereto as seems just.

Child may be declared neglected.

(2) The magistrate, having regard to the welfare of the child, may declare such child to be a neglected child within the meaning of this Act, and may order that the child shall be committed to the care and custody of the Director or of a society, and that the father or mother of such child, or both of them, shall pay such sums weekly to the Director or the society, as he or they may determine; and the provisions of this Part for the enforcement of orders shall apply to orders made under this section.

Custody of child in other cases.

(3) If, in the case of any child whose parents have not been legally married to each other, no information has been laid against the father of such child, the Director or the executive officer of a society, may cause such child to be brought before any court having jurisdiction under this Part, and for that purpose may apply to such court for a summons or warrant, which the court may issue, requiring the mother of such child, or any other person likely to have knowledge of the child, to appear before such court and on examination into the facts of the case, the magistrate may direct the mother to do those things which may be required of a mother under subsection (1) of this section, and may declare the child to be a neglected child and may order that

ICC-1581 ICCI Exhibit P-059 Page 40

the child be committed to the care and custody of the Director or of a society, and that the mother of such child shall pay such sums weekly for its maintenance to the Director, or the society, as he or they may determine.

Order.

104. The order of affiliation may be in a form to be prescribed by the Commissioner or to the like effect.

Order may be made in absence of reputed father.

105.—(1) If an alleged father conceals himself or avoids arrest under a warrant so that he cannot be brought before the magistrate as therein directed, he may upon proof thereof, by affidavit or oral testimony, make an order of affiliation against him in his absence.

(2) In such case he shall issue a warrant directed to any or all constables requiring him or them to bring the said alleged father before such magistrate at a subsequent time and place therein mentioned, to show cause, if any he has, why he should not fulfil the order of affiliation and enter into a bond to fulfil such order.

(3) The magistrate shall confirm, reverse or vary the order of affiliation, or make a new order of affiliation and cause the said father to enter into a bond to fulfil such order.

(4) Thereupon the father shall enter into a bond with sufficient sureties conditioned to fulfil the order already made, or the order as varied, or the new order, as the case may be.

In default of Bond; imprisonment.

106. If a father after an order of affiliation is made or confirmed, or varied, as the case may be, fails to furnish a bond conditioned to fulfil such order, or such order so varied, to the satisfaction of the magistrate or to make the cash deposit required as security by the magistrate, he may forthwith commit such father to gaol, there to be imprisoned for a term not less than six

months and not more than twelve months, or until he furnishes such bond or makes such cash deposit as security and pays the costs and charges attending such commitment and conveying to gaol; provided that imprisonment hereunder shall not operate to release the father from liability for the maintenance of the child.

The bond and cash deposit hereinbefore referred to together with the costs and charges shall in St. John's be delivered to and approved by the Commissioner for Justice who shall forthwith notify the keeper of the gaol if they are satisfactory and in accordance with the commitment and if so the keeper of the gaol may then discharge the prisoner. Outside St. John's the foregoing may be done by the nearest Stipendiary Magistrate instead of by the Commissioner for Justice.

Warrant to levy on goods of reputed father.

107. Where a person against whom an order of affiliation is made fails to fulfil the terms of such order in whole or in part, whether or not he has been committed to gaol under the last preceding section, any magistrate on the application of the mother of the child or of any person on her behalf or of the Director or of a surety on the bond if any had been given, may issue a warrant of distress against such father directed to any or all constables requiring him or them to levy on the goods and chattels of such father such cash deposit fixed as aforesaid and the costs incurred in obtaining the order of affiliation, including those incurred in respect of any warrant issued before the birth of such child together with the costs and charges attending the levy and distress.

Order shall bind estate of putative father after his death.

108.—(1) Every affiliation order shall bind the estate of the putative father after his death, and every sum payable thereunder shall be a debt due from and chargeable upon the estate of the putative father and recoverable at the suit of the Director, but every affiliation order shall, as to any payment falling due before

or after the putative father's death, be subject to review as provided in section 124, and after the death of the father no action or other proceeding shall be taken thereon without the leave of a magistrate, and the magistrate, before granting leave, shall direct that notice be given to the widow and legitimate children of the putative father.

When order may be varied.

(2) Where it appears to the magistrate that the terms of the affiliation order cannot be carried out without depriving the widow or legitimate children of the putative father of proper subsistence and education, he shall vary the affiliation order to such an extent and in such manner that the widow of the father and his children born in wedlock, if any, shall be duly provided for before the child or children born out of wedlock.

Death of mother; proceedings by parents, etc.

109. If the mother of a child whose parents have not been legally married to each other dies prior to action being taken or completed against the alleged father, her father or mother, or the Director, may, on behalf of the child, continue or institute action against the said alleged father, in accordance with the preceding provisions in this Act, and the magistrate before whom such action is brought, may make any order in accordance with the provisions of this Part, and for the purposes of making such order may use as evidence any depositions taken in pursuance of section 91 hereof.

Appeal to Supreme Court.

110. If either party is aggrieved by an order of affiliation or an order confirming, reversing or modifying an order of affiliation, or by an order made under section 119 hereof, or by the refusal to make any such order, he or she may appeal from the decision granting or refusing such order to the Supreme Court consisting of one or more judges without a jury.

Conditions for appeal.

111. Where a person against whom an order of affiliation has been made appeals and desires a stay of proceedings he shall enter into a bond with sufficient sureties approved by the magistrate making the order, conditioned to perform the order of affiliation if confirmed in whole or in part or to abide by and fulfil the judgment of the court on such appeal, and to pay the taxed costs of the respondent if the court shall so order.

Supreme Court may vary, set aside or confirm order.

112. The Supreme Court may vary or set aside the order of affiliation, or may confirm the same, or may make an order of affiliation, or may, by order directed to the magistrate, require him to make an order of affiliation, as the circumstances of the case require.

Appeals governed by usual rules.

113. The proceedings on such appeal shall in other respects be governed by the same rules as appeals from summary convictions or orders made by a Stipendiary Magistrate.

Sureties to justify.

114. The sureties upon any bond mentioned in this Part shall severally justify by affidavit their ability to fulfil their obligations under such bond, such justification to be approved of by the magistrate.

Liability of reputed father for certain expenses, etc.

115.—(1) The father of every child born out of wedlock shall be liable to contribute:

(a) To the medical and other expenses connected with the birth of such child, its maintenance and education until the child is able to maintain itself, and with its burial in case it dies before becoming able to maintain itself, and

(b) to the expenses of the maintenance and care, medical and otherwise, of the mother of such child during three months previous to its birth and during such period after its birth such medical or other special and unusual care and nursing as are necessary in connection with or as a consequence of the birth of such child.

ICC-1581 ICCI Exhibit P-059 Page 42

Action against reputed father for expenses.

116. Actions may be brought for such contributions against the father from time to time by the mother of the child, or by her father or mother, or by any other person, society or corporation having maintained such child, or having necessarily expended money or rendered services in connection with any of the matters for which the father is declared in last preceding section to be liable, or by the Director.

Action for debt.

117. Actions brought under the next preceding section shall be brought as for a debt, and the statement and particulars of claim shall indicate with sufficient clearness the nature and amount of the claim.

Court to decide amount of defendant's liability.

118. The court trying the case shall decide, in view of the circumstances of both parents, what proportion, up to the whole, of the reasonable and necessary charges and expenses in connection with any of the matters for which the father is declared in this Part to be liable, shall be paid by him, and may give judgment against him for such amount as it deems just, and for costs of action. Such judgment and costs may be levied by warrant of distress on the goods of the defendant.

Weekly payments.

119. If such action is brought by the mother of the child or by her father or mother, or by the Director, the court may, in order to provide for the future maintenance and education of such child, make an order requiring the father to pay a sum of money weekly for such number of weeks as the court may determine.

Enforcement of judgment.

120. Every judgment in any such action and every such order as in the last preceding section provided for may be enforced in the same manner and by the like proceedings as any judgment or order of a court of summary jurisdiction.

When Secs. 115 to 120 not to apply.

121. Sections 115 to 120 of this Act shall not apply to any father who has fulfilled the terms of any order of affiliation made against him hereunder in respect to the same child.

Order is conclusive of paternity.

122.—(1) If the terms of any such order of affiliation have not been fulfilled the court in giving judgment in any such action, shall take into consideration any payments made under such order.

(2) In any such action an order of affiliation shall be conclusive evidence of the paternity of such child.

In cases where two or more are defendants.

123. Where any one of two or more persons may be the father of a child born out of wedlock, or of a child likely to be born out of wedlock, any person named in section 90 of this Act may lay information before a magistrate, naming each such possible father, and the provisions of this Part setting forth the proper proceedings following the laying of an information, shall apply to such information laid against two or more persons under this section and the forms made in pursuance of this Part, suitably amended to meet any such case, shall be applicable in any such proceedings. The magistrate before whom the case is brought may make an affiliation order according to the provisions of section 101 of this Act against any one of such persons or upon such evidence as in his discretion is deemed sufficient, and having regard to the amounts payable under the provisions of section 101 of this Act in the case of an affiliation order, the magistrate may make an order against so many of such persons as the evidence shows might in the ordinary course of nature have been the father of such child, fixing the amount or amounts to be paid by each of such persons on behalf of such child and all the provisions of this Part applicable to an affiliation order shall as nearly as may be apply to any order made under the provisions of this section.

Magistrate may vary affiliation order.

124.—(1) Where an affiliation order has been made under this Part, then, upon the application from time to time of the Director or any person appointed by him

ICC-1581 ICCI Exhibit P-059 Page 43

or of either parent of the child, or of the child, or of any person entitled to make complaint in respect of the child under this Part, and upon proof that there has been a substantial alteration in respect of the means of either parent or the needs of the child, or in respect of the cost of living, since the making of the affiliation order or the latest subsequent order varying it, or that the putative father owing to the terms of the order is unable to make provision for the proper subsistence of his wife and legitimate children, if any, and for the education of the latter, the magistrate may vary the original or subsequent order so made.

(2) No application to vary any affiliation order shall be made until the lapse of one year from the date of the order it is sought to vary.

Director may institute proceedings.

125. The Director or any person authorized by the Commissioner shall not be debarred from instituting or continuing proceedings under this Part by the death of the mother of the child for whom relief is sought.

Director, etc., entitled to appear.

126. Where any proceedings are instituted under this Part by any person other than the Director or a person authorized by the Commissioner, the person instituting the proceedings shall give notice thereof to the Commissioner, and the Director or any person authorized by the Commissioner shall have the right to appear and intervene and be heard in person or by counsel on the proceedings.

Private hearing.

127. All proceedings under this Part may be heard by the magistrate in his chambers and not in open court.

Corroborative evidence.

128.—(1) No affiliation order shall be made upon the evidence of the mother of a child unless her evidence as to the paternity of the child is corroborated by some other material evidence implicating the putative father.

Married woman a compellable witness

(2) Subject to subsection (1) and notwithstanding any other statute or law to the contrary, in all proceedings under this Part a married woman shall be a competent and compellable witness to testify as to the paternity of her child in respect of whom the proceedings are taken.

Payments to be made to Director.

129. Every payment ordered by a magistrate in accordance with the provisions of this Part shall be made to the Director.

Duties of Director.

130. The Director shall:—

(a) see that all payments directed to be made by the putative father under an affiliation order are duly made, and in default of payment may take all necessary proceedings for the enforcement of the order, including the enforcement of any security given by the putative father;

(b) in default of payment, take the proceedings authorized by law;

(c) see that all moneys collected under an affiliation order are paid and supplied forthwith, without any deduction, to or for the persons entitled to relief in accordance with the terms of the order and the provisions of this Part;

(d) repay to the putative father the balance of the specified sum of money in an affiliation order made under subsection (4) of Section 101 of this Act, where the child in respect of whom the order is made, dies, or is adopted before the said specified sum of money paid under the order has been fully expended.

ICC-1581 ICCI Exhibit P-059 Page 44

PART V.

THE ADOPTION OF CHILDREN

Interpretation.

131. In this Part, unless the context otherwise requires, the expression,—

(a) "Application" means an application provided under the provisions of this Part.

(b) "Judge" means any stipendiary magistrate or the Judge of a juvenile court who has been designated by the Governor in Commission a Judge within the meaning of this Part, and shall include, where they have the jurisdiction under the laws of Newfoundland, two justices of the peace acting as a magistrate.

Application for order.

132.—(1) Upon an application within the meaning of this Part by any person desirous of being authorized to adopt a child who has never been married the court may, subject to the provisions of this Part, make an order (in this Part referred to as "an adoption order") authorizing the applicant to adopt that child.

"Adopting parent", "adopted child", "child".

(2) Hereafter in this Part a person authorized to adopt a child and a child authorized to be adopted are referred to as an "adopting parent" and an "adopted child" respectively, and "child" means any person under the age of twenty-one years.

Joint application.

(3) Where an application for an adoption order is made by a husband and wife jointly, the court may make the order authorizing them jointly to adopt, but save as aforesaid no adoption order shall be made authorizing more than one person to adopt a child.

Supporting statements.

133.—(1) The application shall be supported by written statements which shall disclose—

(a) the name, age, sex, place of residence since birth, and parentage of the child to be adopted, and the religious denomination of the child's parents, or where the child was born out of wedlock, the religious denomination of the mother, and if the child has a guardian other than its parents or the Director, the religious denomination of the guardian;

(b) the age, religious denomination, address, marital status and occupation of each applicant and the relationship (if any) of each applicant to the child;

(c) the name, age, sex, address and occupation of each natural or previously adopted child of the applicant.

(2) The application shall be further supported by written statements of the fitness of each applicant to adopt the child by persons well and favourably known in the district in which the applicant resides or by such other documents as the Judge in his discretion may require.

Judge to keep records.

134.—(1) Every application and all documents to be used in connection therewith shall be filed in the office of the Judge.

Director to be notified.

(2) Copies of the application and documents shall also be served upon the Director, and no adoption order shall be made unless the Director has been served with notice thereof and is represented thereon or has expressed in writing his intention of not being so represented.

When consent of Commissioner to be obtained.

135.—(1) Except with the consent of the Commissioner an adoption order shall not be made in any case where,—

ICC-1581 ICCI Exhibit P-059 Page 45

(a) the applicant is under the age of twenty-five years; or

(b) the applicant is less than twenty-five years older than the child in respect of whom the application is made.

Special circumstances

(2) An adoption order shall not be made in any case where the sole applicant is a male and the child in respect of whom the application is made is a female unless the court is satisfied that there are special circumstances which justify as an exceptional measure the making of an adoption order.

Consents required.

136.—(1) Subject to the other provisions of this Part, respecting consent, no adoption order shall be made without the written consent,—

(a) of the child, if the child has attained the age of fourteen years;

(b) of the guardian or guardians of the child.

When child's consent may be dispensed with.

(2) The consent of a child to an adoption order shall not be required if the judge, for reasons appearing to him to be sufficient, considers it necessary or desirable to dispense with the consent.

When consent of guardian not required.

(3) The consent of a guardian shall not be required if,—

(a) he is found by the judge, upon evidence submitted to him, to be insane, incompetent or unfit to give such consent; or

(b) he is undergoing a sentence for a term of which more than two years remain unexpired at the date of the filing of the application; or

(c) being under a duty to provide proper care and maintenance for the child, he has neglected so to do; or

(d) the Judge, for reasons which appear to him sufficient deems it necessary or desirable to dispense with his consent.

Judge may require further information.

137. The Judge may require further information and consents to be obtained as to any matter affecting the adoption and may direct investigation as to the physical, mental or moral fitness of the child or the adopting parents.

Certificate of Director.

138. An adoption order shall not be made unless the Director certifies in writing,—

(a) that the child has lived with the applicant for at least one year immediately prior to the date of the application, and that during that period the conduct of the applicant and the conditions under which the child has lived have been such as to justify the making of the order; or

(b) that the applicant is to the knowledge of the Director a fit and proper person to have the care and custody of the child, and that for reasons set out in the certificate the period of residence may be dispensed with.

Judge may make order.

139.—(1) The Judge, if satisfied of the ability of the applicant to fulfil the obligations and perform the duties of a parent towards the child and the propriety of the adoption having regard to the welfare interests of the child, the religion in which he has been brought up and the interest of his adopting parents and their religion, may make an adoption order authorizing that applicant to adopt the child.

Fact of illegitimacy shall not appear.

(2) If the child has been born out of wedlock, that fact shall in no case appear in the adoption order.

Adoption Order Form supplied by Director.

(3) Every adoption order shall be on a prescribed form to be supplied by the Director without charge.

Effect of adoption order.

140.—(1) An adoption order shall,—

(a) divest the natural parent, guardian or person in whose custody the adopted child has been, of all legal rights and free them from all legal obligations and duties in respect of the child;

(b) make such child, to all intents and purposes, the child of the adopting parent or parents;

(c) impose upon the adopting parent or parents all legal obligations and duties as if the adopting parent or parents were the natural parent or parents of the child as from the date of the adoption order.

(2) The adopted child shall bear the surname of his adopting parent, unless otherwise ordered by the Judge.

(3) In and by the adopting order the Judge may in his discretion give to the adopted child any first or Christian name or names requested by the applicant in his application.

Right to inherit property.

141.—(1) A person who has been adopted in accordance with the provisions of this Part shall upon the intestacy of an adopting parent take the same share of property which the adopting parent could dispose of by will as he would have taken if born to such parent in lawful wedlock, and he shall stand in regard to the legal descendants but to no other kindred of the adopting parent, in the same position as if he had been born to him.

(2) If the person adopted dies intestate his property acquired by himself or by gift, inheritance or descent from his adopting parent or from the kindred of such parent, shall be distributed according to the laws of Newfoundland relating to intestacy among the persons who would have been his kindred if he had been born to his adopting parent in lawful wedlock, and the property received by gift or inheritance from his natural parents or kindred shall be distributed in the same manner as if no act of adoption had taken place.

(3) Where a person is adopted, he shall not lose his right to inherit from his natural parents or kindred.

When "child" shall mean an adopted child.

142. The word "child" or its equivalent in any will, conveyance or other instrument shall include an adopted child unless the contrary plainly appears by the term of the instrument.

Legitimation not to affect adoption order.

143. An adoption order made with respect to a child born out of wedlock shall not be affected in any way by the marriage or intermarriage of its natural parents.

Power to make interim orders.

144.—(1) Upon any application for an adoption order, the Court may postpone the determination of the application and may make an interim order (which shall not be an adoption order for the purposes of this Act) giving the custody of the child to the applicant for a period not exceeding two years by way of a probationary period upon such terms as regards provision for the maintenance and education and supervision of the welfare of the child and otherwise as the Court may think fit.

(2) All such consents as are required to an adoption order shall be necessary to an interim order but subject to a like power on the part of the Court to dispense with any such consent.

Power to make subsequent order in respect of child already subject to an order.

145.—(1) An adoption order or an interim order may be made in respect of a child who has already been the subject of an adoption order, and, upon any application for such further adoption order, the adopter or adopters under the adoption order last previously made shall, if living, be deemed to be the parent or parents of the child for all the purposes of this Part.

(2) In the case of a child previously adopted, all legal consequences of the former adoption order shall, upon a subsequent adoption, determine except in so far as any right, title or interest in property may have vested in law or equity in the adopted child.

Jurisdiction and procedure.

146.—(1) The Court having jurisdiction to make adoption orders under this Part shall be the Supreme Court or, at the option of the applicant, but subject to any regulations under this section, any court of summary jurisdiction within the jurisdiction of which either the applicant or the child resides at the date of the application for the adoption order.

Regulations made by Commissioner.

(2) Regulations in regard to any matter to be prescribed under this Part and directing the manner in which applications to the Court are to be made and dealing generally with all matters of procedure and incidental matters arising out of this Part and for carrying this Part into effect, including the procedure to be followed upon an application for an adoption order where not provided for by this Part, shall be made by the Commissioner with the approval of the Governor in Commission.

Hearing in camera.

(3) An application under this Part shall be dealt with by the Judge in his chambers and may be heard in camera.

Guardian ad litem.

(4) For the purpose of any application under this Part and subject to any regulations under this section, the Court shall appoint some person or body to act as guardian ad litem of the child upon the hearing of the application with the duty of safeguarding the interests of the child before the Court.

Restrictions on payments.

147. It shall not be lawful for any adopter or for any parent or guardian except with the sanction of the Court to receive any payment or other reward in consideration of the adoption of any child under this Part or for any person to make or give or agree to make or give to any adopter or to any parent or guardian such payment or reward.

Provisions as to existing de facto adoptions.

148. Where at the date of the commencement of this Act any child is in the custody of, and being brought up, maintained and educated by any person or two spouses jointly as his, her or their own child under any de facto adoption, and has for a period of not less than two years before such commencement been in such custody and been so brought up, maintained and educated, the Court may, upon the application of such person or spouses, and notwithstanding that the applicant is a male and the child a female, make an adoption order authorizing him, her or them to adopt the child without requiring the consent of any parent or guardian of the child to be obtained, upon being satisfied that in all circumstances of the case it is just and equitable and for the welfare of the child that no such consent should be required and that an adoption order should be made.

Order may not be set aside after one year, etc.

149. No action or proceeding to set aside an adoption order under the provisions of this Part shall be commenced after the expiration of one year from the date of the order, except on the ground that the order was procured by fraud, and then it may be set aside only if it is in the interests of the child so to do.

ICC-1581 ICCI Exhibit P-059 Page 48

Adopted children register.

150.—(1) The Registrar General shall establish and maintain at the public registry at St. John's a register to be called the Adopted Children Register, in which shall be made such entries as may be directed to be made therein by adoption orders, but no other entries.

(2) The adoption order, together with all the documents used in the application, shall be filed in the office of the Judge, and he shall forward a copy of the order certified by the Judge to the Registrar General who shall record the same and make the changes in his records required by the adoption order in the form set out in Schedule C.

(3) If upon any application for an adoption order there is proved to the satisfaction of the Court—

(a) the date of the birth of the child; and

(b) the identity of the child with a child to which any entry or entries in the Register of Births relates;

the adoption order shall contain a further direction to the Registrar General to cause such birth, entry or entries in the Register of Births to be marked with the word "adopted", and to include in the entry in the adoption register recording the adoption the date stated in the order of the adopted child's birth in the manner indicated in Schedule C.

(4) The Judge shall cause every adoption order to be communicated in the prescribed manner to the Registrar General, and upon receipt of such communication the Registrar General shall cause compliance to be made with the directions contained in such order in regard both to marking any entry in the Register of Births with the word "adopted", and in regard to making the appropriate entry in the Adopted Children Register.

(5) The adoption order, the application, the documents filed and the record of proceedings in relation thereto shall not be made public or disclosed to any person save upon the direction of a Judge or the Director.

(6) The adoption order, the application, the documents filed and the record of proceedings in relation thereto shall be kept by the Judge in a sealed packet, and all papers in the custody of the Director relating to the adopted child shall be kept by him in a sealed packet, and neither packet shall be opened save upon the direction of a Judge or the Director.

(7) No person shall be entitled to have the Adopted Children Register or any entry therein searched or to obtain any certified extract therefrom save upon the order of a Judge;

Provided however, that the Registrar General shall be entitled to refer to the Adopted Children Register for the purpose of preparing a birth certificate requested by an adopted child, or either of the adopting parents, which birth certificate shall be in the name given the said adopted child by the adoption order.

(8) A certified copy of any entry in the Adopted Children Register if purporting to be sealed or stamped with the seal of the Registrar General shall, without any further or other proof of such entry—

(a) where the entry does not contain any record of the date of the birth of the adopted child, be received as evidence of the adoption to which the same relates; and

ICC-1581 ICCI Exhibit P-059 Page 49

(b) where the entry contains a record of the date of the birth of the adopted child, shall be received not only as evidence of the adoption to which the same relates but also as evidence of the date of the birth of the adopted child to which the same relates in all respects as though the same were a certified copy of an entry in the Register of Births.

(9) The Registrar General shall cause an index of the Adopted Children Register to be made and kept, and every person shall be entitled to have a certified copy of any entry in the Adopted Children Register in all respects upon, and subject to the same terms, conditions and regulations as to payment of fees and otherwise as are applicable under Chapter 19 of the Consolidated Statutes of Newfoundland (Third Series) entitled "Of the Registration of Births, Marriages and Deaths", in respect of the supply from such office of certified copies of entries in the Registers of Births, Marriages and Deaths.

(10) The Registrar General shall, in addition to the Adopted Children Register and the index thereof, keep such other registers and books, and make such entries therein as may be necessary, to record and make traceable the connection between any entry in the register of births which has been marked "Adopted" pursuant to this Act and any corresponding entry in the Adopted Children Register, but such last mentioned registers and books shall not be nor shall any index thereof be open to public inspection or search, nor, except under an order of a court of competent jurisdiction, shall the Registrar General furnish any person with any information contained in or with any copy or extract from any such registers or books.

PART VI.

MENTALLY DEFECTIVE CHILDREN

Defective children; classes.

151. Any one of the following classes of persons shall be deemed to be a mentally defective (hereafter to be known as "defective") child within the meaning of this Part:

(a) "Idiot child", that is to say, a child so defective in mind from birth or from an early age as to be unable to guard himself or herself against common physical dangers;

(b) "Imbecile child", that is to say, a child in whose case there has been from birth or from an early age mental defectiveness not amounting to idiocy, yet so pronounced that he or she is incapable of managing his or her affairs, or himself or herself, or being taught to do so;

(c) "Moron child", that is to say, a child in whose case there has been from birth or from an early age mental defectiveness not amounting to imbecility, yet so pronounced that he or she requires care, supervision and control for his or her own protection or for the protection of others, or that he or she by reason of such defectiveness appears to be permanently incapable of receiving proper benefit from ordinary instruction.

Receiving home for defective children.

152.—(1) The parent or guardian of a child suspected to be defective may take such child to the receiving home or to a shelter or to any other place designated by the Director for the temporary care of such child pending the examination of such child by a psychiatrist.

(2) If the psychiatrist shall find such child to be a defective child the parents or guardian may, subject to

ICC-1581 ICCI Exhibit P-059 Page 50

the approval of the Director, take the child back to his or her home or may place the child in a home or institution suitable for the care and training of such child.

Parent to give notice to Director.

153. Any parent or guardian or other person who has reason to believe that any child under his or her care is a defective child may notify the Director in writing of the facts of such case giving the name and address of such child, and the Director shall forthwith make provision for a proper examination of such child by a psychiatrist.

Physician, etc., to give notice.

154.—(1) Any physician or nurse or teacher who in the practice of his or her profession has knowledge of any defective child, or suspects any child to be a defective child, shall give notice in writing of the facts of such case to the Director, giving if possible the name and address of the child and of the person or persons in whose care or custody such child is.

(2) Any officer of a society, or any welfare officer, or any investigator of a juvenile court, or any constable who in performing his duties has knowledge of any defective child or of any person whom he suspects to be a defective child, shall give notice in writing of the facts of such case to the Director, giving if possible the name and address of the child and of the person or persons in whose care or custody such child is.

Inquiry as to defective child.

155.—(1) On receipt of information in respect of any defective child or any person suspected to be a defective child, the Director shall cause an inquiry and investigation to be made and, if after such investigation he deems it advisable, he shall take the steps necessary to have such child examined by a psychiatrist.

(2) If the parent or guardian of a defective child or of a person suspected to be a defective child refuses to co-operate with the Director in having an adequate examination made of such child, the Director may apply to a judge who may issue an order requiring the parents or guardian to bring such child before him for examination, or the judge may order that such child be apprehended and brought before him for examination.

(3) Nothing in this Act shall be deemed to require the Director to make any examination or to bring any child before a judge under the provisions of this section; and further, nothing in this Act shall require the Director to take any action with respect to any defective child unless he is satisfied that the child's good and the welfare of the community require him so to do.

Investigation into facts.

156. When any defective child, or person suspected to be a defective child, has been brought before a judge for examination, the judge shall investigate the facts of the case and ascertain the age of the child and the name, residence and religion of his or her parents, and the judge may authorize an examination of such child by a psychiatrist, who shall make such examination as to the physical and mental condition of such child and report the same to the judge.

Witnesses.

157. The judge may compel the attendance of witnesses on such investigation and for such purpose shall have all the powers of a stipendiary magistrate.

Notice of investigation to parents, etc.

158. The parents or person having the actual custody of a child at the time of his or her apprehension, or up to the time that he or she was brought to the receiving home or shelter, shall be notified of the investigation and any person may appear on behalf of the child.

Custody of defective child.

159. If, on the report of the psychiatrist, the judge finds that the child is a defective child, the judge may order that the child be returned to the care of his or her parents or guardian, with or without the supervision and inspection of the Director or he may order that

ICC-1581 ICCI Exhibit P-059 Page 51

the child be committed to the care and custody of any society which may be willing to undertake the care of such child.

Any person being defective.

160. When any person is brought before a court of competent jurisdiction, the judge may, if he has reason to believe that such person is defective, order that the said person shall be examined by a psychiatrist; and, if the report of such psychiatrist shows the said person to be defective or of mental age under ten years, the judge may order that such person, without regard to his or her actual age, shall be transferred to the jurisdiction of the judge of a juvenile court.

Procedure.

161. When any person, without regard to his actual age, has been transferred by the judge of any other court to the jurisdiction of a juvenile court to be dealt with as a defective person, the procedure shall be the same as is set forth in this Act in the case of a person actually under the age of seventeen.

Defective child may be detained.

162. The Director may detain or cause to be detained, any such defective child committed to his care and custody under the provisions of this Act, for an indefinite period, in any institution recognized and approved of by the Governor in Commission for the purposes of this part of this Act.

Powers of Commissioner.

163.—(1) The Commissioner on the report of the psychiatrist and on the recommendation of the Director, may order the release on parole at any time of any defective child detained in such institution under the provisions of this Act.

Regulations.

(2) The Commissioner may from time to time prescribe regulations with respect to:—

(a) the release of any such defective child on parole;

(b) providing for the supervision of such defective child while on parole;

(c) any matter with respect to the carrying out of the provisions of this Part not herein specifically provided for.

(3) The Commissioner may, on the report of the psychiatrist and the recommendation of the Director, order that any such defective child released on parole as in the last section provided be returned to the institution or to such other institution as the Commissioner may determine, and such defective child shall thereafter be detained as under the original order for his detention.

Inducing defective child to leave institution.

164. Any person who—

(a) induces or attempts to induce any defective child to leave an institution where such child is detained under authority of this Act; or

(b) induces or attempts to induce any defective child to break or violate any of the terms on which such child is released on parole from any institution where such child has been detained under authority of this Act; or

(c) detains or harbours any such defective child,

shall be guilty of an offence under this Act and upon summary conviction before a judge shall be liable to a fine of not more than one hundred dollars or to imprisonment for a period not exceeding six months or to both fine and imprisonment.

ICC-1581 ICCI Exhibit P-059 Page 52

PART VII

CHILD WELFARE ORGANIZATIONS

Application for registration of associations; child welfare.

165. Any person or persons who shall desire to associate themselves with work, whether educational or preventive or remedial, for the welfare or protection of children may make application to the Director for registration under the provisions of sections 165 to 169 inclusive of this Act.

Signatures to be verified.

166. The signatures to the application and the facts stated in the application shall be verified by a statutory declaration to the satisfaction of the Child Welfare Board, who shall then submit the application together with their recommendation to the Commissioner. The application shall be accompanied by a certified copy of the memorandum and articles of the Association and a statement showing its financial position.

Duty of Society.

167.—(1) When under the provisions of this Act a child has been committed to the care and custody of a society it shall be the duty of such society to use special diligence in providing a suitable foster home or situation for such child, and such society is hereby authorized to place such child in foster homes or situations on a written agreement during minority or for any less period in the discretion of such society. All such contracts shall contain a clause reserving the right to withdraw the child from any person having the custody of such child when in the opinion of the society placing such child the welfare of such child requires it; provided, however, that such society shall make reports to the Director in accordance with all regulations of the Department in that behalf, and further provided that, when in his opinion the welfare of such child may require it, the Director may cause such society to bring such child to the receiving home for study and disposition.

(2) Any Children's Aid Society or its executive officer may, if it or he considers it best in the interest of any such child, permit such child to live with his parents or relatives, subject to the supervision of such Children's Aid Society or its executive officer, but none of the rights or powers vested in such Children's Aid Society or its executive officer by this Act in respect to such child shall in any way be impaired by any such permission.

(3) The Society in arranging for the care of any child under this section shall have regard to the consideration mentioned in section 17 hereof.

Appointment of Child Welfare Committee.

168. When in any community no child welfare association or children's aid society has been organized, the Director, with the approval of the Commissioner, may appoint from such community a child welfare committee to consist of not less than three persons nor more than seven persons to be known as "The Child Welfare Committee of ..... " and the Director may with the approval of the Commissioner grant to such committee such powers as he may deem proper consistent with this Act and may prescribe regulations within the provisions of this Act for the guidance of such committee in the performance of its duties for the welfare and protection of children within the provisions of this Act and such committee shall be subject to the supervision and authority of the Director.

Director may take charge of defunct associations.

169. If a child welfare association or children's aid society or child welfare committee under this Act ceases to exist or does not hold a meeting for a period of twelve months, the secretary or other officer shall, failing the appointment of a liquidator, deliver to the Director all books, documents, records and financial statements, and pay over to him all trust funds on hand, and the association, society or committee shall thereupon be dissolved and its property shall be vested in the De-

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ICC-1581 ICCI Exhibit P-059 Page 53

partment, and the Director shall then re-organize the work and make arrangements for carrying it on consistently with the powers vested in him under this Act.

GENERAL PROVISIONS

Duty of owner of newspapers, etc., to get name, etc., of advertiser.

170. It shall be the duty of the publisher of any newspaper or magazine published in Newfoundland, receiving and publishing any advertisement dealing with the adoption, boarding out or care of any child, to obtain from the person requiring the publication of such advertisement a memorandum in writing signed by such person giving his or her name, address and occupation, and immediately after the first publication of such advertisement to mail forthwith a copy of the same as published, together with a memorandum of the name, address and occupation of the person requiring the publication, to the Director, and any person contravening the provisions of this section shall be liable, on summary conviction thereof, to a fine not exceeding fifty dollars and in default of payment to imprisonment for any term not exceeding one month.

Occupation of children; license to work.

171.—(1) Municipal Councils in incorporated cities, towns, villages and divisions may pass by-laws for regulating and controlling and licensing children engaged as:

(a) Express or despatch messengers;

(b) Vendors of newspapers and small wares;

(c) Shoe shiners;

(d) Pin boys in bowling alleys;

And for prohibiting children from engaging in any such occupation without such license,

(2) No license fee imposed under any such by-law shall exceed the sum of fifty cents per annum, and no child engaged in two or more of the said occupations shall be compelled to pay more than one license fee.

(3) No such license shall be granted to any female child nor any male child under the age of twelve years, nor to any male child of the age of twelve years but under the age of fourteen years, unless such child presents written authority from his parents or guardian authorizing him to make application for a license for the purpose of engaging in any of the occupations hereinmentioned.

(4) No licensee under this section shall be permitted to engage in any occupation for which he is licensed after the hour of eight o'clock in the evening in the months of December, January and February, or after the hour of nine o'clock in the evening throughout the rest of the year or during school hours.

(5) No license shall be valid if its terms or any of them contravene any of the provisions of this Act, and such license so contravening shall be cancelled by the Division of Public Welfare.

Visits to child.

172. Every society or person in whose care a child is placed under the provisions of this Act, and every person entrusted with the care of any such child, shall from time to time permit such child to be visited, and any place where such child may be or reside to be inspected by the Director or any person bearing his permit.

Suspension of officials.

173. The Commissioner may suspend any agent, officer or employee of a child welfare association or children's aid society guilty of improper conduct or negligence in the performance of his or her duties pending investigation by the association or society. Notice of

ICC-1581 ICCI Exhibit P-059 Page 54

such suspension shall be sent to the president of such association or society by registered letter postage prepaid and addressed to him or her at his or her usual place of abode within five days thereafter, and such agent, officer or employee may be discharged by the association, society or person appointing him or her.

Rules may be made.

174. The Commissioner may make regulations not inconsistent with the provisions of this Act prescribing the duties of all officers appointed under this Act. Such regulations shall be subject to the approval of the Governor in Commission.

Ministers of religion have right of admission to institutions.

175.—(1) Subject to such regulations as may be approved by the Governor in Commission, all ministers of religion or persons authorized by them shall have the right of admission to the receiving home and every shelter or institution established hereunder for the care of children and access to such of the children placed or detained therein as belong to their respective denominations, and may give instructions to them on the days and at the times appointed by such regulations for the religious education of such children, and may enter in a book to be kept for that purpose any remarks pertinent to the work of the institution.

(2) The religious persuasion of every child coming within the scope of this Act or within the scope of any regulations or powers made or conferred by virtue of this Act shall in all cases be properly safeguarded.

Suits to be before a Juvenile Court Judge or magistrate.

176. Except where otherwise provided, every information, suit or other proceeding under this Act may be laid, prosecuted or proceeded with before a Juvenile Court Judge or magistrate.

Penalty where not otherwise specified.

177. Where no penalty is hereinbefore provided for any breach of any provision of this Act, or of any regulation made thereunder, the person or persons committing such breach or failing to observe the provisions thereof shall be liable on conviction, in the discretion of the court trying the same to a penalty not exceeding one hundred dollars or in default of payment to imprisonment for a period not exceeding three months or to both fine and imprisonment.

Fines, etc., to be paid to Department.

178. All fines, forfeitures and penalties imposed, ordered, levied or payable under this Act shall upon collection and receipt be transmitted by the Court imposing the same to the Department of Justice for payment over to the Department; and all fees payable under this Act shall be paid to the Department; and all such sums shall be used and disposed of by the Department for the purposes of this Act.

Appeal to Supreme Court.

179. Any person feeling aggrieved by any act or order of the Department, or by any order, judgment or conviction of any Court under the provisions of this Act, shall have the right to sue thereon or to appeal therefrom to the Supreme Court or a Judge thereof within the time limited by and subject to the provisions of the Summary Jurisdiction Act respecting Appeals from Stipendiary Magistrates.

Act to be liberally construed.

180. This Act shall be liberally construed to the end that its purpose may be carried out, to wit: that the care of children coming within the provisions of this Act shall approximate as nearly as may be that which should be given by their parents, and that as far as practicable every juvenile delinquent shall be treated, not as a criminal, but as a misdirected and misguided child, and one needing aid, encouragement, help and assistance.

Repeal.

181. The Acts mentioned in Schedule A to this Act are hereby repealed to the extent specified in the third column of that Schedule.

ICC-1581 ICCI Exhibit P-059 Page 55

Short title.

182. This Act may be cited as the Welfare of Children Act, 1944.

Schedule A.

SCHEDULE A.

No. and Year of Act	Title or Short Title	Extent of Repeal
1. 22 George V, Chapter 12.	The Health and Public Welfare Act, 1931.	Section 582-682, both inclusive. Section 692 - Section 702, both inclusive. Section 704-Section 707, both inclusive.
2. No. 17, 1933.	An Act to Amend the Act 22 George V, Chapter 12 (The Health and Public Welfare Act, 1931)	Section 9 - Section 13, both inclusive.
3. No. 32, 1940.	The Adoption of Children Act, 1940.	The whole Act.

Schedule B.

SCHEDULE B.

Any offence under sections twenty-seven, fifty-five or fifty-six of the Offences against the Person Act, 1861 (Imperial), and any offence against a child or young person under sections five, forty-two, forty-three, fifty-two or sixty-two of that Act, or under the Criminal Law Amendment Act, 1885 (Imperial).

Any offence under the Dangerous Performances Acts, 1879 and 1897 (Imperial).

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

1 No. of Entry	2 Date of Entry	3 Name of Adopted Child (Enter Name as stated in Adoption Order).	4 Sex of Adopted Child (Enter Sex as stated in Adoption Order).	5 Name and Surname, Address and Occupation of Adopter or Adopters. (Enter name, address and occupation as stated in Adoption Order)	6 Date of Birth of Child. (Enter date of Birth (if any) directed by the Adoption Order to be entered, but otherwise no entry).	7 Date of Adoption Order and Description of Court by which made. (Entry to be made as appearing in the Adoption Order).	8 Signature of Officer deputed by Registrar General to attest the Entry

ICC-1581 ICCI Exhibit P-059 Page 56

under arbitration as purchase price of the freehold the lessee shall be entitled to a conveyance thereof under the hand of the Registrar of the Supreme Court. All such moneys paid into Court in pursuance of this section shall be held by the Court until the parties claiming the same shall prove to the satisfaction of the Court their right to receive it.

Amdt. Sec. 158.

5. Section 158 of the Principal Act, as enacted by the Act No. 12 of 1937, is hereby amended by renumbering the same as Section 158.—(1) and by adding thereto the following as subsection (2):

(2) The Council shall have power under any such regulation to fix, prescribe and impose such fees for licences or permits for the performance or installation of any of the foregoing works, matters or things and to prohibit such performance or installation without such licences or permits.

AN ACT TO AMEND THE WELFARE OF CHILDREN ACT, 1944

[16th November, 1945]

SECTION
1.—Amdt. Schedule A.
2.—Revival Secs. 704-707

SECTION
Health and Public Welfare Act, 1931.

Be it enacted by the Governor, by and with the advice of the Commission of Government, as follows: A.D. 1945.

Amdt. Schedule A.

1. Schedule A to the Welfare of Children Act, 1944, is hereby amended by striking out, in the third column of the said Schedule, the words "Section 704—Section 707, both inclusive".

Revival Secs. 704-707 Health and Public Welfare Act, 1931.

2. Sections 704 to 707, both inclusive, of the Health and Public Welfare Act, 1931, shall have full force and effect as if that part of Schedule A to the Welfare of Children Act, 1944, repealed by this Act had never been enacted.

NEWFOUNDLAND

AN ACT FURTHER TO AMEND THE WELFARE OF CHILDREN ACT, 1944.

(7th February, 1948)

SECTION
1.—Amdt. Sec. 1.
2.—Repeal and substitution Sec. 8.
3.—Amdt. Sec. 11.
4.—Repeal and substitution Sec. 33.
5.—Amdt. Sec. 46.
6.—Amdt. Sec. 50.
7.—Amdt. Sec. 56.
8.—Repeal and substitution Sec. 57.
9.—Repeal and substitution Sec. 66.
10.—Repeal and substitution Sec. 133.
11.—Amdt. Sec. 136.
12.—Amdt. Sec. 150.
13.—Repeal and substitution Sec. 170.
14.—Addition of Sec. 171A.
15.—Short title.

Be it enacted by the Governor, by and with the advice of the Commission of Government, as follows:

A.D. 1948.

Amdt. Sec. 1.

1. Section 1 of the Welfare of Children Act, 1944, is hereby amended by inserting immediately after paragraph (k) as paragraph (kk) the following:

(kk) "parent" in addition to the natural parent or parents, means grandparent, step-parent, foster parent, and parent by adoption.

Repeal and substitution Sec. 8.

2. Section 8 of the said Act is hereby repealed and the following substituted therefor:

ICC-1581 ICCI Exhibit P-059 Page 58

8.—(1) The Governor in Commission may appoint a Board of not less than five or more than nine persons, to be known as the Child Welfare Board, who shall hold office until the 31st day of December, 1950, at which time and at the end of every three years thereafter new members shall be appointed: Provided that in case of a vacancy arising a person may be appointed to hold office until the expiration of the term of the members then holding office and that any member upon the expiration of his term of office shall be eligible for re-appointment.

(2) The Governor in Commission may designate one of the members of the Board to be its Chairman and the Board shall meet at his call or that of the Director.

(3) It shall be the duty of the Board:

(a) to meet as often as may be necessary for the consideration of general questions pertaining to the welfare of the children of Newfoundland;

(b) to assist and advise the Director in the administration of this Act;

(c) to facilitate as fully as possible the proper treatment of children to whom this Act applies;

(d) to encourage, through study and discussion, the development and maintenance of sound standards of child protection in Newfoundland;

(e) to perform such other duties consistent with this Act as may be prescribed by the Commissioner.

Amdt. Sec. 11. 3. Section 11 of the said Act is hereby amended—

(a) by striking out the word "fourteen" in the first line of subparagraph (xxi) of paragraph (c) and substituting therefor the word "fifteen"; and

(b) by striking out paragraph (d).

4. Section 33 of the said Act is hereby repealed and the following substituted therefor: Repeal and substitution Sec. 33.

33.—(1) (a) It shall be unlawful to employ any child under the age of sixteen years—

(i) between the hours of nine o'clock in the evening and eight o'clock in the morning otherwise than in an employment in which only members of the employer's family are employed;

(ii) in any occupation which shall be declared by the Governor in Commission, by Order, to be a prohibited occupation.

(b) Every employer shall be required to keep a register of every child employed by him. Such register shall contain the date of beginning of employment and the date of birth (which shall be verified by the employer) of every such child, provided that this subsection shall not apply to occupations in which only members of the employer's family are employed.

(c) The register referred to in paragraph (b) of this subsection shall be open to inspection at all reasonable times by any person authorized in writing by the Director to inspect such registers.

(2) Any person who shall, during school hours on any day during which schools in the district in which the child resides are open, employ for remuneration any child whose attendance at school is required under Section 4 of The School Attendance Act, 1942, or any amendments thereto, shall be guilty of an offence.

ICC-1581 ICCI Exhibit P-059 Page 59

(3) Any person having the control or management of a theatre, bowling alley or other place of public amusement, who shall, before the hour of half past four in the afternoon on any day during which the school at which the child is enrolled is open, or, if the child is not enrolled at any school, on any day during which the schools in the district in which the child resides are open, admit any child whose attendance at school is required under Section 4 of the School Attendance Act, 1942, or any amendments thereto, except for organized games, entertainments or other activities arranged by the principal of the school shall be guilty of an offence.

(4) It shall be unlawful for any person having the control or management of a restaurant, or of a theatre, bowling alley or other place of public amusement, to admit thereto or to allow to remain thereat any child under the age of fifteen years after the hour of seven o'clock in the evening, unless such child is accompanied by his parent or guardian or by some adult with the consent of such parent or guardian.

(5) The presence of a child mentioned in subsection (3) of this section at any of the places in that subsection mentioned during school hours and the presence of a child mentioned in subsection (4) of this section, not accompanied by his parent or guardian or by some adult with the consent of such parent or guardian, at any of the places in that subsection mentioned after seven o'clock in the evening shall be prima facie evidence of the guilt of the person in charge of the restaurant or place of public amusement at the time the child was present in such place.

(6) Any person guilty of a contravention of subsection (1) or (2) of this section shall be liable on summary conviction before a stipendiary magistrate to a fine not exceeding twenty dollars for every day during which a

child is employed and, in default of payment, to imprisonment for a term not exceeding six months; or of subsection (3) or (4), to a fine not exceeding fifty dollars, and in default of payment to imprisonment for a term not exceeding three months.

Amdt. Sec. 46.

5. Section 46 of the said Act is hereby amended by striking out subsection (1) and substituting therefor the following:

(1) (a) Where a child is charged with an offence which in the case of an adult would be punishable by imprisonment, and the child is actually or apparently of or over the age of fifteen years, such child may be punished by fine or imprisonment: Provided that a child convicted on summary trial shall not be sentenced to a term of imprisonment exceeding three months.

(b) Where a child is charged before a juvenile court judge and such judge deems it in the interest of the child and of the public to have the child dealt with under the provisions of paragraph (a) of this subsection, he may order that the child be committed to trial before a magistrate.

(c) Where a child is committed to trial before a magistrate under the provisions of this subsection, the provisions of the Summary Jurisdiction Act, 1930, (except the provisions as to punishment) shall apply to the trial of such child.

Amdt. Sec. 50.

6. Section 50 of the said Act is hereby amended by striking out subsection (4) and substituting therefor the following:

(4) A child held in any place of confinement pending trial shall not be held in a place where adult prisoners are kept: Provided that where a child is being dealt with un-

ICC-1581 ICCI Exhibit P-059 Page 60

der the provisions of Section 46 of this Act, the court before which he is to be tried may, in its discretion, order that he be held in custody in any gaol or other place used for the detention of prisoners pending final disposition of his case.

Amdt. Sec. 56.

7. Subsection (1) of Section 56 of the said Act is hereby amended by inserting immediately after paragraph (c) as paragraph (cc) the following:

(cc) award reasonable compensation in a sum not exceeding fifty dollars to a party injured in his person or by loss of goods, with the consent or on the motion of such party;

Repeal and substitution Sec. 57.

8. Section 57 of the said Act is hereby repealed and the following substituted therefor:

57. The punishment of imprisonment shall not be imposed on any child convicted of an offence otherwise than on conviction under the provisions of Section 46 of this Act.

Repeal and substitution Sec. 66.

9. Section 66 of the said Act is hereby repealed and the following substituted therefor:

66. Where under the authority of any statute of Newfoundland any child is found to be neglected or delinquent within the meaning of this Act, the judge shall make an Order under the provisions of Section 16 or Section 56 of this Act.

Repeal and substitution Sec. 133.

10. Section 133 of the said Act is hereby repealed and the following substituted therefor:

133. The application shall be supported by written statements of the fitness of each applicant to adopt the child by persons well and favourably known in the district in which the applicant resides or by such other document as the judge in his discretion may require.

Amdt. Sec. 136.

11. Section 136 of the said Act is hereby amended by adding thereto as subsections (4) and (5) the following:

(4) The guardian or guardians at the time of giving consent shall by the same instrument name the Director as the legal guardian of the child until such time as the child is legally adopted.

(5) In the case of a child committed to the permanent care and custody of the Director or a society, the party giving the consent to adoption as guardian shall be the Director or the society.

Amdt. Sec. 150.

12. Section 150 of the said Act is hereby amended by striking out subsection (2) and substituting therefor the following:

(2) The Adoption Order, together with the other documents used in the application, shall be filed in the office of the judge, and he shall forward two copies of the Order certified by him to the Director. The Director shall forward one of such certified copies to the Registrar General, who shall record the same and make the change in his records required by the Adoption Order in the form set out in Schedule C.

Repeal and substitution Sec. 170.

13. Section 170 of the said Act is hereby repealed and the following substituted therefor:

170. It shall be unlawful to insert or cause to have inserted in any newspaper or to publish or cause to be published over the air by any broadcasting station any advertisement dealing with the adoption, boarding out, or care of any child.

Addition of Sec. 171A.

14. The said Act is hereby further amended by inserting immediately after Section 171 as Section 171A the following:

171A.—(1) No person shall receive into a private home, board, or keep, any child under the age of twelve years not being his relative, apprentice, pupil, or ward, without having a licence in writing from the Director.

(2) Such licence shall specify the name and residence of the licensee, the place in which he is permitted to receive, keep and board children, and the number he is permitted to receive, keep and board in such place, and shall be revocable at will by the authority granting it.

Short title.

15. This Act may be cited as the Welfare of Children (Amendment) Act, 1948.

AN ACT FURTHER TO AMEND THE FOOD AND DRUGS ACT, 1943.

(7th February, 1948)

SECTION 1.—Amdt. Sec. 9.

SECTION 2.—Short title.

Be it enacted by the Governor, by and with the advice of the Commission of Government, as follows: A.D. 1948.

Amdt. Sec. 9.

1. Section 9 of The Food and Drugs Act, 1943 (No. 13 of 1943) is hereby amended by re-numbering the said section as Section 9.—(1) and adding thereto as subsection (2) the following:

(2) The Governor in Commission may, for the purpose of maintaining or improving the nutritional status of the people, make regulations prohibiting the importation into Newfoundland, or the manufacture for sale in Newfoundland, of any article of food save under and in accordance with the terms of a licence issued by the Commissioner, unless such article conforms to such standard of quality or contains such substance or substances within such maximum and minimum limits as to proportionate quantity or otherwise as may by such regulations be prescribed; and such regulations may empower the Commissioner to suspend their operation either indefinitely or for a limited period, whenever it shall appear to him to be necessary or desirable so to do.

Short title.

2. This Act may be cited as The Food and Drugs (Amendment) Act, 1948.

AN ACT FURTHER TO AMEND THE WELFARE OF CHILDREN ACT, 1944.

(June 22, 1951)

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title.

1. This Act may be cited as The Welfare of Children (Amendment) Act, 1951.

Amdt. Sec. 25(1).

2. Subsection (1) of Section 25 of the Welfare of Children Act, 1944, is repealed and the following substituted therefor:

Liability of custodian for ill-treating child.

25.—(1) Any person over the age of seventeen years, having the custody, control, charge or care of any child, who wilfully assaults, ill-treats, neglects, abandons, or exposes such child, or causes or procures such child to be assaulted, ill-treated, neglected, abandoned or exposed in a manner likely to cause the child unnecessary suffering or injury to his health is guilty of a misdemeanour and liable

(a) on conviction on indictment to a fine not exceeding five hundred dollars or in default of payment of the fine to imprisonment for a term not exceeding two years, or to both fine and imprisonment; or

(b) on summary conviction to a fine not exceeding one hundred dollars or in default of payment of the fine to imprisonment for a term not exceeding six months, or to both fine and imprisonment,

and without limiting the generality of the foregoing, a parent or other person legally liable to maintain the child is deemed to have neglected him in a manner likely to cause injury to his health, if he fails to provide adequate food, clothing, medical aid or lodging for the child, or if being unable otherwise to provide such food, clothing, medical aid, or lodging, he fails to take steps to have it provided under this and other Acts administered by the Department for the assistance of needy persons.

Repeal and substitution Sec. 92.

3. Section 92 of the said Act is repealed and the following substituted therefor:

Bond and sureties for appearance.

92. When an alleged father is brought before a magistrate under a summons or warrant issued under Section 91 the magistrate may, unless the complaint is dismissed, require him to enter into a bond in a sum not less than seven hundred and fifty dollars, with sureties which, in the opinion of the magistrate, are sufficient, conditioned for his appearance at any proceedings taken or continued under this Act after the birth of the child.

Amdt. Sec. 101.

4. Section 101 of the said Act is amended

(a) by repealing paragraph (d) of subsection (1) and substituting therefor the following:

(d) the costs of all proceedings taken under this Part of this Act including a counsel fee not exceeding fifty dollars, which shall be paid over by the Director to counsel for complainant;

(b) by repealing subsection (4) and substituting therefor the following:

(4) The magistrate may order that the liability of a putative father under this Part of this Act shall be satisfied upon payment of the expenses of and incidental to the birth of the child, and the lying-in and

maintenance of the mother at and before the birth, and a specified sum not less than seven hundred and fifty dollars to be paid in full over a period of not more than three years.

Repeal and substitution Sec. 102.

5. Section 102 of the said Act is repealed and the following substituted therefor:

102.—(1) The magistrate shall, subject to subsection (2), order a father to give a bond for the fulfillment of an affiliation order made under Section 101 for a sum not less than seven hundred and fifty dollars with sureties which, in the opinion of the magistrate, are sufficient, or in lieu of the bond to make with the magistrate a cash deposit to be fixed by the magistrate as security for the payments referred to in that section.

(2) The magistrate may, in any case where the Director gives his consent thereto in writing, accept the recognizance of the father for a sum not less than that mentioned in subsection (1) instead of the bond with sureties or the cash deposit referred to in that subsection.

Repeal and substitution Sec. 129.

6. Section 129 of the said Act is repealed and the following substituted therefor:

Payments to be made to Director or other designated officer.

129. Every payment ordered by a magistrate, under this Part of this Act, or under the provisions of The Health and Public Welfare Act, 1931, from Section 636 to and including Section 671, which were repealed by this Act shall be made to the Director or to any other officer of the Department designated by the Minister.

Amdt. Sec. 136.

7. Section 136 of the said Act is further amended

(a) by repealing subsection (1) and substituting therefor the following:

Consent required.

136.—(1) Subject to this Act, no adoption order shall be made without the written consent

(a) of the child, if the child has attained the age of fourteen years;

(b) of the guardian or guardians of the child, if the child is born in wedlock; or

(c) of the mother only, if the child is born out of wedlock.

(b) by adding to the section as subsection (6) the following:

(6) Where the child is under the age of fourteen years, and

(a) none of the guardians is living; or

(b) the judge is satisfied that, any of the persons whose consent to an adoption is required under paragraphs (b) and (c) of subsection (1) cannot be found in Newfoundland,

the Director may, if he is satisfied that it is in the best interests of the child, give written consent to the adoption in the name of that person; and where the Director gives such consent to an adoption under this subsection the consent is deemed to have been given by that person in accordance with subsection (1).

AN ACT FURTHER TO AMEND THE WELFARE OF CHILDREN ACT, 1944.

(May 20, 1952)

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title.

1. This Act may be cited as The Welfare of Children (Amendment) Act, 1952.

Amdt. Sec. 1.

2. Section 1 of the Welfare of Children Act, 1944, the Act No. 57 of 1944, is amended by inserting in paragraph (h) immediately after the word "committed" the words "temporarily or ".

Amdt. Sec. 13.

3. Subsection (7) of Section 13 of the said Act is amended by deleting all of the words following the words "to the Director".

Amdt. Sec. 47.

4. Section 47 of the said Act is amended

(a) by renumbering subsection (3) as subsection (4); and

(b) by inserting immediately after subsection (2) as subsection (3) the following:

"(3) The judge may, if he deems it in the best interests of the child so to do, issue a summons to the parents or either of them or to the guardian to attend any hearing referred to in subsection (1)."

Amdt. Sec. 58.

5. Subsection (1) of Section 58 of the said Act is repealed and the following substituted therefor:

Parent may be ordered to pay fine, damages or costs.

"(1) Where a child is adjudged to have been guilty of an offence and the court is of the opinion that the case would be best met by the imposition of a fine, damages or costs, whether with or without restitution

or any other action, the court may order that the fine, damages or costs imposed or awarded be paid by the parent or guardian of the child instead of by the child."

Amdt. Sec. 68.

6. Section 68 of the said Act is repealed and the following substituted therefor:

Director to be guardian of children admitted to training school.

"68.—(1) The Director shall be the guardian of every child admitted to a training school in the same manner and to the same extent as in the case of a guardian appointed by statute or by any Court or by any will or instrument and all rights and powers over the child of the parent or any other person whatsoever except the Director shall, upon admission of the child to the training school, cease and determine.

(2) Subject to this section the Superintendent shall be responsible for the care and training of every child admitted to a training school while the child is in the training school.

(3) The Director as guardian of the child shall exercise and maintain supervision over every child admitted to a training school after the child leaves the training school and until the termination of his guardianship and shall keep all reports and provide for all visits which may be prescribed by the regulations.

Child may be released from training school or guardianship of Director may be determined by order of a judge.

68A.—(1) When an application in that behalf is made by the Director or by any person designated by him and the Minister has given his consent to the application in writing, a judge may, if he considers it to be in the best interests of the child so to do, make an order directing that from a date to be prescribed in the order

(a) any child in a training school shall be released therefrom; or

ICC-1581 ICCI Exhibit P-059 Page 65

(b) the guardianship of the Director over any child, whether the child is in a training school or not, shall cease and determine.

(2) Any order made under subsection (1) shall have the same force and effect and may be enforced in the same manner as an order of a court of summary jurisdiction made under The Summary Jurisdiction Act, 1950.

(3) Whenever the guardianship of the Director over a child referred to in this section ceases, the person who but for the guardianship of the Director was or would have been in law the guardian of the child shall resume his guardianship."

Repeal and substitution Sec. 81.

7. Section 81 of the said Act is repealed and the following substituted therefor:

Parent not entitled to authority over child surrendered to care of Director.

"81. A parent of any age who has surrendered the care of a child to the Director shall not thereafter, contrary to the terms of the order or instrument, be entitled to the care of or any control or authority over or any right to interfere with the child."

Amdt. Sec. 127.

8. Section 127 of the said Act is amended by striking out the word "may" and substituting therefor the word "shall."

Addition of new section.

9. The said Act is further amended by inserting immediately after Section 171A as Section 171B the following:

Director may, upon request of parent or guardian, take any child into his custody.

"171B.—(1) If because of the special circumstances he considers it in the best interests of the child so to do, the Director may, upon the written request of the parent or guardian of any child, take the child into his care and custody.

(2) When he has accepted a child under subsection (1) the Director shall have the power to make such arrangements for the support, care and welfare of the child as in the circumstances he deems fit.

(3) The Director does not, by taking a child into his care and custody under subsection (1), become the legal guardian of the child, and he may terminate such care and custody at any time he sees fit.

(4) When any other provision of this Act conflicts with this section, this section shall prevail."

AN ACT RESPECTING THE CORRECTION AND THE PREVENTION OF DELINQUENCY.

(May 20, 1953)

WHEREAS it is desirable that, for the ultimate protection of society, a juvenile adjudged to have committed a delinquency and a person adjudged to have committed an offence be examined with a view to determining as accurately as may be the cause or causes of the delinquency or offence, and that so far as practicable every delinquent or offender be given such help, guidance, retraining, and treatment, whether within or outside a correctional institution, as may appear most likely to remedy or correct the condition believed to underlie his delinquency or offence;

BE IT THEREFORE enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

SHORT TITLE

Short title.

1. This Act may be cited as The Corrections Act, 1953.

INTERPRETATION

Interpretation.

2. In this Act

(a) "committal order" includes any order made by lawful authority for the detention of a person in a correctional institution;

(b) "correctional institution" includes every training school, reformatory, gaol, H. M. Penitentiary and other place approved by the Lieutenant-Governor in Council or established under subsection (1) of Section 20 for the study, confinement, and correction of persons committed thereto, whether juveniles or adults;

(c) "department" means the Department of Public Welfare;

(d) "director" means the Director of Corrections;

(e) "division" means the Division of Corrections of the department;

(f) "juvenile" includes every child apparently or actually under the age of seventeen years;

(g) "Minister" means the Minister of Public Welfare;

(h) "parent" includes a guardian and every person who is liable by law to maintain a child;

(i) "peace officer" includes any superintendent or other employee of a correctional institution, any officer or member of the Newfoundland Constabulary or of the Royal Canadian Mounted Police;

(j) "school" means a school established under this Act;

(k) "superintendent" means the chief executive officer of a correctional institution.

PART I.

ADMINISTRATION

Correction Division.

3. There shall be a division within the department which shall be called the Division of Corrections over which the director will preside.

Director of Corrections.

4. The Lieutenant-Governor in Council may appoint a Director of Corrections to administer the affairs of the division.

Staff.

5. Such other officers, clerks, and employees as are necessary for the proper conduct of the business of the division shall be appointed or employed in the manner authorized by law.

PART II.

JUVENILE DELINQUENTS

Interpretation.

6. In this Part

(a) "authority" means the Youth Guidance Authority constituted under this Part;

(b) "court" means a Family Court or a magistrate's court;

(c) "judge" means the judge of a Family Court or a magistrate;

(d) "probation officer" means a juvenile probation officer appointed or designated under this Part.

Construction of Part.

7. The purpose of this Part is to ensure that the care, custody, and discipline of a juvenile delinquent shall approximate as nearly as may be that which should be given by his parents, and that as far as practicable every juvenile delinquent shall be treated not as a criminal but as a misdirected and misguided child and one needing help, guidance, and encouragement.

YOUTH GUIDANCE AUTHORITY

Youth Guidance Authority

8.—(1) The Lieutenant-Governor in Council shall appoint a Youth Guidance Authority for the province, consisting of the director, the Director of Child Welfare, the superintendent of the Boys' Home and Training School, the superintendent of the Girls' Home and Training School, a psychiatrist registered under Chapter 41 of the Consolidated Statues of Newfoundland (Third Series) entitled "Of the Newfoundland Medical Board" and one other person.

Duties.

(2) The authority shall, in addition to the duties hereinafter prescribed, perform such other duties consistent with this Act as may from time to time be designated by the Minister.

Chairman.

(3) The director shall be chairman of the authority and in his absence the Director of Child Welfare shall be the chairman.

Quorum.

(4) A majority of the members of the authority shall constitute a quorum for the transaction of business, and the majority opinion of the members present shall be a valid decision.

Supervision of voluntary inmates of schools.

9. Subject to the provisions of this Act, the authority shall examine and supervise the treatment of every juvenile admitted

ICC-1581 ICCI Exhibit P-059 Page 69

to a school on a voluntary basis as though he had been lawfully committed to the school.

Transfer of inmates of school.

10.—(1) The Attorney General may upon the request of the authority direct the removal of any juvenile lawfully committed to a school to a correctional institution for adults if he appears to require the training and treatment given in the adult institution rather than that given in the school.

Review.

(2) The authority shall review the case of every juvenile so transferred at least once every three months and shall make such recommendation as appears appropriate for his care.

Release from school.

11.—(1) Subject to the provisions of any Act of the Parliament of Canada and of this Act, the authority may direct the release of a juvenile from a school on probation.

Terms and conditions of release.

(2) In the case of release under subsection (1) the authority shall prescribe the terms and conditions of the probation, and the director is responsible for supervision of the juvenile while on probation.

Authority over probationer and parolee.

12.—(1) The director may place before the authority for consideration the case of any person who is under its jurisdiction by probation and who

(a) has violated any of the terms and conditions of his probation;

(b) has failed to make a satisfactory adjustment on probation; or

(c) is believed to be adversely influenced by an unsuitable environment whether in his home, school, place of work or other place frequented by him.

Idem.

(2) Upon examining such person the authority may commit him to a school or may continue or modify the terms and conditions of his probation.

Discharge.

13. The authority shall discharge from its jurisdiction and supervision any juvenile who has been on probation for a period of not less than six months as soon as in its opinion there is

ICC-1581 ICCI Exhibit P-059 Page 70

reasonable probability that he can be given full liberty without detriment to himself or to the community.

Commitment to school.

14. Subject to the provisions of any Act of the Parliament of Canada, every juvenile committed to a school shall be committed for an indefinite period and he shall thereupon be detained in a school until he is released on probation.

Notice to director of delinquents reported.

15.—(1) Every peace officer shall give notice in writing to the Minister of every alleged juvenile delinquent reported to him.

Review of alleged delinquency.

(2) Upon receiving such notice the Minister shall have an examination made into the family and personal history of the juvenile and the circumstances of the case and shall have a social history prepared for the use of the court in which he shall record his opinion as to whether it is in the best interest of the juvenile that he should appear before the court.

Prosecution.

(3) No trial of an alleged juvenile delinquent shall be heard until subsections (1) and (2) of this section have been complied with.

Probation officers.

16.—(1) The Minister may designate members of the staff of the department as probation officers with power to act in that capacity at any place within the province.

Voluntary probation oficers.

(2) The director may, with the consent of any person, in writing appoint the person as a probation officer for the purpose of so acting in connection with a specified juvenile and any person so appointed shall be known as a voluntary probation officer and shall act without remuneration.

Responsible to dirctor.

(3) Probation officers are responsible to the director for the standard of performance of their work under this Part.

Powers and duties.

(4) Every probation officer has the powers of a peace officer in the performance of his duties under this Part.

Probation.

17.—(1) In case a juvenile is reported to the Minister to have committed a delinquency but is not brought before the court, the Minister shall at the request of the parents of the

ICC-1581 ICCI Exhibit P-059 Page 71

juvenile provide the services of a probation officer to visit the juvenile and his home indefinitely to assist the juvenile, his parents and others pertinently affecting him, in any way which appears likely to correct or avoid delinquent behaviour in the juvenile.

Report to director.

(2) The probation officer so assigned shall report to the Minister his observations and opinions regarding the adjustment of the juvenile.

Supervision.

(3) During such period of supervision the juvenile shall be subject to such regulations and conditions as may be prescribed by the Minister.

Discharge from probation.

18. The Minister shall unconditionally discharge from his supervision any juvenile described in subsection (1) of Section 17 who in his opinion no longer requires such supervision after being subject thereto for at least six months.

Expenses on behalf of juvenile.

19. The Minister may make provision for the maintenance of any juvenile placed on probation and for the payment of any expenses incurred by the division on behalf of the juvenile previous to the disposition of his case.

SCHOOLS

Purpose of schools.

20.—(1) The Minister may establish schools for the confinement, study and treatment of such juveniles as may be lawfully committed thereto for guidance and training.

Nature of a school and power to commit thereto.

(2) Any school established under this section is declared to be a lawful place of confinement, a juvenile reformatory, refuge, industrial school, detention home and house of correction within the meaning of any Act of the Parliament of Canada or of the Legislature; and any juvenile who is under the authority of any such Act sentenced to imprisonment may, subject to the provisions of any Act of the Parliament of Canada, be committed to a school.

Regulations for management of school.

(3) The Minister may make rules and regulations for the management, internal economy and discipline of every correctional institution operated under this Part and may prescribe

ICC-1581 ICCI Exhibit P-059 Page 72

the qualifications and duties of all officers and employees and the general and specific treatment of all persons confined in the institution.

Maintenance.

21. The cost of maintaining a school shall be paid out of moneys appropriated by the Legislature for the purpose.

Staff.

22. A superintendent and such other officers and employees as may be required for the efficient administration of a school shall be appointed or employed in the manner authorized by law.

Superintendent.

23. The superintendent is the chief executive officer of a school under the supervision of the director and shall

(a) direct and co-ordinate the programme of the school; and

(b) control the internal management and administration of the school as they relate to physical operations, matters of discipline and the treatment of all persons confined therein.

Authority to convey.

24. When a juvenile is committed to a school, a copy of the committal order duly certified by the judge shall be sufficient authority for any peace officer to convey the juvenile to the school and to deliver him to the superintendent.

Authority to detain.

25.—(1) The superintendent shall receive and detain every juvenile lawfully committed to the school or removed thereto pursuant to the provisions of any Act of the Parliament of Canada or of the Legislature, until he is otherwise dealt with and he shall give to the peace officer or other person who delivers the delinquent an acknowledgment in writing of the delivery.

Notice to parents.

(2) Upon receiving a juvenile into the school, the superintendent shall send to the juvenile's parents, guardians or other persons with whom the juvenile has been living a notice that the juvenile has been committed to the school.

Special cause for detention.

26.—(1) In case a juvenile who is a transient is awaiting a hearing as a delinquent under this Act or the Welfare of Children Act, 1944 and in other cases of alleged juvenile delinquency

ICC-1581 ICCI Exhibit P-059 Page 73

where special circumstances appear to warrant such action, the director may order that the juvenile be removed to and detained in separate quarters at a school or other approved place pending the hearing and disposition of his case but in that event every detention extended beyond eight days shall be reported in writing by the director to the authority.

Transportation of juvenile on oral instructions of director.

(2) Any peace officer, on receiving oral instructions from the director affecting a juvenile, shall apprehend and transport the juvenile to the place of detention specified.

Confirmation of oral instructions.

(3) The director shall immediately confirm such oral instructions by a written order.

Recommendation for probation.

27.—(1) The superintendent of a school shall recommend to the authority any juvenile committed to the school who in the opinion of the superintendent would profit by a period of probation.

Examination after recommendation.

(2) Upon such recommendation the authority shall examine the pertinent circumstances concerning the juvenile with a view to determining whether he should be released on probation, having in mind the best interests of the juvenile and the well-being of the community.

Review.

(3) Notwithstanding anything contained in this section the authority shall review at least once yearly the case of every juvenile committed to a school and shall place on probation every juvenile who appears to the authority to be able to profit by such treatment.

Ill person not to be released.

28. No juvenile shall be discharged from a school when suffering from a contagious or infectious disease or from an acute or dangerous illness unless arrangements for his care have been made and are approved by the authority.

Employees constituted peace officers.

29.—(1) The officers and employees of a school are hereby constituted peace officers for the school and the property pertaining thereto and are empowered to proceed against or arrest summarily all persons within the school and its precincts who are therein guilty of any offence against the laws of Canada or Newfoundland or the regulations of the school and to arrest any person who refuses to leave the school premises when requested to

do so and to take that person before any court of competent jurisdiction and cause proper complaint to be made against him.

Offence.

(2) Any person who within a school or its precincts is guilty of conduct which is detrimental to the discipline of the school or to the behaviour of any juvenile therein or who is guilty of an offence against the laws of Canada or Newfoundland or the regulations of the school, may be proceeded against or summarily arrested by the superintendent or by any employee and is liable on summary conviction to a fine of not more than one hundred dollars.

VOLUNTARY ADMISSIONS

Special request for examination.

30.—(1) If a juvenile appears to be incorrigible or habitually engaged in socially unacceptable behaviour, his parents, guardians or a welfare officer may make application in writing to the director on a form provided for the purpose requesting an examination of the juvenile and guidance in treating the problem.

Examination.

(2) Upon receiving such request the director shall undertake such examination as he deems expedient.

Report.

(3) Upon completing his examination the director shall furnish to the person who requested the examination a statement in writing setting forth his opinion concerning the alleged problem together with any recommendations which he may see fit to make.

Application for voluntary admission.

31. Where the director recommends a period of examination and training in a school, and in such cases only, the parents or guardians may make voluntary application in writing to the authority requesting that the juvenile be admitted to a school for training, and the authority shall approve or reject such application.

Admission of voluntary subjects.

32.—(1) The superintendent of a school shall receive as a subject for treatment and training any juvenile on whose behalf an application for voluntary admission to a school has been duly approved by the authority under Section 31,

Subject to discipline.

(2) A juvenile so received shall be subject to the officers and staff of the school and to the discipline and regulations of the school.

Period of detention.

(3) A juvenile so received shall not be detained more than five days after his parents or guardians have given to the superintendent a notice in writing of their desire to remove the child from a school.

Discharge.

(4) The superintendent with the consent of the authority may discharge the juvenile from a school five days after giving to his parents or guardians notice in writing of the superintendent's intention to discharge him and in case of such discharge the parents or guardians are thereupon responsible for the child as though he had never been admitted to a school.

PART III.

Adult Offenders

Interpretation

Interpretation.

33. In this Part

(a) "authority" means the Adult Guidance Authority constituted under this Part;

(b) "judge" includes a judge, a magistrate, a justice of the peace or other person having authority to commit a person to a correctional institution;

(c) "offence" includes the breach or contravention of any law of Canada or Newfoundland when such breach or contravention may result in prosecution in a court of law;

(d) "probation officer" means an adult probation officer appointed or designated under this Part.

Adult Guidance Authority

Adult Guidance Authority.

34.—(1) The Lieutenant-Governor in Council shall appoint an Adult Guidance Authority for the province consisting of the

director, the chief adult probation officer for men, the chief adult probation officer for women, the superintendent of an adult correctional institution or his representative, a psychiatrist registered under Chapter 41 of The Consolidated Statutes of Newfoundland (Third Series) entitled "Of the Newfoundland Medical Board" and one other person.

Duties.

(2) The authority shall, in addition to the duties hereinafter prescribed, perform such other duties consistent with this Act as may from time to time be designated by the Minister.

Chairman.

(3) The director shall be chairman of the authority and in his absence the chief adult probation officer for men shall be the chairman.

Quorum.

(4) A majority of the members of the authority shall constitute a quorum for the transaction of business and the majority opinion of the members present shall constitute a binding decision.

ADULT PROBATION OFFICERS

Chief adult probation officers.

35.—(1) The Lieutenant-Governor in Council may appoint as officers of the department a chief adult probation officer for men and a chief adult probation officer for women who shall be responsible to the director.

Staff.

(2) The Lieutenant-Governor in Council may also appoint such assistants to either of such officers as may be deemed necessary, and assistants so appointed shall be responsible to the chief probation officer for the standard of performance of their work under this Part.

Other probation officers.

36.—(1) The Minister may designate other members of the staff of the department to perform the work of a probation officer, and persons so designated shall be responsible to the chief probation officer for the standard of performance of their work as probation officers.

Voluntary probation officers.

(2) The chief probation officer, with the consent of any person, may in writing appoint him as a probation officer for the purpose of so acting in connection with a specified person, and any person so appointed shall be known as a voluntary probation officer and shall act without remuneration.

ICC-1581 ICCI Exhibit P-059 Page 77

Powers.

(3) Every probation officer has the powers of a peace officer in the performance of his duties under this Part.

Examination of accused persons.

37. The director or his representative may with the consent of the person concerned conduct an examination into any pertinent matters respecting any person charged with an offence and conduct such examination of a person convicted of an offence without his consent.

Purpose of examination.

38. Notwithstanding anything in this Part no investigation shall be conducted by the director or his representative for the specific purpose of determining the guilt or the innocence of the subject and the only purpose of the investigation shall be to assess his personal qualities and any other resources for guidance of the appropriate authorities in determining what treatment will be most effective for the subject's well-being and for the good of the community.

Request by judge for examination of offender.

39.—(1) A judge may in writing request the director or a probation officer whom the judge may designate in his place to conduct an investigation, subject to Section 38, and to submit a report thereon concerning any person who having been charged with an offence is required to appear before the judge.

Investigation and report.

(2) Upon receiving such request the director shall conduct the investigation and submit to the judge a written report based thereon.

Report to be filed as exhibit.

40. Where a report is submitted under Section 39 the judge shall enter the report as an exhibit, with the consent of the accused.

Right to interpret report.

41. Where a report is entered as an exhibit under Section 40, the judge shall provide an opportunity for the director or the probation officer to make such statement during the hearing or trial as may serve to clarify, interpret or otherwise elucidate the meaning and intention of his report.

Classification report before trial.

42.—(1) A judge may require a classification report concerning any accused person whom the judge has remanded to a correctional institution designated by the Minister for the purpose.

ICC-1581 ICCI Exhibit P-059 Page 78

(2) Before the expiration of the period of remand the Minister shall make or cause to be made a report in writing to the judge describing any pertinent findings together with explanations or recommendations which appear to be relevant. Report by Minister.

43. The Attorney General or any person designated by him for the purpose has authority to designate the institution or other place of correction to which an adult sentenced to imprisonment for less than two years shall be committed. Minister to designate institution.

44.—(1) In order to provide for adequate segregation and appropriate treatment the Attorney General may order that any person charged with an offence and confined in a correctional institution or who has been sentenced to serve a term of imprisonment in a correctional institution be removed to any other correctional institution named in the order, for safe confinement and treatment there to be kept until discharge in due course of law or removed for the purpose of trial. Transfer of inmates by order of Minister.

(2) A copy of such order shall be sufficient authority to superintendents, sheriffs, deputy sheriffs, peace officers, and to keepers or gaolers, respectively, to act in conformity therewith and to deliver over and to receive the person named therein, and it shall be accompanied by the documents authorizing his detention in the institution from which he is being transferred. Authority of order.

45. Notwithstanding Section 44, the Attorney General may designate the classification of adult offenders for which each correctional institution shall be used and in such case each institution shall as soon as practicable be used only for the type of offender so designated with respect thereto. Specific use of institutions.

46. For the purpose of giving effect to Section 1081 of the Criminal Code and amendments thereto, the director or any probation officer designated by him has power to exercise supervision over and to provide guidance and other help for any person whom the court has placed on suspended sentence under his care. Power to supervise probationers.

47. If as the result of his investigation before trial a probation officer recommends to the court that the accused, if found guilty, be placed on probation, the probation officer shall receive Probation service.

ICC-1581 ICCI Exhibit P-059 Page 79

on probation and shall supervise the said subject if the court grants a suspended sentence in keeping with the recommendation and places the subject under the probation officer's supervision.

Parole service.

48. In case the parole of a person from an adult correctional institution is granted upon the recommendation of the authority, the director is responsible for that person's supervision during parole.

CORRECTIONAL INSTITUTIONS

Institutions continued as places of lawful detention.

49. Until otherwise provided by competent authority, the buildings and premises now in use or hereafter proclaimed by the Lieutenant-Governor in Council to be correctional institutions in Newfoundland shall be lawful places for the confinement and treatment of persons being detained for trial or under sentence.

Duties of superintendent.

50. A superintendent and such other officers, clerks and employees as are necessary for the proper conduct of the business of each correctional institution shall be appointed or employed in the manner authorized by law.

Superintendent.

51. The superintendent is the chief executive officer of the institution and in consultation with the director shall

(a) direct and co-ordinate the programme of the institution;

(b) control the internal management and administration of the institution as they relate to physical operation, matters of discipline and the treatment of persons confined therein.

Classification centre.

52. There shall be one or more classification centres, each to be known as the Newfoundland Classification Centre.

Classification team.

53.—(1) The Lieutenant-Governor in Council may appoint the personnel of each classification centre which shall include a social case worker, a psychologist, an educationalist and a psychiatrist or doctor, and they shall be known as the classification team.

Idem.

(2) If any member of the classification team has status in more than one of the required professions, every such profession

ICC-1581 ICCI Exhibit P-059 Page 80

may be considered represented but there shall be at least three professional persons on the team.

OPERATION OF INSTITUTIONS

Assistance to inmates.

54. The Minister may at his discretion provide an allowance for any person committed to any correctional institution and upon his release may provide him with transportation to his home or the home of his parents or guardian, a suitable outfit of clothing and a sum of money to assist him in becoming re-established in the community.

Inmates subject to regulations.

55. Every person who is sentenced or otherwise lawfully committed to any correctional institution operated under this Act shall be subject to the provisions of the statutes relating to such institution and to all regulations lawfully made with respect thereto.

Treatment.

56. Confinement in any provincial correctional institution may include such treatment as is considered appropriate for the rehabilitation of the individual.

Daily record of inmates.

57. In order to encourage desirable behaviour and conscientious effort among inmates of correctional institutions and with a view to permitting each inmate to earn a remission of a portion of the term for which he was committed, the Lieutenant-Governor in Council may require superintendents of such correctional institutions as he may specify from time to time to keep a correct record of the daily conduct of each inmate thereof, noting his behaviour, his work record within the institution, any significant change in attitude and conduct, and such other data as may be required by any Act of the Parliament of Canada or regulations thereunder permitting an institution to receive persons having indeterminate sentences.

VOLUNTARY SUBJECTS

Voluntary application for examination at centre

58. The authority may authorize admission into any correctional institution having a classification centre of any person who is considered by the authority to be a subject suitable for examination and guidance and who voluntarily makes written application therefor through the director to the authority and

ICC-1581 ICCI Exhibit P-059 Page 81

the application shall be on a prescribed form and shall be attested by a judge, a magistrate, the chief of police, the senior officer of the Royal Canadian Mounted Police in Newfoundland, a duly qualified medical practitioner, psychologist, clergyman or the chief executive of a recognized social welfare agency.

Period of detention.

59.—(1) A person received under Section 58 shall not be detained more than three days after having given to the superintendent of the institution a notice in writing of his desire to leave the institution.

Subject to rules, etc.

(2) A person so received shall be subject to the discipline, rules, and regulations governing persons committed to the institution.

Discharge.

(3) The superintendent with the consent of the authority may discharge such person from the institution twenty-four hours after giving him written notice of intention to do so.

Prohibitions.

60. No person shall be admitted as a voluntary subject to a correctional institution who is

(a) under warrant of arrest; or

(b) considered by the authority to be seeking such admission solely for maintenance and asylum.

PART IV.

General

Advisory board.

61.—(1) The Minister may appoint a board of advisors not exceeding five in number to be known as the Advisory Board of Corrections who shall confer with and advise the director concerning matters of policy and administration.

Term of office.

(2) Members of the board shall hold office at the Minister's pleasure and shall serve without remuneration.

Payment by voluntary subjects.

62. Where a person is admitted to a correctional institution upon voluntary application, the Minister may require payment by such person or by a person responsible for him, in respect of

ICC-1581 ICCI Exhibit P-059 Page 82

the services rendered, but no payment shall be required where in the opinion of the Minister the payment would constitute a hardship.

Preventive programme.

63. The Minister may undertake and promote a programme for prevention of crime and delinquency and may foster programmes initiated under other auspices as an integral part of the duties of the division.

Employees' custodial powers.

64. Every officer and employee working under the authority of the division or of this Act, regardless of the classification of his employment, has power to exercise custodial authority over and shall be a lawful guardian of persons committed to the custody of officers or to institutions authorized by this Act.

Technical work permitted.

65.—(1) In order to meet emergent needs of correctional institutions arising from circumstances peculiar thereto, any employee of a correctional institution may perform work of a technical or skilled nature in connection with such institution if he is competent to do so by reason of training and experience notwithstanding any lack of documentary or other credentials required in the case of other persons performing such work.

Inspection of work.

(2) All work performed under subsection (1) shall be inspected by a qualified inspector who shall ensure that quality standards required by statute or regulation are satisfied.

Prevalence of Act.

66. Where any provision of any other Act of the Legislature is inconsistent with any of the provisions of this Act the provisions of this Act prevail.

Regulations.

67. The Lieutenant-Governor in Council may make such rules and regulations as he may deem advisable for carrying into effect the provisions of this Act according to their true intent and for supplying any deficiency therein.

Repeal.

68. Part III of the Welfare of Children Act, 1944, the Act No. 57 of 1944, is repealed.

Coming into force.

69. This Act shall come into force on a date to be fixed by proclamation of the Lieutenant-Governor in Council.

Short Title	Citation	Amendments	In Force
Welfare of Children	RSN 1952 No 60		December 31, 1953
		SN 1954 No 34	June 22, 1954
		SN 1957 No 20	May 28, 1957
		SN 1958 No 15	February 11, 1958
		SN 1959 No 23	July 6, 1959
		SN 1960 No 6	May 30, 1960
		SN 1961 No 7	March 13, 1961
		SN 1962 No 2	March 20, 1962
		SN 1964 No 23	June 10, 1964
		SN 1964 No 40	June 10, 1964
		SN 1968 No 5	April 1, 1968
		SN 1970 No 6	April 28, 1970

CHAPTER 60.

An Act Respecting The Welfare Of Children

1. This Act may be cited as The Welfare of Children Act. Short title.

2. In this Act, unless the context otherwise requires, the expression,— Interpretation.

(a) "boarding home" means a home in which a child is placed by the Director to be cared for as a member of the family, but for whose care payment is made;

(b) "child" means an unmarried boy or girl actually or apparently under the age of seventeen years;

(c) "Minister" means the Minister of Public Welfare;

(d) "court", unless otherwise expressly provided, means a Juvenile Court established under this Act, or any other court of summary jurisdiction;

(e) "Department" means the Department of Public Welfare;

(f) "Director" means the Director of Child Welfare apointed pursuant to the provisions of this Act;

(g) "foster home" means a home in which a child who lacks normal parental relations may be placed as a member of the family, except orphanages;

(h) "guardian", in addition to the natural parent or parents and the legally appointed guardian of the child, includes the Director when the child has been committed temporarily or permanently to his care and custody;

(i) "home" means a private dwelling occupied by a householder or family whose members are closely related to each other;

(j) "institution" means a building or part of a building, other than the private building of a family set apart for the care and custody of children, other than a training school or orphanage, and shall include any infants home or maternity home, and also any society or organization occupying such building or part of a building;

(k) "judge" means the judge of a Juvenile Court established under this Act, or a Stipendiary Magistrate or two justices of the peace acting together as a magistrate;

(l) "probation home" means a home in which a child requiring special care because of delinquency, or physical or mental deficiency, or for any cause which in the judgment of the Director makes special treatment necessary, may be placed to receive such special care;

(m) "psychiatrist" means the physician appointed as such pursuant to the provisions of this Act;

(n) "receiving home" means a building or part of a building fitted for the reception and examination, physically or mentally, of any neglected or delinquent child, such building being under the direct supervision of the Director;

(o) "parent" in addition to the natural parent or parents, means grandparent, step-parent, foster parent, and parent by adoption;

(p) "regulations" means regulations made under the authority of this Act;

(q) "shelter" means any building or part of a building under the supervision of or approved by the Director which may be used for the temporary care of children;

(r) "situation" means a place where a child is placed for employment under the supervision of the Director;

(s) "Society" means any society, association or corporation provided for under this Act;

(t) "temporary home" means a home in which a child is placed temporarily pending further consideration of his case;

(u) "training school" means a school established pursuant to the provisions of this Act;

(v) "welfare officer" means a Welfare Officer appointed pursuant to the provisions of this Act.

Director of Child Welfare.

3. The Lieutenant-Governor in Council may appoint a person to administer and enforce the provisions of this Act under the control and direction of the Minister, which person shall be known as the Director of Child Welfare.

Duties of Director.

4. It shall be the duty of the Director of Child Welfare:—

(a) to encourage and promote the conservation of child life in Newfoundland;

(b) to encourage the formation of child welfare associations, children's aid societies and child welfare committees, to assist in their organization and to co-operate with them;

(c) to advise such societies and instruct them as to the manner in which their duties are to be performed;

(d) to see that a record is kept by such societies of all children to whom they are rendering assistance or treatment, such reports to be made to the Director monthly;

(e) to exercise such care of and control over neglected, dependent and delinquent children as by this Act is required;

(f) to keep records of all children who are dealt with under the Department;

(g) to secure where possible through child welfare associations, children's aid societies, child welfare committees and otherwise, a system of suitable foster homes, boarding homes, and probation homes adapted to the needs of children under supervision, and to prescribe regulations for the proper care of such children

in such foster homes, boarding homes and probation homes consistent with this Act;

(h) to visit and inspect, or to provide for visiting and inspection of, foster homes, boarding homes, probation homes, temporary homes, situations, shelters, training schools and institutions in which children are cared for except orphanages, and to report the results of such visits and inspections as directed by order of the Minister or regulations of the Department in that behalf;

(i) to take steps to collect from persons liable therefor moneys for the support and maintenance of any child;

(j) to prepare and submit an annual report of the work of his office and, from time to time, issue and distribute such reports, publications, pamphlets, circulars and other literature as the Minister deems expedient;

(k) to enforce the provisions of this Act, and generally to perform such other duties consistent therewith as may be prescribed by the Minister.

Director may appear in Court.

5. The Director shall be entitled to appear in any Court in respect of any matter arising out of any of the provisions of this Act, and to conduct any prosecution instituted in consequence of any alleged violation of this Act.

Assistant Director.

6. The Lieutenant-Governor in Council may appoint an Assistant Director of Child Welfare who shall perform such duties as the Director of Child Welfare shall direct.

Welfare Officers, etc.

7. The Lieutenant-Governor in Council may appoint such Welfare Officers, investigators or other officers or clerks as may from time to time be necessary for carrying out the provisions of this Act, and all such officers shall be under the direction of the Director, subject to the authority of the Minister.

Duties of Welfare Officers, etc

8.—(1) Every Welfare Officer duly appointed under the provisions of this Act shall have in the discharge of his or her duties as such Welfare Officer all the powers of a constable, and shall be protected from civil actions for anything done in bona fide exercise of the powers conferred by this Act.

(2) Every Welfare Officer shall have all the powers of a constable under the provisions of The School Attendance Act.

Child Welfare Board.

9.—(1) The Lieutenant-Governor in Council may appoint a Board of not less than five or more than nine persons, to be known as the Child Welfare Board, who shall hold office until the 31st day of December, 1950, at which time and at the end of every three years thereafter new members shall be appointed: Provided that in case of a vacancy arising a person may be appointed to hold office until the expiration of the term of the members then holding office and that any member upon the expiration of his term of office shall be eligible for re-appointment.

(2) The Lieutenant-Governor in Council may designate one of the members of the Board to be its Chairman and the Board shall meet at his call or that of the Director.

(3) It shall be the duty of the Board:

(a) to meet as often as may be necessary for the consideration of general questions pertaining to the welfare of the children of Newfoundland;

(b) to assist and advise the Director in the administration of this Act;

(c) to facilitate as fully as possible the proper treatment of children to whom this Act applies;

(d) to encourage, through study and discussion, the development and maintenance of sound standards of child protection in Newfoundland;

(e) to perform such other duties consistent with this Act as may be prescribed by the Minister.

Receiving Homes.

10. Subject to the prior approval of the Lieutenant-Governor in Council, the Department may provide for the establishment of receiving homes for neglected, delinquent, or mentally defective children, which homes shall be subject to the supervision of the Director.

Psychiatrist. Interpretation.

11. The Lieutenant-Governor in Council may appoint a medical officer on the staff of the Department who shall be a trained psychiatrist and whose duty it shall be, on the instructions of the Minister, to make an examination respecting the physical and mental condition of any child dealt with under this Act, and to report the same to the Minister.

PART I.

NEGLECTED CHILDREN.

12. In this Part, unless the context otherwise requires, the expression,—

(a) "detention home" means a building or part of a building set apart for the custody or detention of children pending disposition of their cases by a court;

(b) "infants' home" means any building or part of a building where children are received or retained, for hire or reward or otherwise, apart from their parents, except orphanages;

(c) "neglected child" means a child

(i) who is abandoned or deserted by both parents, or if one is dead, by the survivor, or by his guardian, or whose parent (if one only be living) or parents has or have allowed him to be brought up by another person at that person's expense for such time and under such circumstances as to satisfy the Court that such parent or the parents has or have been unmindful of his or her or their parental duties, or whose surviving parent is undergoing imprisonment and there is no other person who may be required to maintain such child;

(ii) whose parents, only living parent, guardian, or other person in whose charge he may be, cannot by reason of disease, or misfortune, or infirmity, properly care for him;

(iii) who was born out of lawful wedlock and whose mother is unable to maintain him or unfit to care properly for him, or refuses or neglects to maintain such child;

(iv) who is found wandering about and not having any settled place of abode or proper guardianship, or is found sleeping at night in barns or outhouses or in the open air;

(v) who is found living or associating with vicious or disreputable persons;

(vi) who is found associating or dwelling with a thief, drunkard or vagrant or by reason of neglect or drunkenness or other vice of the parents or guardians of such child, is suffered to grow up without salutary control and education, or in circumstances exposing such child to an idle and dissolute life;

(vii) whose home, by reason of improvidence, neglect, cruelty or depravity on the part of parents, guardian or other person in whose care he may be, is an unfit place for such child;

(viii) whose parent or guardian neglects when able to do so, to provide medical, surgical or other remedial care necessary for his health and well being, or who refuses to permit such care to be supplied to the child when ordered by a competent authority;

(ix) who at any time is found begging in any street, building or place of public resort; or loitering in or near a public place after nine o'clock in the evening, not accompanied by his parent or guardian or by some adult person with the consent of such parent or guardian;

(x) who patronizes or habitually visits any tavern or other place where intoxicating liquors are sold, or who patronizes or habitually visits any public pool-room or gambling house;

(xi) who is employed in any restaurant or in any brewery or any shop, licensed premises, tavern or other place where intoxicating liquors are made, bottled, or sold;

(xii) who, being under the age of fourteen years, habitually hawks or peddles or sells articles in the streets or public places after nine o'clock at night;

(xiii) who by reason of inadequate parental control has been allowed to commit petty crimes, or who is growing up without salutary parental control or under circumstances tending to make him idle or dissolute;

(xiv) who, without just cause and without the consent of his parents, guardian or other custodian habitually absents himself from his home;

(xv) who habitually uses obscene, profane or indecent language, or is guilty of immoral conduct in any place whatsoever;

(xvi) who has been unlawfully assaulted or beaten by his parent, or is ill-used or treated with cruelty and neglect by his parent or the person with whom he resides;

(xvii) who is found to have in his possession obscene pictures or drawings or any obscene printed or written matter;

(xviii) who is employed anywhere between the hours of nine o'clock p.m. of one day and eight o'clock a.m. on the following day;

(xix) who

(i) being a female; or

(ii) being a male under the age of twelve years; or

(iii) being a male over the age of twelve years and under the age of fourteen years, without the written consent of his parents,

is found peddling or selling newspapers or other articles for hire or reward on any street or public place at any time during the day or night;

(xx) who is not in regular attendance or has not been enrolled at a public school, contrary to the provisions of The School Attendance Act and its amendment or amendments;

(xxi) who, being under the age of fifteen years, is found attending a place of public amusement unaccompanied by his parent or guardian or by some adult person with the consent of such parent or guardian, after the hour of seven o'clock in the evening or during school hours.

Certain children who may be brought to Receiving Home.

13. Any constable or welfare officer, or any officer of a child welfare association, children's aid society, or any investigator of the juvenile court, or the Director or any person duly authorized in writing by him, may apprehend without warrant and bring to the receiving home or a shelter or a detention home pending the disposition of his case, any child who on reasonable or probable grounds he believes to be a neglected child.

Parents of child to be notified. Examination.

14.—(1) Any person who has apprehended any child pursuant to Section 13 or the Director or any person duly authorized in writing by him shall within ten days from the date of the apprehension notify the parents or guardian of the child, stating the time and place for investigating the facts of the case, which time shall not be more than twenty days after the date of apprehension of the child, unless otherwise ordered by the judge.

(2) The person apprehending any child shall make a written report to the Director, setting out the circumstances of the case and time and place for investigating the facts, and the Director may permit the child to be returned, pending the investigation, to his parents, or either of them, or guardian or other person in whose care he may have been.

(3) The judge may compel the attendance of witnesses on such investigation, and in that behalf is hereby given all the powers of a Stipendiary Magistrate, and when he deems it necessary the judge may request the Attorney General to furnish counsel to assist him in such investigation.

(4) The judge shall investigate the facts of the case and ascertain whether the child is a neglected child, and his age, name and residence, and the religion of his parents or guardian.

(5) If on such investigation the judge finds that the child is not a neglected child, he shall order that the child be returned to his parents, guardian, or other person in whose care he may be.

(6) If on such investigation the judge finds that the child is a neglected child, he may so declare, and in such event he may make any of the orders specified in Section 17 hereof.

(7) The judge's order shall recite the facts so far as ascertained and the judge shall deliver a certified copy of such order to the Director.

Temporary detention.

15. At any time pending the final determination of an examination the judge may make such order for the temporary detention and care of the child as he may deem proper.

Wishes of child.

16. Nothing in this Part shall affect the power of the Court to consult the wishes of a child declared to be a neglected child in determining what order ought to be made, or any right which a child now possesses to exercise his own free choice.

Orders may be made.

17. Where it appears to the judge that the public interest and the interest of a delinquent child or any child declared by him to be a neglected child or any child against whom an offence has been committed may be best served thereby the judge may make any of the following orders not inconsistent with the provisions of Section 170 hereof:

(1) that the child be returned to his parents or guardians or other person in whose care he may be, subject to supervision by a society or by the Director; or

(2) that the child be committed temporarily or permanently to the care and custody of a society, or of some suitable person, subject to supervision by the Director; or

(3) that the child be committed temporarily or permanently to the care and custody of the Director, who in his discretion may order that the child be placed in a training school or other institution which has been approved by the Department for the care of such children; provided, however, that it shall be unlawful to commit a neglected child apparently under the age of twelve years to any training school unless and until an attempt has been made to provide for such child in his own home or in a foster home or in the charge of a society, and unless the court finds that the best interests of the child and the welfare of the community require such commitment.

ICC-1581 ICCI Exhibit P-059 Page 94

Custody of child; regard had to religion.

18.—(1) In determining the person to whose care a child shall be committed under this Act, the court shall endeavour to ascertain the religious persuasion to which the child 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 shall be brought up in accordance with his own religious persuasion and such religious persuasion shall be specified in the order.

(2) This section shall not apply to the placing of children in a situation or in a temporary home or shelter for children established under the authority of this Act; provided, however, that due regard shall be given to the religious preferences of any child so placed and proper time allowed for the exercise of religious duties.

(3) When there appears to be no suitable family, home or institution of the same religious faith as that professed by the child or his family with which he may be placed, or where there is a lack of evidence as to the religion of a child, the case shall be referred to the Child Welfare Board (in this Act provided) and the disposition of such child in this regard shall be within their discretion.

(4) For the purpose of this section, in the case of a child whose parents have not been married to each other, the first determining factor shall be the preference of the mother, if she is living, and, in case she is not living, the religion of the mother at the time of her death if it can be ascertained.

Trial of child.

19. The judge shall investigate the case of every child and dispose thereof, and conduct the trial of every child charged with an offence, in premises other than the open court room.

Examination respecting child on certain premises.

20. Where a child welfare association or a children's aid society or child welfare committee or relative or other suitable person possesses premises affording the necessary facilities and accommodation the child may, after apprehension under the provisions of this Part, be temporarily placed in charge of such association, society, committee, relative or person until his case is disposed of and the judge may hold the examination into the case of such child in the said premises, and the provisions of section 30 shall so far as applicable apply as if the order were an order under that section.

Society to be guardian of child.

21. When a neglected child is committed by order of a judge to the permanent care and custody of a society, the said society shall be the legal guardian of such child.

Guardianship until age of 17.

22. When a society becomes the legal guardian of a child, such legal guardianship shall continue until such child has reached the age of seventeen years. The judge may, however, at any time deprive such society of such legal guardianship whenever in his opinion the best interests of such child can be best served otherwise.

Parent loses right to custody of child in certain cases.

23.—(1) Where a parent applies to the court for an order for the production of a child committed under this Part, and the court is of opinion that the parent has abandoned or deserted the child, or that he has otherwise so conducted himself that the court should refuse to enforce his rights to the custody of the child, the court may in its discretion decline to make the order.

(2) If at the time of the application the child is being brought up by another person, or has been placed out by a children's aid society, the court, if it directs the child to be given up to the parent, may order that the parent shall pay to such person or society the whole of the expense properly incurred in bringing up the child, or such portion thereof as may seem just.

(3) Where a parent has abandoned or deserted his child or allowed his child to be brought up by another person at that person's expense, or by a children's aid society, for such time and under such circumstances as to satisfy the court that the parent was unmindful of his parental duties, the court shall not make an order for the delivery of the child to the parent unless he satisfies the court that, having regard to the welfare of the child, he is a fit person to have the custody of the child.

(4) If the court is of opinion that the parent ought not to have the custody of the child, but that the child is being brought up in a different religion from that in which the parent has a legal right to require that the child be brought up, the court may make such order as it may think fit to secure that the child be brought up in that religion.

Children and tobacco, liquor, etc.

24. Any constable, or welfare officer or any officer of a child welfare association, children's aid society or children's welfare committee, or any school teacher, who suspects on reasonable grounds that any child has

in his possession any cigarette or cigarette paper or tobacco, or intoxicating liquor, or any obscene book, or other printed, typewritten or other obscene matter, or any obscene picture, photograph, model or other object, shall have authority to take any such child to the home of such child, or to the receiving home, or to a detention home, or to a shelter or any other place in which children are cared for under the provisions of this Act, for the purpose of having the clothing of such child searched by a proper person and if any such thing is found upon such search the same shall be confiscated or destroyed.

Order for payment of support of child.

25.—(1) A court may, upon the application of the Director or of a society, make an order for the payment by the parents or guardian of a reasonable sum for the expense and support of the child in any home, shelter or institution in which a child may be placed by the Director or society.

(2) 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.

OFFENCES AGAINST CHILDREN.

Liability of custodian for ill-treating child.

26.—(1) Any person over the age of seventeen years, having the custody, control, charge or care of any child, who wilfully assaults, ill-treats, neglects, abandons, or exposes such child, or causes or procures such child to be assaulted, ill-treated, neglected, abandoned or exposed in a manner likely to cause the child unnecessary suffering or injury to his health is guilty of a misdemeanour and liable

(a) on conviction on indictment to a fine not exceeding five hundred dollars or in default of payment of the fine to imprisonment for a term not exceeding two years, or to both fine and imprisonment; or

(b) on summary conviction to a fine not exceeding one hundred dollars or in default of payment of the fine to imprisonment for a term not exceeding six months, or to both fine and imprisonment,

and without limiting the generality of the foregoing, a parent or other person legally liable to maintain the child is deemed to have neglected him in a manner likely to cause injury to his health, if he fails to provide adequate food, clothing, medical aid or lodging for the child, or if being unable otherwise to provide such food, clothing, medical aid, or lodging, he fails to take steps to have it provided under this and other Acts administered by the Department for the assistance of needy persons.

(2) A person may be convicted of an offence under this section either on indictment or by court of summary jurisdiction, 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 by a court of summary jurisdiction, notwithstanding the death of the child in respect of whom the offence is committed.

(4) An offence under this section is in this Act referred to as an offence of cruelty.

Offence to cause child to beg in public place.

27. Any person who—

(a) causes a child to be in any public place for the purpose of begging or receiving alms, or of inducing the giving of alms, whether under the pretence of singing, playing, performing, offering anything for sale, or otherwise; or

(b) causes a child to be in any public place for the purpose of singing, playing or performing for profit, or offering anything for sale; or

(c) is wilfully guilty of an act or omission producing, promoting or contributing to a child being or becoming a neglected child,

shall be guilty of an offence against this Act, and on conviction thereof shall incur a penalty not exceeding two hundred dollars and in default

of payment of the penalty, or alternatively, or in addition thereto shall be liable to imprisonment for a term not exceeding six months.

Proper entertainments; child may take part; licence.

28. In the case of an entertainment or series of entertainments conducted for charitable or educational purposes to take place in premises used for public entertainments or in any place of public amusement, where it is shown that proper provision has been made to secure the health and kind treatment of a child proposed to be employed thereat, the Director may grant a licence for such time and during such hours of the day, and subject to such supervision, restrictions and conditions as he may think fit, for any child over the age of ten years to be so employed of whose fitness to take part in such entertainment or series of entertainments without injury he is satisfied, and such licence may at any time be varied, added to or revoked by him, and the cost of investigation and all other expenses involved in the granting of such licence shall be paid by the person or persons making application therefor; provided that this and the next preceding section shall not apply to the participation by any child in any entertainment or other exercises conducted by any school, or under the supervision of the clergy of any church.

Cruelty to children; arrest;

29.—(1) Any welfare officer or constable may take into custody without warrant, any person:

(a) who within view of such welfare officer or constable commits an offence of cruelty or any of the offences mentioned in Schedule A of this Act, where the name and residence of such person are unknown to such welfare officer or constable and cannot be ascertained by such welfare officer or constable; or

(b) who has committed, or who he has reason to believe has committed, any offence of cruelty within the meaning of this Act, or any of the offences mentioned in Schedule A of this Act, 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 welfare officer or constable.

Removal of child from custody of a person,

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

ICC-1581 ICCI Exhibit P-059 Page 99

(a) convicted of committing in respect of such child an offence of cruelty within the meaning of this Act, or any of the offences mentioned in Schedule A of this Act; or

(b) committed for trial for any such offence; or

(c) bound over to keep the peace towards such child;

by any court, that court, either at the time when the person is convicted, committed for trial or bound over, and without requiring any new proceedings to be instituted for the purpose, or at any time, and also any other court before which any person may bring such case, may, if satisfied on inquiry that it is expedient so to deal with the child, order that the child be taken out of custody, charge or care of the person so convicted, committed for trial or bound over, and be committed to the care of the Director until he attains the age of seventeen 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, but no order shall be made under this section unless a parent of the child 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 such child.

(2) 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; and the consent of any person to undertake the care of a child in pursuance of any order shall be proved in such manner as the court may think sufficient to bind him.

(3) When 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.

Taking deposition from child in case of illness, etc.

31.—(1) Where a judge is satisfied on the evidence of a registered medical practitioner that the attendance before a court of any child, in respect of whom an offence of cruelty within the meaning of this Act, or any of the offences mentioned in Schedule A of this Act, is alleged to

ICC-1581 ICCI Exhibit P-059 Page 100

have been committed, would involve serious danger to his life or health, the judge may take in writing the deposition of such child on oath or otherwise, and shall thereupon subscribe the same and add thereto a statement of his reason for taking the same, and of the day when and place where the same was taken, and of the names of the persons (if any) present at the taking thereof.

(2) The judge taking such deposition shall transmit it with his statement:—

(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 magistrate of the district in which the deposition has been taken.

Giving child tobacco, liquor, etc.; offence.

32. Any person who sells or gives to or causes to come into the possession of any child cigarettes or cigarette paper, or tobacco or intoxicating liquor or any obscene book or other printed, typewritten or other written obscene matter, or any obscene picture, photograph, model, or other object shall be guilty of an offence against this Act and on conviction thereof shall incur a penalty not exceeding two hundred dollars and in default of payment of the penalty or in addition thereto, shall be liable to imprisonment for a term not exceeding one year.

Employment of girls in restaurants, hotels, etc.

33. Any person who employs an unmarried girl under the age of seventeen in a restaurant, tavern, or a hotel without the written consent of her parents or guardian shall be guilty of an offence and liable upon summary conviction to a penalty not exceeding two hundred dollars, and in default of payment, to imprisonment for a term not exceeding six months or to both fine and imprisonment.

Unlawful to employ child between 9 p.m. and 8 a.m.

34.—(1) (a) It shall be unlawful to employ any child under the age of sixteen years—

(i) between the hours of nine o'clock in the evening and eight o'clock in the morning otherwise than in an employment in which only members of the employer's family are employed;

(ii) in any occupation which shall be declared by the Lieutenant-Governor in Council, by Order, to be a prohibited occupation.

(b) Every employer shall be required to keep a register of every child employed by him. Such register shall contain the date of beginning of employment and the date of birth (which shall be verified by the employer) of every such child, provided that this subsection shall not apply to occupations in which only members of the employer's family are employed.

(c) The register referred to in paragraph (b) of this subsection shall be open to inspection at all reasonable times by any person authorized in writing by the Director to inspect such registers.

(2) Any person who shall, during school hours on any day during which schools in the district in which the child resides are open, employ for remuneration any child whose attendance at school is required under Section 5 of The School Attendance Act, or any amendments thereto, shall be guilty of an offence.

(3) Any person having the control or management of a theatre, bowling alley or other place of public amusement, who shall, before the hour of half past four in the afternoon on any day during which the school at which the child is enrolled is open, or, if the child is not enrolled at any school, on any day during which the schools in the district in which the child resides are open, admit any child whose attendance at school is required under Section 5 of The School Attendance Act, or any amendments thereto, except for organized games, entertainments or other activities arranged by the principal of the school shall be guilty of an offence.

(4) It shall be unlawful for any person having the control or management of a restaurant, or of a theatre, bowling alley or other place of public amusement, to admit thereto or to allow to remain thereat any child under the age of fifteen years after the hour of seven o'clock in the evening, unless such child is accompanied by his parent or guardian or by some adult with the consent of such parent or guardian.

ICC-1581 ICCI Exhibit P-059 Page 102

(5) The presence of a child mentioned in subsection (3) of this section at any of the places in that subsection mentioned during school hours and the presence of a child mentioned in subsection (4) of this section, not accompanied by his parent or guardian or by some adult with the consent of such parent or guardian, at any of the places in that subsection mentioned after seven o'clock in the evening shall be prima facie evidence of the guilt of the person in charge of the restaurant or place of public amusement at the time the child was present in such place.

(6) Any person guilty of a contravention of subsection (1) or (2) of this section shall be liable on summary conviction before a stipendiary magistrate to a fine not exceeding twenty dollars for every day during which a child is employed and, in default of payment, to imprisonment for a term not exceeding six months; or of subsection (3) or (4), to a fine not exceeding fifty dollars, and in default of payment, to imprisonment for a term not exceeding three months.

Apparent age of child.

35. Where a person is charged with an offence under this Act in respect of a child who is alleged to be under a specified age, and the child appears to the Judge to be under that age, such child shall for the purpose of this Act be deemed to be under this age, unless the contrary is proved.

Offences; one summons for two or more children.

36.—(1) Where a person is charged with committing an offence under this Act, or any of the offences mentioned in Schedule A of this Act, in respect to two or more children, 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 unless upon separate informations.

(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 offences of assault, ill-treatment, neglect, abandonment or exposure, together or separately, and may charge him with committing all or any of those 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.

ICC-1581 ICCI Exhibit P-059 Page 103

(3) A person shall not be summarily convicted of an offence under this Act, or of an offence mentioned in Schedule A of this Act, 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.

(4) When an offence under this Act, or of any offence mentioned in Schedule A of this Act, 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.

POWER OF SEARCH.

Procedure to search for child and to summon person guilty of neglect.

37.—(1) If it appears to a judge, on information laid before him on oath by any person who in the opinion of the judge is bona fide acting in the interests of the child, and there is reasonable cause to suspect that a child has been or is being ill-treated or neglected in any place within the jurisdiction of such judge in a manner likely to cause the child unnecessary suffering or to be injurious to his health or morals, such judge may issue a warrant, authorizing any person named therein to search for such child, and also if such person finds such child to forthwith bring such child before the judge, and the judge may cause him to be dealt with in the manner provided by this Act.

(2) The judge may by the same or a separate warrant cause any person accused of an offence in respect of the child to be apprehended and brought before him to be dealt with according to law.

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

(4) It shall not be necessary in any information laid or warrant issued under the provisions of this section to describe a child by name.

INTERFERING WITH WARDS.

Certain offences respecting child.

38.—(1) No person shall:—

(a) induce or attempt to induce any child to leave the building or premises or custody or control of any home or shelter or institution to which such child has been confined by competent authority; or

(b) induce or attempt to induce a child to leave any service or any place where the child has been lawfully placed for the purposes of being nursed, supported, educated or adopted; or

(c) induce or attempt to induce any child to break any agreement lawfully entered into by or with the authority of any society or the Director; or

(d) detain or harbour any such child after demand made by or on behalf of the executive officer of a society or any welfare officer for delivery up of such child.

Penalty.

(2) Every person who violates any of the provisions of this section shall be guilty of an offence against this Act, and shall incur a penalty not exceeding one hundred dollars and, in default of payment of the penalty shall be liable to imprisonment for any period not exceeding three months.

PART II.

JUVENILE OFFENDERS.

Interpretation.

39. In this Part, unless the context otherwise requires, the expression,—

"Juvenile Delinquent" means any child who violates any provision of the criminal law (except homicide) or any by-law or ordinance of any municipality, or who is represented as being beyond parental control, or who is guilty of sexual immorality or any similar form of vice, or who, notwithstanding that he has been enrolled at a school according to law, wilfully refuses to attend, or who is liable by reason of any other act to be committed to a training school under the provisions of this Act.

Juvenile Court.

40. The Lieutenant-Governor in Council may establish and constitute in Newfoundland a Court or courts for the purpose of dealing with juvenile delinquents under the provisions of this Act.

Judge of the Juvenile Court.

41. The Lieutenant-Governor in Council may appoint the Judge of any Juvenile Court and may define the territorial limits of the jurisdiction of such Judge.

Deputy Judge.

42. The Lieutenant-Governor in Council may appoint the deputy Judge of the Court who shall have all the powers and authority of the Judge of a Juvenile Court in case of the absence or illness or other disability of such judge.

Powers of Judge of Juvenile Court.

43. The Judge of a Juvenile Court in the exercise of his jurisdiction as such shall have all the powers of a magistrate.

Delinquency.

44. The commission by a child of any of the acts enumerated in Section 39 of this Act shall constitute an offence to be known as a delinquency and shall be dealt with as hereinafter provided.

Court's jurisdiction.

45. Save as provided in Section 47 of this Act, a Juvenile Court shall have exclusive jurisdiction within the provisions of Section 46 in cases of delinquency including cases where after the committing of the delinquency the child has passed the age limit mentioned in paragraph (b) of Section 2 of this Act: Provided that a Juvenile Court shall have no jurisdiction to try a child charged with murder or manslaughter.

All cases to go to the Juvenile Court.

46.—(1) When a child is arrested:—

(a) within the territorial limits of the jurisdiction of a Juvenile Court, or

(b) where the offence in respect of which the child was arrested was committed within such limits, or

(c) where the child's usual place of abode is within such limits,

with or without a warrant such child shall, instead of being taken before a magistrate, be taken before a Juvenile Court; and if the child is taken before a magistrate upon a summons or under a warrant or for any other reason it shall be the duty of the magistrate to transfer the case to the Juvenile Court or of the officer having the child in charge to take the child before the Court and in any such case the Juvenile Court shall hear and dispose of the case in the same manner as if such child had been brought before it upon information originally laid therein.

ICC-1581 ICCI Exhibit P-059 Page 106

(2) Where a child is brought before a magistrate charged with any offence, such magistrate shall, upon the motion of the Director, commit such child for trial to a Juvenile Court.

Procedure when offence is indictable.

47.—(1) (a) Where a child is charged with an offence which in the case of an adult would be punishable by imprisonment, and the child is actually or apparently of or over the age of fifteen years, such child may be punished by fine or imprisonment: Provided that a child convicted on summary trial shall not be sentenced to a term of imprisonment exceeding three months.

(b) Where a child is charged before a juvenile court judge and such judge deems it in the interest of the child and of the public to have the child dealt with under the provisions of paragraph (a) of this subsection, he may order that the child be committed to trial before a magistrate.

(c) Where a child is committed to trial before a magistrate under the provisions of this subsection, the provisions of the Summary Jurisdiction Act (except the provisions as to punishment) shall apply to the trial of such child.

(2) A court may, in its discretion, at any time before any proceedings have been initiated against the child in the ordinary criminal courts rescind an order so made.

Notices to parents.

48.—(1) Due notices of the hearing of any charge of delinquency shall be served on the parent or parents or guardian of the child or if there be neither parent nor guardian or if the residence of the parent or parents or guardian be unknown then on some near relative whose whereabouts is known and any person so served shall have the right to be present at the hearing.

Judge directs who shall be served.

(2) The judge may give directions as to the persons to be served under this section and such directions shall be conclusive as to the sufficiency of any notices given in accordance therewith.

(3) The judge may, if he deems it in the best interests of the child so to do, issue a summons to the parents or either of them or to the guardian to attend any hearing referred to in subsection (1).

Police Officer to serve process.

(4) It shall be the duty of every police officer to serve all processes issued out of any Juvenile Court and all orders made by the judge thereof in carrying out the provisions of this Act.

Powers and duties of clerk.

49. The clerk of a Juvenile Court shall have power *ex officio* to administer oaths and also in the absence of the judge and deputy judge to adjourn any hearing for a definite period not to exceed ten days.

Trials to be private.

50.—(1) The trials of children shall take place without publicity and separately and apart from the trials of other accused persons.

(2) Such trial may be held in the private office of the judge or in some other private room.

(3) When a child, or a parent or other person charged with an offence in respect of a child under this Act, is being tried or examined, the judge shall exclude or cause to be excluded from the room or place where such person is being tried or examined all persons other than the counsel and witnesses in the case, the Director, officers of the law or of any child welfare association or children's aid society or child welfare committee and the immediate friends or relatives or the parents of the child and such persons as the judge in his discretion may permit to be present.

(4) No report of the delinquency committed, or said to have been committed, by a child, or of the trial or of the disposition of the charge against a child, or of the charge against an adult brought before a court under this Act, in which the name of the child or of his parent or guardian or of any school or institution which the child is alleged to have been attending or of which he is alleged to have been an inmate is disclosed, or in which the identity of the child is otherwise indicated, shall without the special leave of the Court be published in any newspaper or other publication or be published over the air by any broadcasting station.

Detention home.

51.—(1) The Lieutenant-Governor in Council may establish in connection with any juvenile court a detention home, or homes, for the care and detention of juvenile delinquents pending the disposition of the cases of such children by the juvenile court, and such detention home or homes shall be under the control and direction of the Director.

ICC-1581 ICCI Exhibit P-059 Page 108

(2) Where a child has been arrested without a warrant in a place where there is no detention home used exclusively for children, such child shall not be incarcerated unless in the opinion of the magistrate such course is necessary to insure the attendance of the child in court. Where there is no detention home.

(3) In order to avoid, if possible, such incarceration, the verbal or written promise of the person served with notice of the proceedings as aforesaid, or of any other proper person, to be responsible for the presence of such child when required, may be accepted; and in case such child fails to appear, at such time or times as the court requires, the person or persons assuming responsibility as aforesaid, shall, unless in the opinion of the court there is reasonable cause for such failure to appear, be deemed guilty of an offence. Promise to attend may be accepted.

(4) A child held in any place of confinement pending trial shall not be held in a place where adult prisoners are kept: Provided that where a child is being dealt with under the provisions of Section 47 of this Act, the court before which he is to be tried may, in its discretion, order that he be held in custody in any gaol or other place used for the detention of prisoners pending final disposition of his case. Child not to be put with adult prisoners.

52. Pending the hearing of a charge of delinquency the court may accept bail for the appearance of the child charged at the trial as in the case of other accused persons. Court may accept bail.

53. The court may postpone or adjourn the hearing of a charge of delinquency for such period or periods as the court may deem advisable, or may postpone or adjourn the hearing *sine die*. Court may adjourn or postpone hearing.

54.—(1) Proceedings under this Act with respect to a child, including the trial and disposition of the case, may be as informal as the circumstances will permit, consistently with a due regard for a proper administration of justice. Proceedings may be informal.

(2) No adjudication or other action of a juvenile court with respect to a child shall be quashed or set aside because of any informality or irregularity where it appears that the disposition of the case was in the best interests of the child. Not affected by irregularities.

55. It shall not be necessary to its validity that any seal should be attached or affixed to any information, summons, warrant, conviction, Seal not required.

ICC-1581 ICCI Exhibit P-059 Page 109

order or other process or document filed, issued or entered in any proceeding had or taken under this Act.

Child's oath may be dispensed with.

56.—(1) When in a proceeding before a court a child of tender years who is called as a witness does not, in the opinion of the judge, understand the nature of an oath, the evidence of such child may be received, though not given under oath, if in the opinion of the judge such child is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth.

Corroborative evidence.

(2) No person shall be convicted upon the evidence of a child of tender years not under oath unless such evidence is corroborated in some material respect.

Dispositions.

57.—(1) In the case of a child adjudged to be a juvenile delinquent the court may, in its discretion, take either one or more of the several courses of action hereinafter in this section set out, as it may in its judgment deem proper in the circumstances of the case,—

(a) suspend final disposition;

(b) adjourn the hearing or disposition of the case from time to time for any definite or indefinite period:

(c) impose a fine not exceeding twenty-five dollars, which may be paid in periodical amounts or otherwise;

(d) commit the child to the care or custody of a welfare officer or of any other suitable person;

(e) allow the child to remain in his home, subject to the visitation of a welfare officer, such child to report to the court or to the welfare officer as often as may be required;

(f) cause the child to be placed in a suitable family home as a foster home, subject to the friendly supervision of a welfare officer and the further order of the court;

(g) commit the child temporarily or permanently to the care and custody of the Director who, if he deems it desirable, may place the child in a training school;

ICC-1581 ICCI Exhibit P-059 Page 110

(h) impose upon the delinquent such further or other conditions as may be deemed advisable;

(i) award reasonable compensation in a sum not exceeding fifty dollars to a party injured in his person or by loss of goods, with the consent or on the motion of such party;

Parents liable to contribute, etc.

(2) In every such case it shall be within the power of the court to make an order upon the parent or parents of the child to contribute to its support such sum as the court may determine, and to require the parents or guardians of such child to take such measures respecting the welfare of such child and meet such conditions imposed by the court as are consistent with this Act.

Return of juvenile delinquent to court.

(3) Where a child has been adjudged to be a juvenile delinquent and whether or not such child has been dealt with in any of the ways provided for in subsection (1) of this section, the court may at any time, before such juvenile delinquent has reached the age of twenty-one years cause by notice, summons, or warrant, said delinquent to be brought before the court, and the court may then take any action provided for in subsection (1) of this section, or may make an order with respect to such child under section 47 hereof.

Imprisonment shall not be imposed.

58. The punishment of imprisonment shall not be imposed on any child convicted of an offence otherwise than on conviction under the provisions of Section 47 of this Act.

Parent or guardian may be ordered to pay fine, damages or costs.

59.—(1) Where a child is adjudged to have been guilty of an offence and the court is of the opinion that the case would be best met by the imposition of a fine, damages or costs, whether with or without restitution or any other action, the court may order that the fine, damages or costs imposed or awarded be paid by the parent or guardian of the child instead of by the child.

Limit of amount.

(2) Where a fine is imposed and ordered to be paid by the parent or guardian, the limit of amount imposed by subsection (1) of section 57 shall not apply, but shall in no case exceed the amount fixed for a similar offence under any provision of the criminal law.

Recovery of amount.

(3) Where, under the provisions of this section or of section 57, a sum of money is ordered to be paid, the court may adjudge, either by

ICC-1581 ICCI Exhibit P-059 Page 111

the order respecting the payment of such sum or by an order made subsequently, that the same shall be recoverable by distress and sale of the goods and chattels of the party and in default of such distress by imprisonment, and the amount shall be so recoverable or shall be recoverable in the same manner as a fine imposed under any provision of the criminal law is recoverable.

Parent or guardian to be heard.

(4) No order shall be made under this section without giving the parent or guardian an opportunity of being heard; but a parent or guardian who has been duly served with notice of the hearing pursuant to section 48 of this Act shall be deemed to have had such opportunity, notwithstanding the fact that he has failed to attend the hearing.

Appeal.

(5) A parent or guardian shall have the same right of appeal from an order made under the provisions of this section as if the order had been made on the conviction of the parent or guardian.

Additional action.

(6) Any action taken under this section may be additional to any action taken under section 57.

Children not allowed to be in Court.

60.—(1) 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 it is the person charged with the alleged offence, or unless his presence is required, as a witness or otherwise, for the purposes of justice.

Exception.

(2) This section shall not apply to messengers, clerks and other persons required to attend at any court for the purposes connected with their employment.

Adults liable who contribute to delinquecy; penalty.

61.—(1) Any person, whether the parent or guardian of the child or not, who, knowingly, or wilfully,

(a) aids, causes, abets or connives at the commission by a child of a delinquency; or

(b) does any act producing, promoting, or contributing to a child's being or becoming a juvenile delinquent or likely to make any child a juvenile delinquent;

ICC-1581 ICCI Exhibit P-059 Page 112

shall be liable, apart from any other penalty that may be provided by law, on summary conviction before a court to a fine not exceeding two hundred dollars or to imprisonment for a period not exceeding six months or to both fine and imprisonment.

Liability of parents or guardians; penalty.

(2) Any person who, being the parent or guardian of the child and being able to do so, knowingly neglects to do that which would directly tend to prevent said child being or becoming a juvenile delinquent or to remove the conditions which render or are likely to render said child a juvenile delinquent shall be liable on summary conviction before a court to a fine not exceeding two hundred dollars or to imprisonment for a period not exceeding six months or to both fine and imprisonment.

Adjournment.

(3) The court may postpone or adjourn the hearing of a charge under this section for such periods as the court may deem advisable or may postpone or adjourn the hearing *sine die* and may impose conditions upon any person found guilty under this section and suspend sentence subject to such conditions, and on proof at any time that such conditions have been violated may pass sentence on such person.

No delinquency an invalid defence.

(4) It shall not be a valid defence to a prosecution under this section that notwithstanding the conduct of the accused the child did not in fact become a juvenile delinquent.

Penalty for inducing, etc., child to leave home, etc., where he was placed under provisions.

62. Any person who induces or attempts to induce any child to leave any detention home, training school, foster home or any other institution or place where such child has been placed under the provisions of this Act or who removes or attempts to remove such child therefrom, without lawful authority, or who, when a child has unlawfully left the custody of an institution or foster home knowingly harbours or conceals such child without notice of the child's whereabouts to the institution or to the Director shall be guilty of an offence and shall be liable on summary conviction before a court to a penalty not exceeding one hundred dollars or to imprisonment for a period not exceeding one year, or to both fine and imprisonment.

Contempt of court.

63.—(1) A juvenile court shall have such and like powers and authority to preserve order in court during the sittings thereof and by the like ways and means as now by law are or may be exercised in like cases and for the like purposes by any court in Newfoundland and by the judges thereof, during the sittings thereof.

ICC-1581 ICCI Exhibit P-059 Page 113

Enforcing of process.

(2) The judge of a juvenile court, whenever any resistance is offered to the execution of any summons, warrant of execution or other process issued by him, may enforce the due execution of the same by the means provided by the law for enforcing the execution of the process of other courts in like cases.

PART III.

TRAINING SCHOOLS.

Interpretation.

64. In this part, unless the context otherwise requires, the expression,—

(a) "Superintendent" means superintendent or other person in charge of a training school established under the provisions of this Act.

Establishing Training Schools.

65. The Lieutenant-Governor in Council may provide for the establishment of Newfoundland training schools.

Purpose of Training Schools.

66. The purpose of a training school shall be to provide the boys and girls therein with a moral, mental, physical and vocational education, training and employment.

Order in respect of neglected or delinquent children.

67. Where under the authority of any statute of Newfoundland any child is found to be neglected or delinquent within the meaning of this Act, the judge shall make an Order under the provisions of Section 17 or Section 57 of this Act.

Copies of evidence to be sent to Director and Superintendent.

68. The judge shall forward a copy of the evidence taken before him to the Director together with copies of a statement containing all important facts relating to the boy or girl.

Director to be guardian of children admitted to training school.

69.—(1) The Director shall be the guardian of every child admitted to a training school in the same manner and to the same extent as in the case of a guardian appointed by statute or by any Court or by any will or instrument and all rights and powers over the child of the parent or any other person whatsoever except the Director shall, upon admission of the child to the training school, cease and determine.

ICC-1581 ICCI Exhibit P-059 Page 114

(2) Subject to this section the Superintendent shall be responsible for the care and training of every child admitted to a training school while the child is in the training school.

(3) The Director as guardian of the child shall exercise and maintain supervision over every child admitted to a training school after the child leaves the training school and until the termination of his guardianship and shall keep all reports and provide for all visits which may be prescribed by the regulations.

Child may be released or guardianship terminated by judge.

70.—(1) When an application in that behalf is made by the Director or by any person designated by him and the Minister has given his consent to the application in writing, a judge may, if he considers it to be in the best interests of the child so to do, make an order directing that from a date to be prescribed in the order

(a) any child in a training school shall be released therefrom; or

(b) the guardianship of the Director over any child, whether the child is in a training school or not, shall cease and determine.

(2) Any order made under subsection (1) shall have the same force and effect and may be enforced in the same manner as an order of a court of summary jurisdiction made under The Summary Jurisdiction Act.

(3) Whenever the guardianship of the Director over a child referred to in this section ceases, the person who but for the guardianship of the Director was or would have been in law the guardian of the child shall resume the guardianship.

Powers of Minister.

71. The Minister may, at any time, order that a child be transferred from one training school to another, or on the recommendation of the Director, may order that any child be discharged from a training school either absolutely or on such conditions as he may think expedient, and the child shall be transferred or discharged accordingly.

The Minister, on the recommendation of the Director, may at any time order that any child under the supervision of the Director as a neglected child who in the opinion of the Director is in need of the

ICC-1581 ICCI Exhibit P-059 Page 115

training and discipline offered by a training school, shall be admitted to a training school.

Term in training.

72. No child, except by order of the Minister, on the recommendation of the Director, shall be detained under the provisions of this Act for a longer period on the whole than four years, nor shall any parent or guardian be liable to contribute, either in whole or in part, for the maintenance of any child in a training school for a longer period than four years.

Ministers of religion.

73. Subject to such regulations as are approved by the Minister, all ministers of religion or persons authorized by the recognized head of any religious denomination, shall have admission to every training school, and access to such of the children placed or detained therein as belong to their respective denominations, and may give instruction to them on the days and at the times appointed by the regulations for the religious education of the children, and may enter in a book to be kept for that purpose any remarks pertinent to the work of the training school.

Records of children in training school.

74.—(1) The Superintendent shall on the admission of a child enter in a register in the Schedule to be kept by him, the name, sex and age of the child and the date on which and the name and address and religion of the person from whom he was received, and shall also immediately after the removal of the child from the training school enter in the register the date on which and the name and address of the person by whom any such child is removed.

(2) The Superintendent shall keep such case histories and records in such manner and upon such forms as may be prescribed by the Minister.

(3) The Superintendent shall produce the register, case history and records of a child when required to do so by the Minister or any person authorized by him and in the event of his refusal so to produce the register, case history or records or neglecting to keep any of the case history or records or making any of the entries required to be made by him under this section, shall be guilty of an offence.

Neglect to support child in institution.

75.—(1) In case the lawful parents of a child who has been placed in a training school subject to payment being made by the parents, neglect to visit or to contribute to the support of the child, the Superin-

ICC-1581 ICCI Exhibit P-059 Page 116

tendent shall after the neglect has continued for a period of two months notify the Director in writing of the neglect.

(2) Upon receipt of the notification, the Director shall investigate the facts of the case and take such action against the parents in the interest of the child as he may deem necessary.

Escape.

76. If a child sent to a training school under an order or commitment escapes from the training school, he may at any time, be apprehended without warrant and be brought back to the training 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 escape.

Placing out of boys and girls.

77. The Superintendent of any training school may, with the consent of the Director, permit any boy or girl upon leaving a training school, to live at a foster home or at the dwelling of any trustworthy and respectable person, and the control of the institution and Director shall not thereby be abated or diminished.

What is deemed an "escape".

78. If such child leaves the foster home or dwelling without the permission of the management of the training school or refuses to return to the training school, he shall be deemed to have escaped from the training school.

Penalties for aiding to escape.

79. Every person who—

(a) aids or abets any boy or girl to escape from or unlawfully leave a training school or foster home;

(b) knowingly harbours or conceals a boy or girl who has escaped from or unlawfully left a training school or foster home without giving notice of the child's whereabouts to the training school or to the local police authorities;

(c) knowingly makes, or procures to be made, any false statement in a return required under this Part; or

(d) contravenes any of the provisions of this Part or the regulations;

shall be liable on summary conviction to a penalty of not more than one hundred dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment.

Release or discharge.

80. When any child is released or discharged from a training school under the provisions of this Act the Superintendent of such school shall cause to be given to the Director such notice in writing as the Minister prescribes.

Examination of child.

81. If it appears to the Minister from information received in respect of any child in any training school, that the best interests of the child require that his case be inquired into, he may request the Superintendent to bring the child before a judge for investigation and examination.

Inquiry by judge.

82. The judge upon making any inquiry may require the child to be taken to an observation home or other place approved by the Director, and may thereafter by order authorize the Director:—

(a) to return the child to the institution with or without special supervision by the Superintendent; or

(b) to take steps to have the child dealt with as a neglected child under this Act.

Parent not to interfere.

83. A parent of any age who has surrendered the care of a child to the Director shall not thereafter, contrary to the terms of the order or instrument, be entitled to the care of or any control or authority over or any right to interfere with the child.

Inspection by Minister, Director, etc.

84. The Minister shall provide for the inspection from time to time, and at least once during each year, of every training school, and the Director or any person appointed by the Minister to inspect, may enter any training school at any time and examine every part thereof and every child therein, and call for and examine the records kept by the training school and the inmates thereof.

Annual returns.

85. Every training school shall at least once annually supply the Director with information and particulars in accordance with regulations made by the Minister in that behalf, and shall furnish the Director on request without undue delay all further information or particulars that he may at any time require concerning any child with whom the training school has dealt or to whom the training school has given care.

Penalties.

86. Any person violating any of the provisions of this Part shall be guilty of an offence and liable on summary conviction to a fine of not

ICC-1581 ICCI Exhibit P-059 Page 118

more than one hundred dollars, and in default to a term of imprisonment not exceeding three months.

Regulations.

87. Subject to the approval of the Lieutenant-Governor in Council, the Minister may make regulations in regard to all training schools,—

(i) providing for the appointment of Superintendents and such officers and employees as he may deem necessary and for remuneration of such persons;

(ii) prescribing the powers and duties of Superintendents, including the control which they may exercise over boys and girls;

(iii) providing for the use in a training school of such products and articles as may be produced on the premises thereof, and for the sale of any surplus products or articles that may be produced or manufactured on such premises;

(iv) fixing the age at which and conditions under which boys and girls may be admitted to training schools, the period during which they may be kept at training schools, and the conditions under which they may leave or be discharged therefrom;

(v) prescribing the type of moral, mental, physical and vocational education, training and employment to be provided and setting standards of instruction;

(vi) regulating the conduct and discipline of boys and girls in training schools;

(vii) prescribing the records, books, account systems, audits, reports and returns to be kept and made by or pertaining to training schools;

(viii) regarding the management, discipline, government and control of training schools and the maintenance of the buildings, premises and equipment thereof;

(ix) generally for the better carrying out of the provisions of this Part.

PART IV.

CHILDREN OF UNMARRIED PARENTS.

Interpretation.

88. In this Part, unless the context otherwise requires, the expression,—

(a) "Magistrate" means any stipendiary magistrate or the judge of a juvenile court who has been designated by the Lieutenant-Governor in Council a judge within the meaning of this Part, and shall include where they have the jurisdiction under the laws of Newfoundland, two justices of the peace acting as a magistrate;

(b) "Maternity Home" means a building or part of a building wherein a female may be received for care or treatment during pregnancy or for accouchement, or where a female together with her child or children, may be cared for at any time during the first two years of the life or such child or children;

(c) "Mother" means and single woman or widow who has been delivered of an illegitimate child, or who is pregnant and likely to be delivered of an illegitimate child, or any married woman who is living apart from her husband and who has been delivered of an illegitimate child, or who is pregnant and likely to be delivered of an illegitimate child, and who was living apart from her husband at the time of the conception of the child.

GENERAL PROVISIONS.

Registrar to notify Director.

89. It shall be the duty of the Registrar of Vital Statistics on receiving notification of the birth of a child whose parents are not legally married to each other, or in respect to the marriage of whose parents there exists reasonable doubt, to send a record of such notification to the Director of Child Welfare within three days after the receipt of the same.

Institution to notify Director.

90.—(1) When any institution has received for care during pregnancy or accouchement any mother within the meaning of this Part, the person in charge of such institution, shall within three days, notify the Director in such form as required by regulations in that behalf; and the

birth in such institution of any child whose parents have not been legally married to each other, or in regard to the marriage of whose parents there exists reasonable doubt, shall be reported within three days to the Director, by the person in charge of such institution.

Director to secure information.

(2) The Director shall by inquiry through child welfare organizations, child-caring institutions, maternity homes and otherwise obtain all information possible with respect to every child born out of wedlock.

Regulations.

(3) The Minister may from time to time make regulations for the proper conduct of institutions under this Part.

Penalty.

(4) Any person violating the provisions of this section shall be liable on summary conviction to a fine of not les than ten dollars nor more than one hundred dollars and in default of payment to imprisonment for not more than one month.

Mother may apply to Director.

91. The mother of any child born out of wedlock or any person who has the custody of such a child or who has undertaken the care and maintenance of such a child or who has supplied the mother or the child with necessaries may apply to the Director for aid and advice in all matters pertaining to the child, and he shall thereupon take such lawful action as may seem to him to be in the interests of the mother or the child.

AFFILIATION PROCEEDINGS

Information may be laid.

92. If a mother is pregnant, she may make a complaint in writing under oath before a magistrate, stating that she is pregnant, where she is living, and the name of the alleged father of the child; or her father or mother, or the Director, or any Relieving Officer, or the executive of a society, may lay such information.

Summons against alleged father.

93.—(1) Such magistrate shall forthwith issue a summons for service on the alleged father requiring his attendance before him, or he may in his discretion issue a warrant directed to any or all constables, requiring him or them to arrest the alleged father and cause him to be brought before him or some other magistrate.

(2) Such magistrate shall then proceed to take the evidence of the mother and of the alleged father and of any witness who may be brought

ICC-1581 ICCI Exhibit P-059 Page 121

before him on behalf of either party; which evidence shall be taken down in writing in the form of depositions and read over and signed in the same manner as is provided under The Summary Jurisdiction Act for evidence upon an enquiry with a view to commitment for an indictable offence, and with the same rights of cross examination on the part of either party; and the complaint shall then be dismissed if thought fit, or adjourned sine die until after the birth of the child, and the depositions shall be placed on file and safely kept by the magistrate with the records of his court, and shall form part of the evidence in any subsequent proceedings in relation to the matter in conjunction with any further or other evidence and subject to the right of either party to recall witnesses already examined, if available.

Bond and sureties for appearance.

94. When an alleged father is brought before a magistrate under a summons or warrant issued under Section 93 the magistrate may, unless the complaint is dismissed, require him to enter into a bond in a sum not less than seven hundred and fifty dollars, with sureties which, in the opinion of the magistrate, are sufficient, conditioned for his appearance at any proceedings taken or continued under this Act after the birth of the child.

Deposit instead of bond.

95. If he does not furnish such bond to the satisfaction of the magistrate, or pay into the hands of such magistrate such sum not exceeding one hundred dollars as such magistrate may prescribe as security in lieu of bond, he may be committed to gaol by warrant of commitment until an order of affiliation is made or refused, or until such bond is given or cash deposit made.

After birth of illegitimate child; summons and procedure.

96.—(1) As soon as is convenient after the birth of a child whose parents have not been legally married to each other, a magistrate applied to in that behalf by the mother of the child or by any person on her behalf, or by the Director, shall issue a summons for service on the alleged father, requiring his attendance before him or them, or may issue a warrant directed to any constable mentioned in the warrant, to bring before the magistrate, the mother and the alleged father; provided that if in the meantime an agreement has been entered into between the mother of the child and the father in respect of the support of the child and such agreement has been approved by the Director by endorsing or causing to be endorsed thereon the words, "The above agreement is hereby approved", attested by the signature of the Director, no such summons or warrant shall be applied for or issued against the said father,

ICC-1581 ICCI Exhibit P-059 Page 122

but further provided that in case the said father shall at any time neglect or refuse to carry out the terms of the said agreement, the mother of the child, or any person on behalf of the mother or child, or the Director, may then apply to a magistrate in accordance with the provisions of this section.

(2) No mother shall be incapable of entering into any agreement or taking any proceeding referred to in this Part merely because she is under the age of twenty-one years.

One complaint sufficient.

97. Where a complaint is made under section 92 or section 125 of this Act before the birth of any child, and the magistrate is informed of the birth, a second complaint need not be made on the application for a summons or warrant after such birth.

Information to be laid within 12 months after birth.

98. Where no information is laid under section 92 or section 125 of this Act before the birth of any child the application for the summons or warrant after such birth shall be made within twelve calendar months thereafter. Provided that if the alleged father has paid money for or in any way contributed toward the maintenance of such child after its birth or has left Newfoundland within one year after its birth, the application for the summons or warrant may be made within one year of the last payment of such money or of the making of such contribution, or of his return to Newfoundland, as the case may be.

If defendant in gaol.

99. If an alleged father has remained in goal under a warrant issued before such birth, he shall be delivered by the keeper of the goal into the custody of the constable who produces a warrant requiring him to be brought before a magistrate.

Respecting adjournments of hearings.

100. If an alleged father has been arrested under a warrant issued upon a complaint laid after the birth of the child, and the mother is, through illness, unable to be forthwith brought before the magistrate in obedience to said warrant, or if the hearing cannot be proceeded with owing to the illness or absence of a material witness or any other good cause, the magistrate may, on application therefor, adjourn said hearing and release the alleged father, but may first require him to enter into a bond in a sum not more than one thousand dollars with sufficient sureties conditioned for his appearance on the date fixed for said adjourned hearing, and at the hearing of any appeal from and dismissal of the case against him at the trial thereof, and to fulfil any order of affiliation that

ICC-1581 ICCI Exhibit P-059 Page 123

may be made against him. In lieu of said bond the magistrate may accept from the said alleged father a cash deposit of such sum as the magistrate may think proper not exceeding one thousand dollars.

Commit to gaol in default of bond, etc.

101. If an alleged father does not furnish such bond or security to the satisfaction of the magistrate, and does not make such cash deposit, he shall be committed to gaol until such adjourned hearing or until such bond or security is sooner given or cash deposit made.

Hearing evidence; secrecy.

102. Upon the mother and the alleged father being brought before the magistrate, in obedience to such summons or warrant, he shall hear the evidence of the mother and of the alleged father, and any other evidence which is adduced before him, and the magistrate may exclude or cause to be excluded from the room or place where such evidence is being taken all other than the counsel and witnesses in the case, officers of the law and the immediate friends or relatives of the said mother or alleged father.

Order for maintenance of child by father.

103.—(1) Upon such evidence together with any depositions taken before himself or any other magistrate under section 93 hereof, the magistrate may discharge the alleged father or adjudge him to be the father of the child, and make an order of affiliation requiring him to pay to the Director on behalf of the mother of the child, or on behalf of the child:—

(a) the expenses incidental to the lying-in and maintenance of the mother at and before the birth of the child and during such period after the birth as may in the opinion of the magistrate have been or be necessary in connection with or as a consequence of the birth of the child and the birth and maintenance of the child up to the date of the order; and

(b) the expenses of the funeral of the child if it has died before the making of such order, or if it has not died, a sum of money weekly, monthly or yearly towards the maintenance and education of the child until he attains the age of seventeen years, or as long as he is mentally or physically incapable of earning his own living; and

(c) the expenses of the burial of the mother in case of her death at or in consequence of the birth of the child; and

(d) the costs of all proceedings taken under this Part of this Act including a counsel fee not exceeding fifty dollars, which shall be paid over by the Director to counsel for complainant.

(2) In determining the weekly, monthly or yearly sums payable by the putative father under this section, the magistrate shall take into consideration the respective abilities of the putative father and of the mother to provide the same, and the means of the putative father to make provisions for the proper subsistence of his wife and legitimate children, if any, and for the education of the latter.

(3) Every order made by a magistrate under this Part shall be in duplicate and one of the duplicates shall be transmitted to the Director, the particulars of which shall be entered into a register to be kept by him for that purpose.

(4) The magistrate may order that the liability of a putative father under this Part of this Act shall be satisfied upon payment of the expenses of and incidental to the birth of the child, and the lying-in and maintenance of the mother at and before the birth, and a specified sum not less than seven hundred and fifty dollars to be paid in full over a period of not more than three years.

Bond to carry out order.

104.—(1) The magistrate shall, subject to subsection (2), order a father to give a bond for the fulfilment of an affiliation order made under Section 103 for a sum not less than seven hundred and fifty dollars with sureties which, in the opinion of the magistrate, are sufficient, or in lieu of the bond to make with the magistrate a cash deposit to be fixed by the magistrate as security for the payments referred to in that section.

(2) The magistrate may, in any case where the Director gives his consent thereto in writing, accept the recognizance of the father for a sum not less than that mentioned in subsection (1) instead of the bond with sureties or the cash deposit referred to in that subsection.

Separate order respecting mother.

105.—(1) The magistrate may in a separate order direct that the mother bear such part of the expense of the maintenance of such child as to him seems just, and may require that she shall suckle the child for at least six months, or until she produces before him the certificate of a duly qualified medical practitioner that she is unable to do so, or he may make any other order in respect thereto as seems just.

ICC-1581 ICCI Exhibit P-059 Page 125

Child may be declared neglected.

(2) The magistrate, having regard to the welfare of the child, may declare such child to be a neglected child within the meaning of this Act, and may order that the child shall be committed to the care and custody of the Director or of a society, and that the father or mother of such child, or both of them, shall pay such sums weekly to the Director or the society, as he or they may determine; and the provisions of this Part for the enforcement of orders shall apply to orders made under this section.

Custody of child in other cases.

(3) If, in the case of any child whose parents have not been legally married to each other, no information has been laid against the father of such child, the Director or the executive officer of a society, may cause such child to be brought before any court having jurisdiction under this Part, and for that purpose may apply to such court for a summons or warrant, which the court may issue, requiring the mother of such child, or any other person likely to have knowledge of the child, to appear before such court and on examination into the facts of the case, the magistrate may direct the mother to do those things which may be required of a mother under subsection (1) of this section, and may declare the child to be a neglected child and may order that the child be committed to the care and custody of the Director or of a society, and that the mother of such child shall pay such sums weekly for its maintenance to the Director or the society, as he or they may determine.

Order.

106. The order of affiliation may be in a form to be prescribed by the Minister or to the like effect.

Order may be made in absence of reputed father.

107.—(1) If an alleged father conceals himself or avoids arrest under a warrant so that he cannot be brought before the magistrate as therein directed, he may upon proof thereof, by affidavit or oral testimony, make an order of affiliation against him in his absence.

(2) In such cases he shall issue a warrant directed to any or all constables requiring him or them to bring the said alleged father before such magistrate at a subsequent time and place therein mentioned, to show cause, if any he has, why he should not fulfil the order of affiliation and enter into a bond to fulfil such order.

(3) The magistrate shall confirm, reverse or vary the order of affiliation, or make a new order of affiliation and cause the said father to enter into a bond to fulfil such order.

ICC-1581 ICCI Exhibit P-059 Page 126

(4) Thereupon the father shall enter into a bond with sufficient sureties conditioned to fulfil the order already made, or the order as varied, or the new order, as the case may be.

In default of Bond; imprisonment.

108.—(1) If a father after an order of affiliation is made or confirmed, or varied, as the case may be, fails to furnish a bond conditioned to fulfil such order, or such order so varied, to the satisfaction of the magistrate or to make the cash deposit required as security by the magistrate, he may forthwith commit such father to gaol, there to be imprisoned for a term not less than six months and not more than twelve months, or until he furnishes such bond or makes such cash deposit as security and pays the costs and charges attending such commitment and conveying to gaol; provided that imprisonment hereunder shall not operate to release the father from liability for the maintenance of the child.

(2) The bond and cash deposit hereinbefore referred to together with the costs and charges shall in St. John's be delivered to and approved by the Attorney General who shall forthwith notify the keeper of the gaol if they are satisfactory and in accordance with the commitment and if so the keeper of the gaol may then discharge the prisoner. Outside St. John's the foregoing may be done by the nearest Stipendiary Magistrate instead of by the Attorney General.

Warrant to levy on goods of reputed father.

109. Where a person against whom an order of affiliation is made fails to fulfil the terms of such order in whole or in part, whether or not he has been committed to gaol under the last preceding section, any magistrate on the application of the mother of the child or of any person on her behalf or of the Director or of a surety on the bond if any had been given, may issue a warrant of distress against such father directed to any or all constables requiring him or them to levy on the goods and chattels of such father such cash deposit fixed as aforesaid and the costs incurred in obtaining the order of affiliation, including those incurred in respect of any warrant issued before the birth of such child together with the costs and charges attending the levy and distress.

Order shall bind estate of putative father after his death.

110.—(1) Every affiliation order shall bind the estate of the putative father after his death, and every sum payable thereunder shall be a debt due from and chargeable upon the estate of the putative father and recoverable at the suit of the Director, but every affiliation order shall, as to any payment falling due before or after the putative father's death, be subject to review as provided in section 126, and after the death of

the father no action or other proceeding shall be taken thereon without the leave of a magistrate, and the magistrate, before granting leave, shall direct that notice be given to the widow and legitimate children of the putative father.

When order may be varied.

(2) Where it appears to the magistrate that the terms of the affiliation order cannot be carried out without depriving the widow or legitimate children of the putative father of proper subsistence and education, he shall vary the affiliation order to such an extent and in such manner that the widow of the father and his children born in wedlock, if any, shall be duly provided for before the child or children born out of wedlock.

Death of mother; proceedings by parents, etc.

111. If the mother of a child whose parents have not been legally married to each other dies prior to action being taken or completed against the alleged father, her father or mother, or the Director, may, on behalf of the child, continue or institute action against the said alleged father, in accordance with the preceding provisions of this Act, and the magistrate before whom such action is brought, may make any order in accordance with the provisions of this Part, and for the purposes of making such order may use as evidence any depositions taken in pursuance of section 93 hereof.

Appeal to Supreme Court.

112. If either party is aggrieved by an order of affiliation or an order confirming, reversing or modifying an order of affiliation, or by an order made under section 121 hereof, or by the refusal to make any such order, he or she may appeal from the decision granting or refusing such order to the Supreme Court consisting of one or more judges without a jury.

Conditions for appeal.

113. Where a person against whom an order of affiliation has been made appeals and desires a stay of proceedings he shall enter into a bond with sufficient sureties approved by the magistrate making the order, conditioned to perform the order of affiliation if confirmed in whole or in part or to abide by and fulfil the judgment of the court on such appeal, and to pay the taxed costs of the respondent if the court shall so order.

Supreme Court may vary, set aside or confirm order.

114. The Supreme Court may vary or set aside the order of affiliation, or may confirm the same, or may make an order of affiliation, or may, by order directed to the magistrate, require him to make an order of affiliation, as the circumstances of the case require.

ICC-1581 ICCI Exhibit P-059 Page 128

Appeals governed by usual rules.

115. The proceedings on such appeal shall in other respects be governed by the same rules as appeals from summary convictions or orders made by a Stipendiary Magistrate.

Sureties to justify.

116. The sureties upon any bond mentioned in this Part shall severally justify by affidavit their ability to fulfil their obligations under such bond, such justification to be approved of by the magistrate.

Liability of reputed father for certain expenses, etc.

117.—(1) The father of every child born out of wedlock shall be liable to contribute:

(a) To the medical and other expenses connected with the birth of such child, its maintenance and education until the child is able to maintain itself, and with its burial in case it dies before becoming able to maintain itself, and

(b) to the expenses of the maintenance and care, medical and otherwise, of the mother of such child during three months previous to its birth and during such period after its birth such medical or other special and unusual care and nursing as are necessary in connection with or as a consequence of the birth of such child.

Action against reputed father for expenses.

118. Actions may be brought for such contributions against the father from time to time by the mother of the child, or by her father or mother, or by any other person, society or corporation having maintained such child, or having necessarily expended money or rendered services in connection with any of the matters for which the father is declared in last preceding section to be liable, or by the Director.

Action for debt.

119. Actions brought under the next preceding section shall be brought as for a debt, and the statement and particulars of claim shall indicate with sufficient clearness the nature and amount of the claim.

Court to decide amount of defendant's liability.

120. The court trying the case shall decide, in view of the circumstances of both parents, what proportion, up to the whole, of the reasonable and necessary charges and expenses in connection with any of the matters for which the father is declared in this Part to be liable, shall be paid by him, and may give judgement against him for such amount as it deems just, and for costs of action. Such judgment and costs may be levied by warrant of distress on the goods of the defendant.

ICC-1581 ICCI Exhibit P-059 Page 129

Weekly payments.

121. If such action is brought by the mother of the child or by her father or mother, or by the Director, the court may, in order to provide for the future maintenance and education of such child, make an order requiring the father to pay a sum of money weekly for such number of weeks as the court may determine.

Enforcement of judgment.

122. Every judgment in any such action and every such order as in the last preceding section provided for may be enforced in the same manner and by the like proceedings as any judgment or order of a court of summary jurisdiction.

When Sections 117 to 122 not to apply.

123. Sections 117 to 122 of this Act shall not apply to any father who has fulfilled the terms of any order of affiliation made against him hereunder in respect to the same child.

Order is conclusive of paternity.

124.—(1) If the terms of any such order of affiliation have not been fulfilled the court in giving judgment in any such action, shall take into consideration any payments made under such order.

(2) In any such action an order of affiliation shall be conclusive evidence of the paternity of such child.

In cases where two or more are defendants.

125. Where any one of two or more persons may be the father of a child born out of wedlock, or of a child likely to be born out of wedlock, any person named in section 92 of this Act may lay information before a magistrate, naming each such possible father, and the provisions of this Part setting forth the proper proceedings following the laying of an information, shall apply to such information laid against two or more persons under this section and the forms made in pursuance of this Part, suitably amended to meet any such case, shall be applicable in any such proceedings. The magistrate before whom the case is brought may make an affiliation order according to the provisions of section 103 of this Act against any one of such persons or upon such evidence as in his discretion is deemed sufficient, and having regard to the amounts payable under the provisions of section 103 of this Act in the case of an affiliation order, the magistrate may make an order against so many of such persons as the evidence shows might in the ordinary course of nature have been the father of such child, fixing the amount or amounts to be paid by each of such persons on behalf of such child and all the provisions of this Part applicable to an affiliation order shall as nearly as may be apply to any order made under the provisions of this section.

Magistrate may vary affiliation order.

126.—(1) Where an affiliation order has been made under this Part, then, upon the application from time to time of the Director or any person appointed by him or of either parent of the child, or of the child, or of any person entitled to make complaint in respect of the child under this Part, and upon proof that there has been a substantial alteration in respect of the means of either parent or the needs of the child, or in respect of the cost of living, since the making of the affiliation order or the latest subsequent order varying it, or that the putative father owing to the terms of the order is unable to make provision for the proper subsistence of his wife and legitimate children, if any, and for the education of the latter, the magistrate may vary the original or subsequent order so made.

(2) No application to vary any affiliation order shall be made until the lapse of one year from the date of the order it is sought to vary.

Director may institute proceedings.

127. The Director or any person authorized by the Minister shall not be debarred from instituting or continuing proceedings under this Part by the death of the mother of the child for whom relief is sought.

Director, etc., entitled to appear.

128. Where any proceedings are instituted under this Part by any person other than the Director or a person authorized by the Minister, the person instituting the proceedings shall give notice thereof to the Minister, and the Director or any person authorized by the Minister shall have the right to appear and intervene and be heard in person or by counsel on the proceedings.

Private hearing.

129. All proceedings under this Part shall be heard by the magistrate in his chambers and not in open court.

Corroborative evidence.

130.—(1) No affiliation order shall be made upon the evidence of the mother of a child unless her evidence as to the paternity of the child is corroborated by some other material evidence implicating the putative father.

Married woman a compellable witness.

(2) Subject to subsection (1) and notwithstanding any other statute or law to the contrary, in all proceedings under this Part a married woman shall be a competent and compellable witness to testify as to the paternity of her child in respect of whom the proceedings are taken.

Payments to be made to Director.

131. Every payment ordered by a magistrate, under this Part of this Act, or under the repealed provisions of The Health and Public Welfare Act from Section 636 to and including Section 671, shall be made to the Director or to any other officer of the Department designated by the Minister.

Duties of Director.

132. The Director shall:—

(a) see that all payments directed to be made by the putative father under an affiliation order are duly made, and in default of payment may take all necessary proceedings for the enforcement of the order, including the enforcement of any security given by the putative father;

(b) in default of payment, take the proceedings authorized by law;

(c) see that all moneys collected under an affiliation order are paid and supplied forthwith, without any deduction, to or for the persons entitled to relief in accordance with the terms of the order and the provisions of this Part;

(d) repay to the putative father the balance of the specified sum of money in an affiliation order made under subsection (4) of Section 103 of this Act, where the child in respect of whom the order is made, dies, or is adopted before the said specified sum of money paid under the order has been fully expended.

PART V.

THE ADOPTION OF CHILDREN.

Interpretation.

133. In this Part, unless the context otherwise requires, the expression,—

(a) "Application" means an application provided under the provisions of this Part.

(b) "Judge" means any stipendiary magistrate or the Judge of a juvenile court who has been designated by the Lieutenant-Governor in Council a Judge within the meaning of this Part, and shall include, where they have the jurisdiction under the laws of Newfoundland, two justices of the peace acting as a magistrate.

Application for order.

134.—(1) Upon an application within the meaning of this Part by any person desirous of being authorized to adopt a child who has never been married the court may, subject to the provisions of this Part, make an order (in this Part referred to as "an adoption order") authorizing the applicant to adopt that child.

"Adopting parent", "adopted child", "child".

(2) Hereafter in this Part a person authorized to adopt a child and a child authorized to be adopted are referred to as an "adopting parent" and an "adopted child" respectively, and "child" means any person under the age of twenty-one years.

Joint application.

(3) Where an application for an adoption order is made by a husband and wife jointly, the court may make the order authorizing them jointly to adopt, but save as aforesaid no adoption order shall be made authorizing more than one person to adopt a child.

Suppporting statements.

135. The application shall be supported by written statements of the fitness of each applicant to adopt the child by persons well and favourably known in the district in which the applicant resides or by such other documents as the Judge in his discretion may require.

Judge to keep records.

136.—(1) Every application and all documents to be used in connection therewith shall be filed in the office of the Judge.

Director to be notified.

(2) Copies of the application and documents shall also be served upon the Director, and no adoption order shall be made unless the Director has been served with notice thereof and is represented thereon or has expressed in writing his intention of not being so represented.

When consent of Minister to be obtained.

137.—(1) Except with the consent of the Minister an adoption order shall not be made in any case where,—

(a) the applicant is under the age of twenty-five years; or

(b) the applicant is less than twenty-five years older than the child in respect of whom the application is made.

Special circumstances.

(2) An adoption order shall not be made in any case where the sole applicant is a male and the child in respect of whom the application is made is a female unless the court is satisfied that there are special circumstances which justify as an exceptional measure the making of an adoption order.

Consents required.

138.—(1) Subject to this Act, no adoption order shall be made without the written consent .

(a) of the child, if the child has attained the age of fourteen years;

(b) of the guardian or guardians of the child, if the child is born in wedlock; or

(c) of the mother only, if the child is born out of wedlock.

When child's consent may be dispensed with.

(2) The consent of a child to an adoption order shall not be required if the judge, for reasons appearing to him to be sufficient, consider it necessary or desirable to dispense with the consent.

When consent of guardian not required.

(3) The consent of a guardian shall not be required if—

(a) he is found by the judge, upon evidence submitted to him, to be insane, incompetent or unfit to give such consent; or

(b) he is undergoing a sentence for a term of which more than two years remain unexpired at the date of the filing of the application; or

(c) being under a duty to provide proper care and maintenance for the child, he has neglected so to do; or

(d) the Judge, for reasons which appear to him sufficient deems it necessary or desirable to dispense with his consent.

(4) The guardian or guardians at the time of giving consent shall by the same instrument name the Director as the legal guardian of the child until such time as the child is legally adopted.

(5) In the case of a child committed to the permanent care and custody of the Director or a society, the party giving the consent to adoption as guardian shall be the Director or the society.

(6) Where the child is under the age of fourteen years, and

(a) none of the guardians is living; or

ICC-1581 ICCI Exhibit P-059 Page 134

(b) the judge is satisfied that, any of the persons whose consent to an adoption is required under paragraphs (b) and (c) of subsection (1) cannot be found in Newfoundland,

the Director may, if he is satisfied that it is in the best interests of the child, give written consent to the adoption in the name of that person; and where the Director gives such consent to an adoption under this subsection the consent is deemed to have been given by that person in accordance with subsection (1).

Judge may require further information.

139. The Judge may require further information and consents to be obtained as to any matter affecting the adoption and may direct investigation as to the physical, mental and moral fitness of the child or the adopting parents.

Certificate of Director.

140. An adoption order shall not be made unless the Director certifies in writing,—

(a) that the child has lived with the applicant for at least one year immediately prior to the date of the application, and that during that period the conduct of the applicant and the conditions under which the child has lived have been such as to justify the making of the order; or

(b) that the applicant is to the knowledge of the Director a fit and proper person to have the care and custody of the child, and that for reasons set out in the certificate the period of residence may be dispensed with.

Judge may make order.

141.—(1) The Judge, if satisfied of the ability of the applicant to fulfil the obligations and perform the duties of a parent towards the child and the propriety of the adoption having regard to the welfare interests of the child, the religion in which he has been brought up and the interest of his adopting parents and their religion, may make an adoption order authorizing that applicant to adopt the child.

Fact of illegitimacy shall not appear,

(2) If the child has been born out of wedlock, that fact shall in no case appear in the adoption order,

(3) Every adoption order shall be on a prescribed form to be supplied by the Director without charge.

Effect of adoption order.

142.—(1) An adoption order shall,—

(a) divest the natural parent, guardian or person in whose custody the adopted child has been, of all legal rights and free them from all legal obligations and duties in respect of the child;

(b) make such child, to all intents and purposes, the child of the adopting parent or parents;

(c) impose upon the adopting parent or parents all legal obligations and duties as if the adopting parent or parents were the natural parent or parents of the child as from the date of the adoption order.

(2) The adopted child shall bear the surname of his adopting parent, unless otherwise ordered by the Judge.

(3) In and by the adoption order the Judge may in his discretion give to the adopted child any first or Christian name or names requested by the applicant in his application.

Right to inherit property.

143.—(1) A person who has been adopted in accordance with the provisions of this Part shall upon the intestacy of an adopting parent take the same share of property which the adopting parent could dispose of by will as he would have taken if born to such parent in lawful wedlock, and he shall stand in regard to the legal descendants but to no other kindred of the adopting parent, in the same position as if he had been born to him.

(2) If the person adopted dies intestate his property acquired by himself or by gift, inheritance or descent from his adopting parent or from the kindred of such parent, shall be distributed according to the laws of Newfoundland relating to intestacy among the persons who would have been his kindred if he had been born to his adopting parent in lawful wedlock, and the property received by gift or inheritance from his natural parents or kindred shall be distributed in the same manner as if no act of adoption had taken place.

(3) Where a person is adopted, he shall not lose his right to inherit from his natural parents or kindred.

When "child" shall mean an adopted child.

144. The word "child" or its equivalent in any will, conveyance or other instrument shall include an adopted child unless the contrary plainly appears by the term of the instrument.

Legitimation not to affect adoption order.

145. An adoption order made with respect to a child born out of wedlock shall not be affected in any way by the marriage or intermarriage of its natural parents.

Power to make interim orders.

146.—(1) Upon any application for an adoption order, the Court may postpone the determination of the application and may make an interim order (which shall not be an adoption order for the purposes of this Act) giving the custody of the child to the applicant for a period not exceeding two years by way of a probationary period upon such terms as regards provision for the maintenance and education and supervision of the welfare of the child and otherwise as the Court may think fit.

(2) All such consents as are required to an adoption order shall be necessary to an interim order but subject to a like power on the part of the Court to dispense with any such consent.

Power to make subsequent order in respect of child already subject to an order.

147.—(1) An adoption order or an interim order may be made in respect of a child who has already been the subject of an adoption order, and, upon any application for such further adoption order, the adopter or adopters under the adoption order last previously made shall, if living, be deemed to be the parent or parents of the child for all the purposes of this Part.

(2) In the case of a child previously adopted, all legal consequences of the former adoption order shall, upon a subsequent adoption, determine except in so far as any right, title or interest in property may have vested in law or equity in the adopted child.

Jurisdiction and procedure.

148.—(1) The Court having jurisdiction to make adoption orders under this Part shall be the Supreme Court or, at the option of the applicant, but subject to any regulations under this section, any court of summary jurisdiction within the jurisdiction of which either the ap-

plicant or the child resides at the date of the application for the adoption orders.

Regulations made by Minister.

(2) Regulations in regard to any matter to be prescribed under this Part and directing the manner in which applications to the Court are to be made and dealing generally with all matters of procedure and incidental matters arising out of this Part and for carrying this Part into effect, including the procedure to be followed upon an application for an adoption order where not provided for by this Part, shall be made by the Minister with the approval of the Lieutenant-Governor in Council.

Hearing in camera.

(3) An application under this part shall be dealt with by the Judge in his chambers and may be heard in camera.

Guardian ad litem.

(4) For the purpose of any application under this Part and subject to any regulations under this section, the Court shall appoint some person or body to act as guardian *ad litem* of the child upon the hearing of the application with the duty of safeguarding the interests of the child before the Court.

Restrictions on payments.

149. It shall not be lawful for any adopter or for any parent or guardian except with the sanction of the Court to receive any payment or other reward in consideration of the adoption of any child under this Part or for any person to make or give or agree to make or give to any adopter or to any parent or guardian such payment or reward.

Provisions as to existing de facto adoptions.

150. Where at the date of the commencement of this Act any child is in the custody of, and being brought up, maintained and educated by any person or two spouses jointly as his, her or their own child under any *de facto* adoption, and has for a period of not less than two years before such commencement been in such custody and been so brought up, maintained and educated, the Court may, upon the application of such person or spouses, and notwithstanding that the applicant is a male and the child a female, make an adoption order authorizing him, her or them to adopt the child without requiring the consent of any parent or guardian of the child to be obtained, upon being satisfied that in all circumstances of the case it is just and equitable and for the welfare of the child that no such consent should be required and that an adoption order should be made.

Order may not be set aside after one year, etc.

151. No action or proceeding to set aside an adoption order under the provisions of this Part shall be commenced after the expiration of one year from the date of the order, except on the ground that the order was procured by fraud, and then it may be set aside only if it is in the interests of the child so to do.

Adopted children register.

152.—(1) The Registrar General shall establish and maintain at the public registry at St. John's a register to be called the Adopted Children Register, in which shall be made such entries as may be directed to be made therein by adoption orders, but no other entries.

(2) The Adoption Order, together with the other documents used in the application, shall be filed in the office of the judge, and he shall forward two copies of the Order certified by him to the Director. The Director shall forward one of such certified copies to the Registrar General, who shall record the same and make the change in his records required by the Adoption Order in the form set out in Schedule B.

(3) If upon any application for an adoption order there is proved to the satisfaction of the Court—

(a) the date of the birth of the child; and

(b) the identity of the child with a child to which any entry or entries in the Register of Births relates;

the adoption order shall contain a further direction to the Registrar General to cause such birth, entry or entries in the Register of Births to be marked with the word "adopted", and to include in the entry in the adoption register recording the adoption the date stated in the order of the adopted child's birth in the manner indicated in Schedule B.

(4) The Judge shall cause every adoption order to be communicated in the prescribed manner to the Registrar General, and upon receipt of such communication the Registrar General shall cause compliance to be made with the directions contained in such order in regard both to marking any entry in the Register of Births with the word "adopted", and in regard to making the appropriate entry in the Adopted Children Register.

(5) The adoption order, the application, the documents filed and the record of proceedings in relation thereto shall not be made public or disclosed to any person save upon the direction of a Judge or the Director.

(6) The adoption order, the application, the documents filed and the record of proceedings in relation thereto shall be kept by the Judge in a sealed packet, and all papers in the custody of the Director relating to the adopted child shall be kept by him in a sealed packet, and neither packet shall be opened save upon the direction of a Judge or the Director.

(7) No person shall be entitled to have the Adopted Children Register or any entry therein searched or to obtain any certified extract therefrom save upon the order of a Judge;

Provided, however, that the Registrar General shall be entitled to refer to the Adopted Children Register for the purpose of preparing a birth certificate requested by an adopted child, or either of the adopting parents, which birth certificate shall be in the name given the said adopted child by the adoption order.

(8) A certified copy of any entry in the Adopted Children Register if purporting to be sealed or stamped with the seal of the Registrar General shall, without any further or other proof of such entry—

(a) where the entry does not contain any record of the date of the birth of the adopted child, be received as evidence of the adoption to which the same relates; and

(b) where the entry contains a record of the date of the birth of the adopted child, shall be received not only as evidence of the adoption to which the same relates but also as evidence of the date of the birth of the adopted child to which the same relates in all respects as though the same were a certified copy of an entry in the Register of Births.

(9) The Registrar General shall cause an index of the Adopted Children Register to be made and kept, and every person shall be entitled to have a certified copy of any entry in the Adopted Children Register in all respects upon, and subject to the same terms, conditions and

ICC-1581 ICCI Exhibit P-059 Page 140

regulations as to payment of fees and otherwise as are applicable under The Registration (Vital Statistics) Act in respect of the supply from such office of certified copies of entries in the Registers of Births, Marriages and Deaths.

(10) The Registrar General shall, in addition to the Adopted Children Register and the index thereof, keep such other registers and books, and make such entries therein as may be necessary, to record and make traceable the connection between any entry in the register of births which has been marked "Adopted" pursuant to this Act and any corresponding entry in the Adopted Children Register, but such last mentioned registers and books shall not be nor shall any index thereof be open to public inspection or search, nor, except under an order of a court of competent jurisdiction, shall the Registrar General furnish any person with any information contained in or with any copy or extract from any such registers or books.

PART VI.

MENTALLY DEFECTIVE CHILDREN.

Defective children; classes.

153. Any one of the following classes of persons shall be deemed to be a mentally defective (hereafter to be known as "defective") child within the meaning of this Part:

(a) "Idiot child", that is to say, a child so defective in mind from birth or from an early age as to be unable to guard himself or herself against common physical dangers;

(b) "Imbecile child", that is to say, a child in whose case there has been from birth or from an early age mental defectiveness not amounting to idiocy, yet so pronounced that he or she is incapable of managing his or her affairs, or himself or herself, or being taught to do so;

(c) "Moron child", that is to say, a child in whose case there has been from birth or from an early age mental defectiveness not amounting to imbecility, yet so pronounced that he or she requires care, supervision and control for his or her own protection or for the protection of others, or that he or she by reason of such defectiveness appears to be permanently incapable of receiving proper benefit from ordinary instruction.

ICC-1581 ICCI Exhibit P-059 Page 141

Receiving home for defective children.

154.—(1) The parent or guardian of a child suspected to be defective may take such child to the receiving home or to a shelter or to any other place designated by the Director for the temporary care of such child pending the examination of such child by a psychiatrist.

(2) If the psychiatrist shall find such child to be a defective child the parents or guardian may, subject to the approval of the Director, take the child back to his or her home or may place the child in a home or institution suitable for the care and training of such child.

Parent to give notice to Director.

155. Any parent or guardian or other person who has reason to believe that any child under his or her care is a defective child may notify the Director in writing of the facts of such case giving the name and address of such child, and the Director shall forthwith make provision for a proper examination of such child by a psychiatrist.

Physician, etc., to give notice.

156.—(1) Any physician or nurse or teacher who in the practice of his or her profession has knowledge of any defective child, or suspects any child to be a defective child, shall give notice in writing of the facts of such case to the Director, giving if possible the name and address of the child and of the person or persons in whose care or custody such child is.

(2) Any officer of a society, or any welfare officer, or any investigator of a juvenile court, or any constable who in performing his duties has knowledge of any defective child or of any person whom he suspects to be a defective child, shall give notice in writing of the facts of such case to the Director, giving if possible the name and address of the child and of the person or persons in whose care or custody such child is.

Inquiry as to defective child.

157.—(1) On receipt of information in respect of any defective child or any person suspected to be a defective child, the Director shall cause an inquiry and investigation to be made and, if after such investigation he deems it advisable, he shall take the steps necessary to have such child examined by a phychiatrist.

(2) If the parent or guardian of a defective child or of a person suspected to be a defective child refuses to co-operate with the Director in having an adequate examination made of such child, the Director may apply to a judge who may issue an order requiring the parents or guardian to bring such child before him for examination, or the judge may

ICC-1581 ICCI Exhibit P-059 Page 142

order that such child be apprehended and brought before him for examination.

(3) Nothing in this Act shall be deemed to require the Director to make any examination or to bring any child before a judge under the provisions of this section; and, further, nothing in this Act shall require the Director to take any action with respect to any defective child unless he is satisfied that the child's good and the welfare of the community require him so to do.

Investigation into facts.

158. When any defective child, or person suspected to be a defective child, has been brought before a judge for examination, the judge shall investigate the facts of the case and ascertain the age of the child and the name, residence and religion of his or her parents, and the judge may authorize an examination of such child by a phychiatrist, who shall make such examination as to the physical and mental condition of such child and report the same to the judge.

Witnesses.

159. The judge may compel the attendance of witnesses on such investigation and for such purpose shall have all the powers of a stipendiary magistrate.

Notice of investigation to parents, etc.

160. The parents or person having the actual custody of a child at the time of his or her apprehension, or up to the time that he or she was brought to the receiving home or shelter, shall be notified of the investigation and any person may appear on behalf of the child.

Custody of defective child.

161. If, on the report of the phychiatrist, the judge finds that the child is a defective child, the judge may order that the child be returned to the care of his or her parents or guardian, with or without the supervision and inspection of the Director or he may order that the child be committed to the care and custody of any society which may be willing to undertake the care of such child.

Any person being defective.

162. When any person is brought before a court of competent jurisdiction, the judge may, if he has reason to believe that such person is defective, order that the said person shall be examined by a psychiatrist; and, if the report of such psychiatrist shows the said person to be defective or of mental age under ten years, the judge may order that such person, without regard to his or her actual age, shall be transferred to the jurisdiction of the judge of a juvenile court.

Procedure.

163. When any person, without regard to his actual age, has been transferred by the judge of any other court to the jurisdiction of a juvenile court to be dealt with as a defective person, the procedure shall be the same as is set forth in this Act in the case of a person actually under the age of seventeen.

Defective child may be detained.

164. The Director may detain or cause to be detained, any such defective child committed to his care and custody under the provisions of this Act, for an indefinite period, in any institution recognized and approved of by the Lieutenant-Governor in Council for the purposes of this part of this Act.

Powers of Minister.

165.—(1) The Minister on the report of the psychiatrist and on the recommendation of the Director, may order the release on parole at any time of any defective child detained in such institution under the provisions of this Act.

(2) The Minister may from time to time prescribe regulations with respect to:—

(a) the release of any such defective child on parole;

(b) providing for the supervision of such defective child while on parole;

(c) any matter with respect to the carrying out of the provisions of this Part not herein specifically provided for.

(3) The Minister may, on the report of the psychiatrist and the recommendation of the Director, order that any such defective child released on parole as in the last section provided be returned to the institution or to such other institution as the Minister may determine, and such defective child shall thereafter be detained as under the original order for his detention.

Inducing defective child to leave institution.

166. Any person who—

(a) induces or attempts to induce any defective child to leave an institution where such child is detained under authority of this Act; or

ICC-1581 ICCI Exhibit P-059 Page 144

(b) induces or attempts to induce any defective child to break or violate any of the terms on which such child is released on parole from any institution where such child has been detained under authority of this Act; or

(c) detains or harbours any such defective child, shall be guilty of an offence under this Act and upon summary conviction before a judge shall be liable to a fine of not more than one hundred dollars or to imprisonment for a period not exceeding six months or to both fine and imprisonment.

PART VII

CHILD WELFARE ORGANIZATION.

Application for registration of associations; child welfare.

167. Any person or persons who shall desire to associate themselves with work, whether educational or preventive or remedial, for the welfare or protection of children may make application to the Director for registration under the provisions of sections 167 to 171 inclusive of this Act.

Signatures to be verified.

168. The signatures to the application and the facts stated in the application shall be verified by a statutory declaration to the satisfaction of the Child Welfare Board, who shall then submit the application, together with their recommendation to the Minister. The application shall be accompanied by a certified copy of the memorandum and articles of the Association and a statement showing its financial position.

Duty of Society.

169.—(1) When under the provisions of this Act a child has been committed to the care and custody of a society it shall be the duty of such society to use special diligence in providing a suitable foster home or situation for such child, and such society is hereby authorized to place such child in foster homes or situations on a written agreement during minority or for any less period in the discretion of such society. All such contracts shall contain a clause reserving the right to withdraw the child from any person having the custody of such child when in the opinion of the society placing such child the welfare of such child requires it; provided, however, that such society shall make reports to the Director in accordance with all regulations of the Department in that behalf, and further provided that, when in his opinion the welfare of such child may

require it, the Director may cause such society to bring such child to the receiving home for study and disposition.

(2) Any Children's Aid Society or its executive officer may, if it or he considers it best in the interest of any such child, permit such child to live with his parents or relatives, subject to the supervision of such Children's Aid Society or its executive officer, but none of the rights or powers vested in such Children's Aid Society or its executive officer by this Act in respect to such child shall in any way be impaired by any such permission.

(3) The Society in arranging for the care of any child under this section shall have regard to the consideration mentioned in section 18 hereof.

Appointment of Child Welfare Committee.

170. When in any community no child welfare association or children's aid society has been organized, the Director, with the approval of the Minister, may appoint from such community a child welfare committee to consist of not less than three persons nor more than seven persons to be known as "The Child Welfare Committee of ....." and the Director may with the approval of the Minister grant to such committee such powers as he may deem proper consistent with this Act and may prescribe regulations within the provisions of this Act for the guidance of such committee in the performance of its duties for the welfare and protection of children within the provisions of this Act and such committee shall be subject to the supervision and authority of the Director.

Director may take charge of defunct associations.

171. If a child welfare association or children's aid society or child welfare committee under this Act ceases to exist or does not hold a meeting for a period of twelve months, the secretary or other officer shall, failing the appointment of a liquidator, deliver to the Director all books, documents, records and financial statements, and pay over to him all trust funds on hand, and the association, society or committee shall thereupon be dissolved and its property shall be vested in the Department, and the Director shall then re-organize the work and make arrangements for carrying it on consistently with the powers vested in him under this Act.

GENERAL PROVISIONS.

Advertisement relating to adoption or care of children unlawful.

172. It shall be unlawful to insert or cause to have inserted in any newspaper or to publish or cause to be published over the air by any broadcasting station any advertisement dealing with the adoption, boarding out, or care of any child.

Occupation of children; license to work.

173.—(1) Municipal Councils in incorporated cities, towns, villages and divisions may pass by-laws for regulating and controlling and licensing children engaged as:

(a) Express or despatch messengers;

(b) Vendors of newspapers and small wares;

(c) Shoe shiners;

(d) Pin boys in bowling alleys;

And for prohibiting children from engaging in any such occupation without such license.

(2) No license fee imposed under any such by-law shall exceed the sum of fifty cents per annum, and no child engaged in two or more of the said occupations shall be compelled to pay more than one license fee.

(3) No such license shall be granted to any female child nor any male child under the age or twelve years, nor to any male child of the age of twelve years but under the age of fourteen years, unless such child presents written authority from his parents or guardian authorizing him to make application for a license for the purpose of engaging in any of the occupations herein mentioned.

(4) No licensee under this section shall be permitted to engage in any occupation for which he is licensed after the hour of eight o'clock in the evening in the months of December, January and February, or after the hour of nine o'clock in the evening throughout the rest of the year or during school hours.

(5) No license shall be valid if its terms or any of them contravene any of the provisions of this Act, and such license so contravening shall be cancelled by the Division of Public Welfare.

Licence to receive children.

174.—(1) No person shall receive into a private home, board, or keep, any child under the age of twelve years not being his relative, apprentice, pupil, or ward, without having a licence in writing from the Director.

(2) Such licence shall specify the name and residence of the licensee, the place in which he is permitted to receive, keep and board children, and the number he is permitted to receive, keep and board in such place, and shall be revocable at will by the authority granting it.

Director may take child into his custody.

175.—(1) If because of the special circumstances he considers it in the best interests of the child so to do, the Director may, upon the written request of the parent or guardian of any child, take the child into his care and custody.

(2) When he has accepted a child under subsection (1) the Director shall have the power to make such arrangements for the support, care and welfare of the child as in the circumstances he deems fit.

(3) The Director does not by taking a child into his care and custody under subsection (1) become the legal guardian of the child, and he may terminate such care and custody at any time he sees fit.

(4) When any other provision of this Act conflicts with this section, this section shall prevail.

Visits to child.

176. Every society or person in whose care a child is placed under the provisions of this Act, and every person entrusted with the care of any such child, shall from time to time permit such child to be visited, and any place where such child may be or reside to be inspected by the Director or any person bearing his permit.

Suspension of officials.

177. The Minister may suspend any agent, officer or employee of a child welfare association or children's aid society guilty of improper conduct or negligence in the performance of his or her duties pending investigation by the association or society. Notice of such suspension shall be sent to the president of such association or society by registered letter postage prepaid and addressed to him or her at his or her usual place of abode within five days thereafter, and such agent, officer or employee may be discharged by the association, society or person appointing him or her.

ICC-1581 ICCI Exhibit P-059 Page 148

Rules may be made.

178. The Minister may make regulations not inconsistent with the provisions of this Act prescribing the duties of all officers appointed under this Act. Such regulations shall be subject to the approval of the Lieutenant-Governor in Council.

Ministers of religion have right of admission to institutions.

179.—(1) Subject to such regulations as may be approved by the Lieutenant-Governor in Council, all ministers of religion or persons authorized by them shall have the right of admission to the receiving home and every shelter or institution established hereunder for the care of children and access to such of the children placed or detained therein as belong to their respective denominations, and may give instructions to them on the days and at the times appointed by such regulations for the religious education of such children, and may enter in a book to be kept for that purpose any remarks pertinent to the work of the institution.

(2) The religious persuasion of every child coming within the scope of this Act or within the scope of any regulations or powers made or conferred by virtue of this Act shall in all cases be properly safeguarded.

Suits to be before a Juvenile Court Judge or magistrate.

180. Except where otherwise provided, every information, suit or other proceeding under this Act may be laid, prosecuted or proceeded with before a Juvenile Court Judge or magistrate.

Penalty where not otherwise specified.

181. Where no penalty is hereinbefore provided for any breach of any provision of this Act, or of any regulation made thereunder, the person or persons committing such breach or failing to observe the provisions thereof shall be liable on conviction, in the discretion of the court trying the same to a penalty not exceeding one hundred dollars or in default of payment to imprisonment for a period not exceeding three months or to both fine and imprisonment.

Fines, etc., to be paid to Department.

182. All fines, forfeitures and penalties imposed, ordered, levied or payable under this Act shall upon collection and receipt be transmitted by the Court imposing the same to the Department of the Attorney General for payment over to the Department; and all fees payable under this Act shall be paid to the Department; and all such sums shall be used and disposed of by the Department for the purposes of this Act.

Appeal to Supreme Court.

183. Any person feeling aggrieved by any act or order of the Department, or by any order, judgment or conviction of any Court under the provisions of this Act, shall have the right to sue thereon or to appeal

ICC-1581 ICCI Exhibit P-059 Page 149

therefrom to the Supreme Court or a Judge thereof within the time limited by and subject to the provisions of the Summary Jurisdiction Act respecting Appeals from Stipendiary Magistrates.

Act to be liberally construed.

184. This Act shall be liberally construed to the end that its purpose may be carried out, to wit: that the care of children coming within the provisions of this Act shall approximate as nearly as may be that which should be given by their parents, and that as far as practicable every juvenile delinquent shall be treated, not as a criminal, but as a misdirected and misguided child, and one needing aid, encouragement, help and assistance.

SCHEDULE A.

Any offence under sections twenty-seven, fifty-five or fifty-six of the Offences against the Person Act, 1861 (Imperial), and any offence against a child or young person under sections five, forty-two, forty-three, fifty-two or sixty-two of that Act, or under the Criminal Law Amendment Act, 1885 (Imperial).

Any offence under the Dangerous Performances Acts, 1879 and 1897 (Imperial).

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

SCHEDULE B.

	1 No. of Entry
	2 Date of Entry
	3 Name of Adopted Child (Enter Name as stated in Adoption Order).
	4 Sex of Adopted Child (Enter Sex as stated in Adoption Order).
	5 Name and Surname, Address and Occupation of Adopter or Adopters. (Enter name, address and occupation as stated in Adoption Order).
	6 Date of Birth of Child. (Enter date of Birth (if any) directed by the Adoption Order to be entered, but otherwise no entry).
	7 Date of Adoption Order and Description of Court by which made. (Entry to be made as appearing in the Adoption Order).
	8 Signature of Officer deputed by Registrar General to attest the Entry.

AN ACT TO AMEND THE WELFARE OF CHILDREN ACT.

(June 22, 1954)

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title.

1. This Act may be cited as The Welfare of Children (Amendment) Act, 1954.

Amdt. Sec. 57.

2. Section 57 of The Welfare of Children Act, chapter 60 of The Revised Statutes of Newfoundland, 1952, is amended

(a) by repealing paragraph (g) of subsection (1) and substituting therefor the following:

"(g) commit the child temporarily or permanently to the care and custody of the Minister;"

(b) by repealing paragraph (i) of subsection (1) and substituting therefor the following:

"(i) award reasonable compensation in a sum not exceeding five hundred dollars to a party injured in his person or by loss of goods, with the consent or on the motion of such party;" and

(c) by repealing subsection (3).

Amdt. Sec. 92.

3. Section 92 of the said Act is amended by striking out the words "Relieving Officer" and substituting therefor the words "welfare officer".

Addition of new section.

4. The said Act is further amended by inserting immediately after Section 126 as Section 126A the following:

ICC-1581 ICCI Exhibit P-059 Page 152

"126A. Where the Director is authorized under this Part to lay any information or complaint, to commence any action, or to continue any proceedings, the complaint or information may be laid, the action may be commenced, and the proceedings may be continued, or any of those things may be done, by any welfare officer authorized in writing for the purpose by the Director."

Welfare officer may act in certain cases when authorized by Director.

5. Section 132 of the said Act is amended by repealing paragraph (d) and substituting therefor the following:

Amdt. Sec. 132.

"(d) repay to the putative father the balance of the specified sum of money paid to the Director or held by the Department of Public Welfare, and paid by the putative father in pursuance of

(i) an affiliation order made under subsection (4) of Section 103; or

(ii) an agreement made between the mother of a child whose parents were not legally married to each other when the agreement was made and the putative father and approved by the Director under Section 96 of this Act or under Section 94 of the Welfare of Children Act, 1944, now repealed,

where the child in respect of whom any such order or agreement was made dies or is adopted, or has at any time before the enactment of this paragraph died or been adopted, before such specified sum of money has been or was fully expended."

AN ACT FURTHER TO AMEND THE WELFARE OF CHILDREN ACT.

(May 28, 1957)

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title.

1. This Act may be cited as The Welfare of Children (Amendment) Act, 1957.

Amdt. Sec. 57.

2. Section 57 of The Welfare of Children Act, chapter 60 of The Revised Statutes of Newfoundland, 1952, is amended by deleting paragraph (g) of subsection (1) as enacted by the Act No. 34 of 1954, and substituting therefor the following:

"(g) commit the child temporarily or permanently to the care and custody of the Director who, if he deems it desirable, may place the child in a training school;"

Amdt. Sec. 94.

3. Section 94 of the said Act is amended by deleting therefrom the words "seven hundred and fifty dollars" and substituting therefor the words "twelve hundred dollars."

Amdt. Sec. 95.

4. Section 95 of the said Act is amended by deleting therefrom the words "not exceeding one hundred dollars" and substituting therefor the words "not less than twelve hundred dollars."

Amdt. Sec. 100.

5. Section 100 of the said Act is amended

(a) by deleting therefrom the words "not more than one thousand dollars" appearing in the eighth line of the section and substituting therefor the words "not less than twelve hundred dollars"; and

(b) by deleting therefrom the words "not exceeding one thousand dollars" appearing in the last line of the section and substituting therefor the words "not less than twelve hundred dollars."

Amdt. Sec. 103.

6. Section 103 of the said Act is amended by repealing subsection (4) thereof and substituting therefor the following:

"(4) The magistrate may order that the liability of the putative father under this Part of this Act shall be satisfied upon payment of the expenses of and incidental to the birth of the child, and the lying in and maintenance of the mother at and before the birth, and a specified sum not less than twelve hundred dollars to be paid in full in three equal instalments, the first such instalment to be paid on or before the expiration of thirty days from the date on which the order is made, the second such instalment to be paid on or before the expiration of twelve months from the last date prescribed by this subsection for the payment of the first instalment, and the third such instalment to be paid on or before the expiration of two years from the last date prescribed by this subsection for the payment of the first instalment."

Amdt. Sec. 104 (1).

7. Subsection (1) of Section 104 of the said Act is amended by deleting therefrom the words "seven hundred and fifty dollars" and substituting therefor the words "twelve hundred dollars".

AN ACT FURTHER TO AMEND THE WELFARE OF CHILDREN ACT.

(February 11, 1958)

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title.

1. This Act may be cited as The Welfare of Children (Amendment) Act, 1958.

Amdt. Sec. 12

2. The Welfare of Children Act, chapter 60 of The Revised Statutes of Newfoundland, 1952, is amended by repealing subparagraph (xviii) of paragraph (c) of Section 12 and substituting therefor the following:

"(xviii) who being under the age of sixteen years is employed anywhere between the hours of nine o'clock p.m. of one day and eight o'clock a.m. of the following day;".

Amdt. Sec. 25.

3. The said Act is further amended by repealing subsection (1) of Section 25 and substituting therefor the following:

Order for payment of support of child.

"(1) (a) The Director or a society may, when or at any time after an order is made under Section 17 and from time to time. and

(b) the Director may, when or at any time after he has taken a child into his care and custody under Section 175 and from time to time,

apply to a court and the court may upon the application make an order for the payment by or the recovery from the parents or guardian of such reasonable sums as may from time to time be spent or have been spent for the support, care and welfare of the child in any home, shelter or institution in which the child may be or may have been placed by the Director or society."

ICC-1581 ICCI Exhibit P-059 Page 156

4. The said Act is further amended by inserting immediately after subsection (2) of Section 57 the following as subsections (3) and (4): Amdt. Sec. 57.

"(3) Notwithstanding any other provision of this Act or any other course of action taken or order made under this Act, where a child has been adjudged to be a juvenile delinquent the court may, at any time after the adjudication and on the application of the Director or a welfare officer, issue a summons to the parents of the child to appear before it and the court may hold a hearing into the financial circumstances of the parents and make an order referred to in subsection (2). Idem.

(4) Where a child has been adjudged to be a juvenile delinquent and the court has taken one of the courses of action set out in subsection (1), if the child fails to observe any conditions imposed upon him under that subsection the court may at any time before the child reaches the age of seventeen years, by notice, summons, or warrant, cause the child to be brought before the court and the court may take further action under subsection (1) or may make an order under Section 47." Return of juvenile delinquent to court.

5. The said Act is further amended by deleting from paragraph (c) of Section 88 the words "means and single woman" and substituting therefor the words "means any single woman". Amdt. Sec. 88.

6. The said Act is further amended by repealing subsection (2) of Section 110 and substituting therefor the following: Amdt. Sec. 110

"(2) Notwithstanding any other provision of this Act, where it appears to the magistrate that the terms of the affiliation order cannot be carried out without depriving the widow or the legitimate children of the putative father of proper subsistence and education the magistrate Variation of orders;

(a) shall vary the affiliation order to such an extent and in such manner that the widow of the father and his children born in wedlock, if any, shall be duly provided for before the child born out of wedlock; and

ICC-1581 ICCI Exhibit P-059 Page 157

(b) may order that any sum payable under the affiliation order and remaining unpaid be paid in such manner as he shall direct or that the whole or any part of that sum shall not be required to be paid."

Sec. 110A inserted.

7. The said Act is further amended by inserting immediately after Section 110 the following as Section 110A:

Cancellation of affiliation order.

"110A. A magistrate may but is not bound to, on the application of the Director, a welfare officer, or of the mother or the putative father of a child, cancel an affiliation order from the date of the marriage of the mother or such earlier date as the mother may wish."

Sec. 119A inserted.

8. The said Act is further amended by inserting immediately after Section 119 the following as Section 119A:

Proceedings under this Part.

"119A.—(1) Save where otherwise provided in this Act

(a) the provisions of The Summary Jurisdiction Act shall mutatis mutandis apply to proceedings under this Part including, but not so as to restrict the generality of the foregoing, the trial of all matters and the enforcing of the attendance of all parties and witnesses; and

(b) any order for the payment of money and any other order made under this Part may be enforced as if it was a judgment, order or conviction made under that Act, but imprisonment shall be ordered only under subsection (2).

Enforcement of order.

(2) Whenever default is made in the payment of any sum of money ordered to be paid under this Part, the magistrate who made the order or any other magistrate before whom a complaint similar to the original complaint could be laid or any magistrate who has jurisdiction in the locality in which the mother in whose favour the order is made resides

(a) may from time to time summon the person in default to explain the default;

ICC-1581 ICCI Exhibit P-059 Page 158

(b) may, where service of the summons has been proved and the person summoned does not appear or reasonable excuse for his absence is not given or where it appears that the summons cannot be served or where an order for imprisonment has been made, issue a warrant for the arrest of the person;

(c) may, when a warrant has been issued or where the person in default fails to satisfy the magistrate that such default is due to inability to pay, order and adjudge such person to be imprisoned for a term not exceeding six months unless the sums of money payable under the order or such lesser sums as the magistrate may see fit to designate, are sooner paid, but imprisonment under this subsection does not operate to release the person in default from liability under this Part or as a defence in further actions under this Part; and

(d) may impose upon the person in default such conditions as under the circumstances the magistrate deems advisable.

Transmission of order to facilitate enforcement.

(3) Whenever default is made in the payment of any sum of money ordered to be paid under this Part the magistrate who made the order may send a copy of the order, together with a statement showing such information as he possesses of the circumstances of the case and for facilitating the identification of the person against whom the order was made and the location of his place of residence, to any magistrate in or near such locality and upon receipt thereof the magistrate may summon the person in default to explain the default and may exercise any of the powers mentioned in paragraphs (b), (c), and (d) of subsection (2), and when he has dealt with the matter he shall send a report thereon to the magistrate who made the order."

Amdt. Sec. 134

9. The said Act is further amended by inserting immediately after subsection (3) of Section 134 the following as subsections (4), (5), (6) and (7):

ICC-1581 ICCI Exhibit P-059 Page 159

Receiving a child with a view to adoption.

"(4) A person shall not receive a child into a home or otherwise take the care and custody of a child with a view to adopting that child except with the prior written approval of the Director unless that person is

(a) the mother of the child;

(b) of the same blood as the mother of the child where the child was born out of wedlock; or

(c) of the same blood as the mother or the father of the child where the child was born in wedlock.

Offence.

(5) A person who violates subsection (4) or consents to the violation is guilty of an offence and is liable on summary conviction to a fine not exceeding five hundred dollars or in default of payment to imprisonment for a term not exceeding one year or to both such fine and imprisonment and in default of payment of such fine to additional imprisonment for a term not exceeding six months.

Person giving up child for adoption.

(6) The father or mother who without the prior consent in writing of the Director allows or agrees to allow his or her child to be taken into a home or otherwise gives up or agrees to give up the care and custody of the child with a view to the adoption of the child by any person other than a person referred to in paragraph (b) or (c) of subsection (4) is guilty of an offence and liable on summary conviction to the penalty set out in subsection (5).

Child may be declared to be neglected.

(7) Where a person has been convicted of an offence under subsection (5) or (6) the court may declare that the child in respect of whom the offence was committed is a neglected child and Part I of this Act applies mutatis mutandis to that child."

Repeal and substitution Sec. 174.

10. The said Act is further amended by repealing Section 174 and substituting therefor the following:

ICC-1581 ICCI Exhibit P-059 Page 160

Acceptance of child for board and lodging.

"174.—(1) A person shall not accept a child under the age of twelve years into a home for the purpose of providing that child with board or lodging unless that person

(a) has received a licence from the Director under this section;

(b) is of the same blood as the mother of the child where the child was born out of wedlock; or

(c) is of the same blood as the father or mother of the child where the child was born in wedlock.

Director may issue licences to people to accept children.

(2) The Director may issue licences to persons permitting them to receive children and provide them with board and lodging in their homes and each licence shall

(a) contain the name and address of and otherwise describe the licensee;

(b) specify the place in which the licensee is to receive, board or lodge the children and the number of children who may at any time be in receipt of board or lodging in that place; and

(c) contain such conditions as the Director may attach to the licence.

Director may attach conditions to licence.

(3) The Director may attach to a licence issued under this section such conditions as he deems fit and may attach different conditions to licences issued to different persons.

Director may refuse to issue and may revoke licences.

(4) The Director may refuse to issue or may revoke a licence under this section without assigning any reason for the refusal or revocation.

Offence.

(5) A person who violates or consents to a violation of subsection (1) or any condition attached to a licence issued under subsection (2) is guilty of an offence and is liable on summary conviction to a fine not exceeding five hundred dollars or in default of payment to imprisonment for a term not exceeding one year or to both such fine and im-

ICC-1581 ICCI Exhibit P-059 Page 161

prisonment and in default of payment of such fine to additional imprisonment for a term not exceeding six months.

Idem.

(6) A father or mother who allows or agrees to allow or gives up his or her child to be received into a home or provided with board and lodging contrary to subsection (1) is guilty of an offence and liable on summary conviction to the penalty set out in subsection (5).

Child may be declared neglected.

(7) Where a person has been convicted of an offence under subsection (5) or (6) the court may declare that the child in respect of whom the offence was committed is a neglected child and Part I of this Act applies mutatis mutandis to that child.

Cases to which this section does not apply.

(8) This section does not apply where a child is received into a home to be provided with board and lodging and the board and lodging are to be provided for a period not in excess of one year

(a) during the temporary absence from the province of one or both of the parents;

(b) during the illness of one or both of the parents; or

(c) while the child is absent from the home of his parents for the purpose of attending school."

ICC-1581 ICCI Exhibit P-059 Page 162

AN ACT FURTHER TO AMEND THE WELFARE OF CHILDREN ACT.

(February 11, 1958)

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title.

1. This Act may be cited as The Welfare of Children (Amendment) Act, 1958.

Amdt. Sec. 12

2. The Welfare of Children Act, chapter 60 of The Revised Statutes of Newfoundland, 1952, is amended by repealing subparagraph (xviii) of paragraph (c) of Section 12 and substituting therefor the following:

"(xviii) who being under the age of sixteen years is employed anywhere between the hours of nine o'clock p.m. of one day and eight o'clock a.m. of the following day;".

Amdt. Sec. 25.

3. The said Act is further amended by repealing subsection (1) of Section 25 and substituting therefor the following:

Order for payment of support of child.

"(1) (a) The Director or a society may, when or at any time after an order is made under Section 17 and from time to time, and

(b) the Director may, when or at any time after he has taken a child into his care and custody under Section 175 and from time to time,

apply to a court and the court may upon the application make an order for the payment by or the recovery from the parents or guardian of such reasonable sums as may from time to time be spent or have been spent for the support, care and welfare of the child in any home, shelter or institution in which the child may be or may have been placed by the Director or society."

ICC-1581 ICCI Exhibit P-059 Page 163

Amdt. Sec. 57.

4. The said Act is further amended by inserting immediately after subsection (2) of Section 57 the following as subsections (3) and (4):

Idem.

"(3) Notwithstanding any other provision of this Act or any other course of action taken or order made under this Act, where a child has been adjudged to be a juvenile delinquent the court may, at any time after the adjudication and on the application of the Director or a welfare officer, issue a summons to the parents of the child to appear before it and the court may hold a hearing into the financial circumstances of the parents and make an order referred to in subsection (2).

Return of juvenile delinquent to court.

(4) Where a child has been adjudged to be a juvenile delinquent and the court has taken one of the courses of action set out in subsection (1), if the child fails to observe any conditions imposed upon him under that subsection the court may at any time before the child reaches the age of seventeen years, by notice, summons, or warrant, cause the child to be brought before the court and the court may take further action under subsection (1) or may make an order under Section 47."

Amdt. Sec. 88.

5. The said Act is further amended by deleting from paragraph (c) of Section 88 the words "means and single woman" and substituting therefor the words "means any single woman".

Amdt. Sec. 110

6. The said Act is further amended by repealing subsection (2) of Section 110 and substituting therefor the following:

Variation of orders;

"(2) Notwithstanding any other provision of this Act, where it appears to the magistrate that the terms of the affiliation order cannot be carried out without depriving the widow or the legitimate children of the putative father of proper subsistence and education the magistrate

(a) shall vary the affiliation order to such an extent and in such manner that the widow of the father and his children born in wedlock, if any, shall be duly provided for before the child born out of wedlock; and

ICC-1581 ICCI Exhibit P-059 Page 164

(b) may order that any sum payable under the affiliation order and remaining unpaid be paid in such manner as he shall direct or that the whole or any part of that sum shall not be required to be paid."

Sec. 110A inserted.

7. The said Act is further amended by inserting immediately after Section 110 the following as Section 110A:

Cancellation of affiliation order.

"110A. A magistrate may but is not bound to, on the application of the Director, a welfare officer, or of the mother or the putative father of a child, cancel an affiliation order from the date of the marriage of the mother or such earlier date as the mother may wish."

Sec. 119A inserted.

8. The said Act is further amended by inserting immediately after Section 119 the following as Section 119A:

Proceedings under this Part.

"119A.—(1) Save where otherwise provided in this Act

(a) the provisions of The Summary Jurisdiction Act shall mutatis mutandis apply to proceedings under this Part including, but not so as to restrict the generality of the foregoing, the trial of all matters and the enforcing of the attendance of all parties and witnesses; and

(b) any order for the payment of money and any other order made under this Part may be enforced as if it was a judgment, order or conviction made under that Act, but imprisonment shall be ordered only under subsection (2).

Enforcement of order.

(2) Whenever default is made in the payment of any sum of money ordered to be paid under this Part, the magistrate who made the order or any other magistrate before whom a complaint similar to the original complaint could be laid or any magistrate who has jurisdiction in the locality in which the mother in whose favour the order is made resides

(a) may from time to time summon the person in default to explain the default;

ICC-1581 ICCI Exhibit P-059 Page 165

(b) may, where service of the summons has been proved and the person summoned does not appear or reasonable excuse for his absence is not given or where it appears that the summons cannot be served or where an order for imprisonment has been made, issue a warrant for the arrest of the person;

(c) may, when a warrant has been issued or where the person in default fails to satisfy the magistrate that such default is due to inability to pay, order and adjudge such person to be imprisoned for a term not exceeding six months unless the sums of money payable under the order or such lesser sums as the magistrate may see fit to designate, are sooner paid, but imprisonment under this subsection does not operate to release the person in default from liability under this Part or as a defence in further actions under this Part; and

(d) may impose upon the person in default such conditions as under the circumstances the magistrate deems advisable.

Transmission of order to facilitate enforcement.

(3) Whenever default is made in the payment of any sum of money ordered to be paid under this Part the magistrate who made the order may send a copy of the order, together with a statement showing such information as he possesses of the circumstances of the case and for facilitating the identification of the person against whom the order was made and the location of his place of residence, to any magistrate in or near such locality and upon receipt thereof the magistrate may summon the person in default to explain the default and may exercise any of the powers mentioned in paragraphs (b), (c), and (d) of subsection (2), and when he has dealt with the matter he shall send a report thereon to the magistrate who made the order."

Amdt. Sec. 134

9. The said Act is further amended by inserting immediately after subsection (3) of Section 134 the following as subsections (4), (5), (6) and (7):

ICC-1581 ICCI Exhibit P-059 Page 166

Receiving a child with a view to adoption.

"(4) A person shall not receive a child into a home or otherwise take the care and custody of a child with a view to adopting that child except with the prior written approval of the Director unless that person is

(a) the mother of the child;

(b) of the same blood as the mother of the child where the child was born out of wedlock; or

(c) of the same blood as the mother or the father of the child where the child was born in wedlock.

Offence.

(5) A person who violates subsection (4) or consents to the violation is guilty of an offence and is liable on summary conviction to a fine not exceeding five hundred dollars or in default of payment to imprisonment for a term not exceeding one year or to both such fine and imprisonment and in default of payment of such fine to additional imprisonment for a term not exceeding six months.

Person giving up child for adoption.

(6) The father or mother who without the prior consent in writing of the Director allows or agrees to allow his or her child to be taken into a home or otherwise gives up or agrees to give up the care and custody of the child with a view to the adoption of the child by any person other than a person referred to in paragraph (b) or (c) of subsection (4) is guilty of an offence and liable on summary conviction to the penalty set out in subsection (5).

Child may be declared to be neglected.

(7) Where a person has been convicted of an offence under subsection (5) or (6) the court may declare that the child in respect of whom the offence was committed is a neglected child and Part I of this Act applies mutatis mutandis to that child."

Repeal and substitution Sec. 174.

10. The said Act is further amended by repealing Section 174 and substituting therefor the following:

ICC-1581 ICCI Exhibit P-059 Page 167

"174.—(1) A person shall not accept a child under the age of twelve years into a home for the purpose of providing that child with board or lodging unless that person

Acceptance of child for board and lodging.

(a) has received a licence from the Director under this section;

(b) is of the same blood as the mother of the child where the child was born out of wedlock; or

(c) is of the same blood as the father or mother of the child where the child was born in wedlock.

(2) The Director may issue licences to persons permitting them to receive children and provide them with board and lodging in their homes and each licence shall

Director may issue licences to people to accept children.

(a) contain the name and address of and otherwise describe the licensee;

(b) specify the place in which the licensee is to receive, board or lodge the children and the number of children who may at any time be in receipt of board or lodging in that place; and

(c) contain such conditions as the Director may attach to the licence.

(3) The Director may attach to a licence issued under this section such conditions as he deems fit and may attach different conditions to licences issued to different persons.

Director may attach conditions to licence.

(4) The Director may refuse to issue or may revoke a licence under this section without assigning any reason for the refusal or revocation.

Director may refuse to issue and may revoke licences.

(5) A person who violates or consents to a violation of subsection (1) or any condition attached to a licence issued under subsection (2) is guilty of an offence and is liable on summary conviction to a fine not exceeding five hundred dollars or in default of payment to imprisonment for a term not exceeding one year or to both such fine and im-

Offence.

ICC-1581 ICCI Exhibit P-059 Page 168

prisonment and in default of payment of such fine to additional imprisonment for a term not exceeding six months.

Idem.

(6) A father or mother who allows or agrees to allow or gives up his or her child to be received into a home or provided with board and lodging contrary to subsection (1) is guilty of an offence and liable on summary conviction to the penalty set out in subsection (5).

Child may be declared neglected.

(7) Where a person has been convicted of an offence under subsection (5) or (6) the court may declare that the child in respect of whom the offence was committed is a neglected child and Part I of this Act applies mutatis mutandis to that child.

Cases to which this section does not apply.

(8) This section does not apply where a child is received into a home to be provided with board and lodging and the board and lodging are to be provided for a period not in excess of one year

(a) during the temporary absence from the province of one or both of the parents;

(b) during the illness of one or both of the parents; or

(c) while the child is absent from the home of his parents for the purpose of attending school."

AN ACT FURTHER TO AMEND THE WELFARE OF CHILDREN ACT.

(July 6, 1959)

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title.

1. This Act may be cited as The Welfare of Children (Amendment) Act, 1959.

Amdt. Sec. 2.

2. Section 2 of The Welfare of Children Act, chapter 60 of The Revised Statutes of Newfoundland, 1952 is amended by striking out paragraph (v) and substituting therefor the following:

"(v) "welfare officer" means a Welfare Officer appointed under Section 4 of The Department of Public Welfare Act, as amended, or transferred to the Department under Section 7 of that Act."

Repeal and substitution Secs. 7 and 8

3. Sections 7 and 8 of the said Act are repealed and the following substituted therefor:

Duties of welfare officers.

"7.–(1) Every welfare officer has in the discharge of his duties as a welfare officer all of the powers of a constable and is protected from civil actions for anything done in bona fide exercise of the powers conferred by this Act.

(2) Every welfare officer has all of the powers of a constable under The School Attendance Act."

Addition of new sections.

4. The said Act is further amended by inserting immediately after Section 177 as Sections 177A, 177B and 177C the following:

Copy of evidence to be sent to Director.

"177A. The Judge shall forward a copy of the evidence taken before him to the Director together with a statement containing all important facts relating to any child committed to his care and custody whether temporarily or permanently.

ICC-1581 ICCI Exhibit P-059 Page 171

Variation of order made under Sec. 17 or 57.

177B. When an order has been made under Section 17 or 57 the magistrate may, upon application of the Director or of any person designated for the purpose by the Director or of a parent or guardian of the child to whom the order relates or of any person entitled to make a complaint in respect of that child, vary the order from time to time, if he is satisfied that there has been a material alteration in the needs or the circumstances of the child.

Temporary commitments to be made for definite period.

177C. Notwithstanding anything to the contrary contained in this Act, when a child is committed temporarily to the care and custody of the Director under Section 17 or 57, the commitment shall be made for a fixed period not exceeding twelve months."

AN ACT FURTHER TO AMEND THE WELFARE OF CHILDREN ACT.

(May 30, 1960)

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title.

1. This Act may be cited as The Welfare of Children (Amendment) Act, 1960.

Amendment Sec. 12.

2. Paragraph (c) of Section 12 of The Welfare of Children Act, chapter 60 of The Revised Statutes of Newfoundland, 1952, is amended by adding thereto as sub-paragraph (xxii) the following:

"(xxii)

A. whose parents are dead and who has no near relatives; or

B. who is illegitimate and whose mother is dead".

Repeal Sec. 138(4).

3. Subsection (4) of Section 138 of the said Act is repealed.

ICC-1581 ICCI Exhibit P-059 Page 173

AN ACT FURTHER TO AMEND THE WELFARE OF CHILDREN ACT.

(March 13, 1961)

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title.

1. This Act may be cited as The Welfare of Children (Amendment) Act, 1961.

Sec. 12A inserted.

2. The Welfare of Children Act, chapter 60 of The Revised Statutes of Newfoundland, 1952, is amended by inserting immediately after Section 12 the following as Section 12A:

Director or other authorized person may apply for declaration of neglect.

"12A.—(1) Where the Director believes on reasonable and probable grounds that a child is a neglected child, the Director or any person authorized by him in writing may apply to a judge for a declaration that the child is a neglected child.

Notice.

(2) The Director or the person authorized by him to make the application under subsection (1) shall at least ten days prior to the date set for the hearing of that application notify the parents or guardian of the child of

(a) the name of the child in respect of whom the application is being made;

(b) the sub-paragraph of paragraph (c) of Section 12 under which the child is considered to be a neglected child; and

(c) the time and place of the hearing of the application.

Hearing of application.

(3) The judge shall hear the application and may compel the attendance of witnesses on the hearing and for that purpose is hereby given all the powers of a Stipendiary Magistrate.

ICC-1581 ICCI Exhibit P-059 Page 174

Order.

(4) If the judge finds upon the hearing of the application that the child is a neglected child, he may so declare and may make an order in respect of the child under Section 17."

Amdt. Sec. 17.

3. Section 17 of the said Act is amended

(a) by renumbering the said Section 17 as subsection (1); and

(b) by adding thereto the following as subsections (2), (3), (4) and (5):

Review of matter by judge.

"(2) Where a child has been committed temporarily to the care and custody of the Director, the Director or some person authorized by him in writing shall during the period of temporary commitment or at the expiration of that period bring the matter again before the judge for further and other consideration and action and if the parents or guardian of the child have been notified as required by subsection (3) the judge shall thereupon further inquire and determine whether the circumstances justify an order returning the child to its parents or guardian or other person in whose care he may have been or making a further order under this section, and the judge shall make such order as the circumstances of the case require.

Notice.

(3) The Director or some person authorized by him in writing shall notify the parents or guardian of the child of the time and place of the inquiry referred to in subsection (2).

Evidence at prior hearing, etc.

(4) Evidence taken at a prior hearing and the order of temporary committal made after the prior hearing may be admitted as evidence in an inquiry under subsection (2) without proof or on such proof as the judge may require.

Temporary detention.

(5) At any time pending the final determination of an inquiry under subsection (2) the judge may make such order for temporary detention and care of the child as he deems proper."

AN ACT FURTHER TO AMEND THE WELFARE OF CHILDREN ACT.

(March 20, 1962)

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title.

1. This Act may be cited as The Welfare of Children (Amendment) Act, 1962.

Amdt. Sec. 103.

2. Paragraph (d) of subsection (1) of Section 103 of The Welfare of Children Act, chapter 60 of The Revised Statutes of Newfoundland, 1952, is repealed and the following substituted therefor:

"(d) the costs of all proceedings taken under this Part, including a counsel fee not exceeding fifty dollars and any reasonable and actual out-of-pocket expenses incurred by counsel, and the Director shall pay to counsel for the complainant the amounts paid to the Director under this paragraph.".

AN ACT RELATING TO THE ADOPTION OF CHILDREN.

(June 10, 1964)

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title.

1. This Act may be cited as The Adoption of Children Act, 1964.

Interpretation.

2. In this Act

(a) "adopted child" means a child whose adoption has been authorized under this Act;

(b) "adopting parent" means a person authorized under this Act to adopt a child;

(c) "adoption order" means an order made under this Act authorizing an applicant to adopt a child;

(d) "application" means an application for an adoption order made under this Act;

(e) "child" means a person who is under the age of twenty-one years;

(f) "Director" means the Director of Child Welfare;

(g) "judge" means a Judge of the Supreme Court, District Judge or stipendiary magistrate or the judge of a family or juvenile court who has been designated by the Lieutenant-Governor in Council a judge for the purposes of this Act. (New).

Application for order.

3.—(1) When an application for an adoption order is made by a person who is not married the court may, subject to this Act, make an order authorizing the applicant to adopt that child.

Joint application.

(2) Where an application for an adoption order is made by a husband and wife jointly, the court may make the order author-

ICC-1581 ICCI Exhibit P-059 Page 177

izing them jointly to adopt but otherwise an adoption order shall not be made authorizing more than one person to adopt a child. (R.N.S. 1952, C. 60, S. 134).

Receiving a child with a view to adoption.

(3) A person shall not receive a child into a home or otherwise take the care and custody of a child with a view to adopting that child except with the prior written approval of the Director unless that person is

(a) the mother of the child;

(b) of the same blood as the mother of the child where the child was born out of wedlock;

(c) of the same blood as the mother or the father of the child where the child was born in wedlock.

Offence.

(4) A person who violates subsection (3) or consents to the violation is guilty of an offence and liable on summary conviction to a fine not exceeding one hundred dollars or in default of payment to imprisonment for a term not exceeding one month or to both such fine and imprisonment.

Person giving up child for adoption.

(5) A father or mother who without the prior consent in writing of the Director allows or agrees to allow his or her child to be taken into a home or otherwise gives up or agrees to give up the care and custody of the child with a view to the adoption of the child by any person other than a person referred to in paragraph (b) or (c) of subsection (3) is guilty of an offence and liable on summary conviction to the penalty set out in subsection (4).

Child may be declared to be neglected.

(6) Where a person has been convicted of an offence under subsection (4) or (5) the court may declare that the child in respect of whom the offence was committed is a neglected child. (1958, No. 15, S. 9).

Supporting statements.

4. An application shall be supported by written statements of the fitness of each applicant to adopt the child by persons well and favourably known in the district in which the applicant resides or by such other documents as the judge in his discretion may require. (R.S.N. 1952, C. 60, S. 135).

ICC-1581 ICCI Exhibit P-059 Page 178

Judge to keep records.

5.—(1) Every application and all documents to be used in connection therewith shall be filed in the office of the judge.

Director to be notified.

(2) Copies of the application and documents shall be served upon the Director and an adoption order shall not be made unless the Director has been served with notice thereof and is represented thereon or has expressed in writing his intention of not being so represented. (R.S.N. 1952, C. 60, S. 136).

When consent of Minister to be obtained

6.—(1) Except with the consent of the Minister an adoption order shall not be made in any case where

(a) the applicant is under the age of twenty-five years; or

(b) the applicant is less than twenty-five years older than the child in respect of whom the application is made.

Special circumstances.

(2) An adoption order shall not be made where the sole applicant is a male and the child in respect of whom the application is made is a female unless the court is satisfied that there are special circumstances which justify the making of an adoption order. (R.S.N. 1952, C. 60, S. 137).

Consents required.

7.—(1) Subject to this Act, an adoption order shall not be made without the written consent

(a) of the child, if the child has attained the age of twelve years;

(b) of the parents or guardians of the child, if the child is born in wedlock; or

(c) of the mother only, if the child is born out of wedlock.

When child's consent may be dispensed with.

(2) The consent of a child to an adoption order shall not be required if the judge, for reasons appearing to him to be sufficient, considers it necessary or desirable to dispense with the consent.

When consent of guardian not required.

(3) The consent of a guardian shall not be required if

(a) he is found by the judge, upon evidence submitted to him, to be insane, incompetent or unfit to give consent;

ICC-1581 ICCI Exhibit P-059 Page 179

(b) he is undergoing a sentence for a term of which more than two years remain unexpired at the date of the filing of the application;

(c) being under a duty to provide proper care and maintenance for the child, he has neglected so to do; or

(d) the judge for reasons which appear to him sufficient deems it necessary or desirable to dispense with his consent.

(4) In the case of a child committed to the permanent care and custody of the Director, the party giving the consent to adoption as guardian shall be the Director.

(5) Where a child is under the age of twelve years and

(a) none of the parents or guardians is living; or

(b) the judge is satisfied that none of the persons whose consent to an adoption is required under paragraph (b) or (c) of subsection (1) can be found in Newfoundland,

the Director may, if he is satisfied that it is in the best interests of the child, give written consent to the adoption of the child in lieu of the assent of the proper person; and where the Director gives that consent to an adoption under this subsection the consent is deemed to have been given by that person in accordance with subsection (1). (R.S.N. 1952, C. 60, S. 138).

(6) A person giving a consent required under paragraph (b) or (c) of subsection (1) may within twenty-one days after the consent is given cancel it by a document in writing to that effect, but otherwise subject to subsection (7) the consent shall be irrevocable.

(7) The Judge, if satisfied that it is in the best interests of the child, may by order cancel a consent referred to in subsection (6).

Judge may require further information.

8. A judge may require further information and consents to be obtained as to any matter affecting the adoption of a child

ICC-1581 ICCI Exhibit P-059 Page 180

and may direct investigation as to the physical, mental and moral fitness of the child or the adopting parents. (R.S.N. 1952, C. 60, S. 139).

Certificate of Director.

9. An adoption order shall not be made unless the Director certifies in writing

(a) that the child has lived with the applicant for at least six months immediately prior to the date of the application and that during that period the conduct of the applicant and the conditions under which the child has lived have been such as to justify the making of the order; or

(b) that the applicant is to the knowledge of the Director a fit and proper person to have the care and custody of the child and that for reasons set out in the certificate the period of residence may be dispensed with. (R.S.N. 1952, C. 60, S. 140).

Judge may make order.

10.—(1) A judge, if satisfied of the ability of the applicant to fulfil the obligations and perform the duties of a parent towards the child and the propriety of the adoption having regard to the welfare interests of the child, the religious persuasion in which he has been brought up and the interests of his adopting parents and their religious persuasion, may make an adoption order authorizing that applicant to adopt the child.

Fact of illegitimacy shall not appear.

(2) If the child has been born out of wedlock, the fact shall not appear in the adoption order.

Form of order.

(3) Every adoption order shall be on a prescribed form to be supplied by the Director without charge. (R.S.N. 1952, C. 60, S. 141).

Effect of an Adoption Order

Effect of adoption order.

11.—(1) An adoption order

(a) divests the natural parent, guardian or person in whose custody the adopted child has been of all legal rights

ICC-1581 ICCI Exhibit P-059 Page 181

and frees him or them from all legal obligations and duties in respect of the child;

(b) makes the adopted child, to all intents and purposes, the child of the adopting parent or parents; and

(c) imposes upon the adopting parent or parents all legal obligations and duties as if the adopting parent or parents were the natural parent or parents of the child as from the date of the adoption order.

Surname of adopted child.

(2) The adopted child shall receive the surname of his adopting parent, unless otherwise ordered by the judge.

Christian name of adopted child.

(3) In and by the adoption order the judge may in his discretion give to the adopted child any first or Christian name or names requested by the applicant in his application. (R.S.N. 1952, C. 60, S. 142).

Right to inherit property.

12.—(1) A person who has been adopted in accordance with this Act shall upon the intestacy of an adopting parent take the same share of property which the adopting parent could dispose of by will as he would have taken if born to the parent in lawful wedlock, and he shall stand in regard to the legal descendants but to no other kindred of the adopting parent, in the same position as if he had been born to the adopting parent.

Disposal of property of adopted person on intestacy.

(2) If a person who has been adopted in accordance with this Act dies intestate his property acquired by himself or by gift, inheritance or descent from his adopting parent or from the kindred of that parent shall be distributed according to the laws of Newfoundland relating to intestacy among the persons who would have been his kindred if he had been born to his adopting parent in lawful wedlock, and any property received by gift or inheritance from his natural parents or kindred shall be distributed in the same manner as if no act of adoption had taken place.

Adopted person may inherit from natural parents.

(3) Where a person is adopted he shall not lose his right to inherit from his natural parents or kindred. (R.S.N. 1952, C. 60, S. 143).

ICC-1581 ICCI Exhibit P-059 Page 182

When "child" shall mean an adopted child.

13. The word "child" or its equivalent in a will, conveyance or other instrument includes an adopted child unless the contrary plainly appears by the term of the will, conveyance or other instrument. (R.S.N. 1952, C. 60, S. 144).

Legitimation not to affect adoption order.

14. An adoption order made with respect to a child born out of wedlock shall not be affected in any way by the marriage or intermarriage of its natural parents. (R.S.N. 1952, C. 60, S. 145).

Interim Order

Power to make interim orders.

15.—(1) Upon an application for an adoption order, the court may postpone the determination of the application and may make an interim order, which is not an adoption order for the purposes of this Act, giving the custody of the child to the applicant for a period not exceeding two years by way of a probationary period upon such terms as regards provision for the maintenance, education and supervision of the welfare of the child and otherwise as the court may think fit.

(2) All such consents as are required to an adoption order are necessary to an interim order but subject to a like power on the part of the court to dispense with any such consent. (R.S.N. 1952, C. 60, S. 146).

Power to make subsequent order in respect of child already subject to an order.

16.—(1) An adoption order or an interim order may be made in respect of a child who has already been the subject of an adoption order and, upon any application for such further adoption order, the adopter or adopters under the adoption order last previously made shall, if living be deemed to be the parent or parents of the child for all purposes of this Act.

(2) In the case of a child previously adopted, all legal consequences of the former adoption order shall, upon a subsequent adoption, determine except in so far as any right, title or interest in property may have vested in law or equity in the adopted child. (R.S.N. 1952, C. 60, S. 147).

Jurisdiction and procedure.

17.—(1) The court having jurisdiction to make adoption orders shall be the Supreme Court or, at the option of the appli-

ICC-1581 ICCI Exhibit P-059 Page 183

cant, but subject to any regulations under this section, a District Court or any family or juvenile court, or any stipendiary magistrate within the jurisdiction of which or whom either the applicant or the child resides at the date of the application for the adoption order.

Regulations made by Minister.

(2) Regulations in regard to any matter to be prescribed under this Act and directing the manner in which applications to the court are to be made and dealing generally with all matters of procedure and incidental matters arising out of this Act and for carrying this Act into effect, including the procedure to be followed upon an application for an adoption order where not provided for by this Act, shall be made by the Minister with the approval of the Lieutenant-Governor in Council.

Hearing in camera.

(3) An application under this Act shall be dealt with by the judge in his chambers and may be heard in camera.

Guardian ad litem.

(4) For the purpose of any application under this Act and subject to any regulations under this section, the court shall appoint some person or body to act as guardian *ad litem* of the child upon the hearing of the application with the duty of safeguarding the interest of the child before the court. (R.S.N. 1952, C. 60, S. 148).

Restrictions on payments.

18. An applicant, parent or guardian shall not, except with the sanction of the court, receive and no person shall make or give or agree to make or give to an applicant, parent or guardian any payment or other reward in consideration of the adoption of a child. (R.S.N. 1952, C. 60, S. 149, Am.).

Order may not be set aside after one year, etc.

19. An action or proceeding to set aside an adoption order under this Act shall not be commenced after the expiration of one year from the date of the order, save in the Supreme Court, and then it may be set aside only if it is in the interests of the adopted child so to do. (R.S.N. 1952, C. 60, S. 151).

Adopted Children Register

Adopted children register.

20.—(1) The Registrar General shall establish and maintain at the public registry at St. John's a register to be called the Adopted Children Register, in which shall be made such en-

ICC-1581 ICCI Exhibit P-059 Page 184

tries as may be directed to be made therein by adoption orders, but no other entries.

Adoption order to be filed with Director and Registrar General.

(2) The adoption order together with the other documents used in the application, shall be filed in the office of the court or judge, and two copies of the order certified by the judge shall be forwarded to the Director and the Director shall forward one of the certified copies to the Registrar General, who shall record the order and make the change in his records required by the adoption order.

Register of Births may be marked "adopted".

(3) If upon any application for an adoption order there is proved to the satisfaction of the court

(a) the date of the birth of the child; and

(b) the identity of the child with a child to which any entry or entries in the Register of Births relates;

the adoption order shall contain a further direction to the Registrar General to cause the birth, entry or entries in the Register of Births to be marked with the word "adopted", and to include in the entry in the adoption register recording the adoption the date stated in the order of the adopted child's birth.

Order not to be public or disclosed except by direction.

(4) The adoption order, the application, the documents filed in the record of proceedings in relation thereto shall not be made public or disclosed to any person save upon the direction of a judge or the Director.

Adoption papers to be kept sealed.

(5) The adoption order, the application, the documents filed and the record of proceedings in relation thereto shall be kept by the court or judge in a sealed packet, and all papers in the custody of the Director relating to the adopted child shall be kept by him in a sealed packet, and neither packet shall be opened save upon the direction of a judge or the Director.

Restriction on searches of Adopted Children Register.

(6) No person may have the Adopted Children Register or any entry therein searched or obtain any certified extract therefrom save upon the permission of a court or judge.

ICC-1581 ICCI Exhibit P-059 Page 185

Birth Certificate of adopted child.

(7) The Registrar General may refer to the Adopted Children Register for the purpose of preparing a birth certificate requested by an adopted child or either of the adopting parents, and the birth certificate shall be in the name given the adopted child by the adoption order.

Copy of entry in Adopted Children Register as evidence of adoption and date of birth of adopted child.

(8) A certified copy of any entry in the Adopted Children Register if purporting to be sealed or stamped with the seal of the Registrar General shall, without any further or other proof of such entry,

(a) where the entry does not contain any record of the date of the birth of the adopted child, be received as evidence of the adoption to which the entry relates; and

(b) where the entry contains a record of the date of the birth of the adopted child, be received as evidence of the adoption to which the entry relates and of the date of the birth of the adopted child to which the entry relates to the same extent as if the copy were a certified copy of an entry in the Register of Births.

Index of and copies of entry in Adopted Children's Register.

(9) The Registrar General shall cause an index of the Adopted Children Register to be made and kept and a person having permission under subsection (6) of this section may have a certified copy of any entry in the Adopted Children Register in all respects upon and subject to the same terms, conditions and regulations as to payment of fees and otherwise as are applicable under The Registration (Vital Statistics) Act in respect of the supply by the Registrar General of certified copies of entries in the registers of births, marriages and deaths.

Other registers and books to be kept.

(10) The Registrar General shall, in addition to the Adopted Children Register and the index thereof, keep such other registers and books and make such entries therein as may be necessary, to record and make traceable the connection between any entry in the register of births which has been marked "Adopted" pursuant to this Act and any corresponding entry in the Adopted Children Register, but those registers and books shall not be nor shall any index thereof be open to public inspection or search nor, except under an order of a court of

ICC-1581 ICCI Exhibit P-059 Page 186

competent jurisdiction shall the Registrar General furnish any person with any information contained in, or any copy or extract from any such registers or books.

Forms

21. The Minister of Public Welfare may prescribe and supply forms required for use under this Act.

Repeal

22. Part V of the Welfare of Children Act, Chapter 60 of The Revised Statutes of Newfoundland, 1952, comprising sections 133 to 152 both included, is repealed.

ICC-1581 ICCI Exhibit P-059 Page 187

AN ACT RESPECTING CHILDREN OF UNMARRIED PARENTS.

(June 10, 1964)

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title.

1. This Act may be cited as The Children of Unmarried Parents Act, 1964.

Interpretation.

2. In this Act:—

(a) "child" means a child of either sex

(i) whose parents are not legally married to each other, or

(ii) in respect to the marriage of whose parents ressonable doubt exists;

(b) "Director" means the Director of Child Welfare;

(c) "magistrate" means a stipendiary magistrate or the judge of a family or juvenile court who has been designated by the Lieutenant-Governor in Council a judge within the meaning of this Act;

(d) "Minister" means the Minister of Public Welfare;

(e) "mother" means

(a) a single woman or widow who

(i) has been delivered of an illegitimate child, or

(ii) is pregnant and likely to be delivered of an illegitimate child; or

ICC-1581 ICCI Exhibit P-059 Page 188

(b) a married woman who

(i) is living apart from her husband and has been delivered of an illegitimate child, or

(ii) is pregnant and likely to be delivered of an illegitimate child and was living apart from her husband at the time of the conception of the child. (R.S.N. 1952, C. 60, S. 88. Am.).

General Provisions: Notification

Registrar to notify Director.

3. The Registrar of Vital Statistics shall on receiving notification of the birth of a child send a record of that notification to the Director within three days after he receives it. (R.S.N. 1952, C. 60, S. 89).

Institution to notify Director.

4.—(1) When an institution has received a mother for care during pregnancy or accouchement the person in charge of the institution shall, if aware of the facts, within three days after the birth of the child notify the Director in the form, if any, required by the regulations of the birth of that child in the institution.

Director to secure information.

(2) The Director shall by enquiry obtain all information possible with respect to every child.

Regulations.

(3) The Minister may from time to time make regulations for the proper conduct of institutions under this Act.

Penalty.

(4) A person who violates this section is guilty of an offence and liable on summary conviction to a fine of not less than ten dollars and not more than one hundred dollars and in default of payment to imprisonment for not more than one month. (R.S.N. 1952, C. 60, S. 90).

Mother may apply to Director.

5. The mother of a child or a person who has the custody of the child or who has undertaken the care and maintenance of the child or who has supplied the mother or the child with necessaries may apply to the Director for aid and advice in all matters pertaining to the child and he shall thereupon take such lawful action as may seem to him to be in the interests of the mother or the child. (R.S.N. 1952, C. 60, S. 91).

ICC-1581 ICCI Exhibit P-059 Page 189

Affiliation Proceedings Prior to Birth

Information may be laid.

6. A mother who is pregnant or her father or mother, the Director, or a welfare officer may make a complaint in writing under oath before a magistrate, stating that the mother is pregnant, where she is living and the name of the alleged father of the child. (R.S.N. 1952, C. 60, S. 93, Am.).

In cases where two or more are defendants.

7.—(1) Where any one of two or more persons may be the father of a child born out of wedlock or of a child likely to be born out of wedlock, any person named in Section 6 may lay an information before a magistrate, naming each of the possible fathers, and the provisions of this Act setting forth the proper proceedings following the laying of an information apply to an information laid under this section and the forms prescribed under this Act, suitably amended to meet the case, shall be applicable in those proceedings.

Magistrate may make application order and may order payments by persons who could have been father.

(2) The magistrate before whom an action is brought under subsection (1) may make an affiliation order against any one or more of the persons named in the information upon sufficient evidence and having regard to the amounts payable under Section 18 in the case of an affiliation order, the magistrate may make an order against so many of the persons named in the information as the evidence shows might in the ordinary course of nature have been the father of the child, fixing the amount or amounts to be paid by each of those persons on behalf of the child and the provisions of this Act applicable to an affiliation order apply *mutatis mutandis* to an order made under this section. (R.S.N. 1952, C. 60, S. 125).

(3) Where a case arises under this section, all expressions in this Act dealing with the case of a single father or putative father shall be read as applying to each of the possible fathers.

Summons against alleged father.

8.—(1) A magistrate before whom a complaint is made shall

(a) forthwith issue a summons for service on the alleged father requiring his attendance before him; or

(b) may in his discretion issue a warrant directed to any or all constables, requiring him or them to arrest the

ICC-1581 ICCI Exhibit P-059 Page 190

alleged father and cause him to be brought before him or some other magistrate.

Hearing of evidence.

(2) The magistrate shall take the evidence of the mother and of the alleged father and of any witness who may be brought before him on behalf of either party. The evidence shall be taken down in writing in the form of depositions and read over and signed in the manner provided under The Summary Jurisdiction Act for evidence upon an enquiry with a view to commitment for an indictable offence, and with the same rights of cross-examination on the part of either party.

Complaint may be dismissed or adjourned sine die.

(3) A magistrate may, if he deems fit, dismiss a complaint heard under this section or adjourn it *sine die* until after the birth of the child and the depositions shall be placed on file and safely kept by the magistrate with the records of his court and shall form part of the evidence in any subsequent proceedings in relation to the matter in conjunction with any further or other evidence and subject to the right of either party to recall witnesses already examined, if available. (R.S.N. 1952, C. 60, S. 93, Am.).

Bond and sureties for appearance.

9. When an alleged father is brought before a magistrate under a summons or warrant the magistrate may, unless the complaint is dismissed, require him to enter into a bond in a sum of not less than twelve hundred dollars, with sureties which, in the opinion of the magistrate, are sufficient, conditioned for his appearance at any proceeding taken or continued under this Act after the birth of the child. (R.S.N. 1952, C. 60, S. 94; Am. 1957, No. 20, S. 3).

Deposit instead of bond.

10. If an alleged father does not furnish a bond to the satisfaction of the magistrate or pay into the hands of the magistrate such sum not exceeding twelve hundred dollars as the magistrate may prescribe as security in lieu of bond, he may be committed to gaol by warrant of commitment until an order of affiliation is made or refused or until the bond is given or cash deposit made. (R.S.N. 1952, C. 60, S. 95; Am. 1957, No. 20, S. 4).

ICC-1581 ICCI Exhibit P-059 Page 191

Affiliation Proceedings After Birth

After birth of illegitimate child, summons and procedure.

11.—(1) Subject to subsection (2), as soon as is convenient after the birth of a child a magistrate to whom an application has been made in that behalf by the mother of the child or by any person on her behalf or by the Director or a welfare officer shall issue a summons for service on the alleged father, requiring his attendance before him or may issue a warrant directed to any constable mentioned in the warrant to bring the mother and the alleged father before the magistrate.

Effect of agreement between mother and alleged father.

(2) If the mother of a child and the alleged father enter into an agreement in respect of the support of the child and the agreement has been approved by the Director by endorsing or causing to be endorsed thereon the words, "The above agreement is hereby approved", attested by the signature of the Director, no such summons or warrant shall be applied for or issued against the said father under subsection (1) but if the alleged father shall at any time neglect or refuse to carry out the terms of the agreement the mother of the child, the Director or a welfare officer or a person acting on behalf of the mother or child may apply to a magistrate in accordance with this section.

Mother who is minor may enter agreement or take action.

(3) A mother may enter into an agreement or take a proceeding referred to in this Part even though she is under the age of twenty-one years. (R.S.N. 1952, C. 60, S. 96).

One complaint sufficient.

12. Where a complaint is made under Section 6 or 7 before the birth of a child and the magistrate is informed of the birth a second complaint need not be made on the application for a summons or warrant after the birth. (R.S.N. 1952, C. 60, S. 97).

Information to be laid within 12 months after birth.

13.—(1) Subject to subsection (2), where an information is not laid under Section 6 or 7 before the birth of a child the application for the summons or warrant after the birth shall be made within twelve calendar months thereafter.

(2) If the alleged father of a child has paid money for or in any way contributed toward the maintenance of the child after its birth or has left Newfoundland within one year after its birth, the application for the summons or warrant may be made

ICC-1581 ICCI Exhibit P-059 Page 192

within one year after the last payment of the money or of the making of the contribution or of his return to Newfoundland, as the case may be. (R.S.N. 1952, C. 60, S. 98).

If defendant in gaol.

14. If the alleged father of a child has remained in gaol under a warrant issued before the birth of the child, he shall be delivered by the keeper of the gaol into the custody of the constable who produces a warrant requiring him to be brought before a magistrate. (R.S.N. 1952, C. 60, S. 99).

Respecting adjournments of hearings.

15.—(1) If an alleged father has been arrested under a warrant issued upon a complaint laid after the birth of the child and the mother is, through illness, unable to be forthwith brought before the magistrate in obedience to the warrant, or if the hearing cannot be proceeded with owing to the illness or absence of a material witness or any other good cause, the magistrate may, on application therefor, adjourn the hearing and release the alleged father, but may first require him to enter into a bond in a sum of not less then twelve hundred dollars with sufficient sureties conditioned for his appearance on the date fixed for the adjourned hearing, and at the hearing of any appeal from and dismissal of the case against him at the trial thereof, and to fulfil any order of affiliation that may be made against him.

(2) In lieu of a bond under subsection (1) the magistrate may accept from the alleged father a cash deposit of such sum as he may think proper but not less than twelve hundred dollars. (R.S.N. 1952, C. 60, S. 100).

Commitment to gaol in default of bond, etc.

16. If the alleged father of a child does not furnish bond or security in accordance with subsection (1) of Section 15 to the satisfaction of the magistrate and does not make a cash deposit in accordance with subsection (2) of that section, he shall be committed to gaol until the adjourned hearing or until the bond or security is sooner given or cash deposit made. (R.S.N. 1952, C. 60, S. 101).

Hearing evidence; secrecy.

17. Upon the mother and the alleged father of a child being brought before the magistrate in obedience to a summons or warrant issued under this Act, the magistrate shall hear the evidence of the mother and of the alleged father and any other evidence which is adduced before him and may exclude or cause

ICC-1581 ICCI Exhibit P-059 Page 193

to be excluded from the room or place where the evidence is being taken all other than the counsel and witnesses in the case, officers of the law and the immediate friends or relatives of the mother or alleged father. (R.S.N. 1952, C. 60, S. 102).

Affiliation Order; Maintenance

Order for maintenance of child by father.

18.—(1) Upon the evidence heard under Section 17 together with any depositions taken before himself or any other magistrate under Section 8, the magistrate may discharge the alleged father or adjudge him to be the father of the child and make an affiliation order requiring him to pay to the Director on behalf of the mother of the child, or on behalf of the child

(a) the expenses incidental to the lying-in and maintenance of the mother at and before the birth of the child and during such period after the birth as may in the opinion of the magistrate have been or be necessary in connection with or as a consequence of the birth of the child and the birth and maintenance of the child up to the date of the order;

(b) the expenses of the funeral of the child if the child died before the making of the order or, if the child has not died, a sum of money payable weekly, monthly or yearly towards the maintenance and education of the child until he or she attains the age of seventeen years or as long as he or she is mentally or physically incapable of earning his own living;

(c) the expenses of the burial of the mother in case of her death at or in consequence of the birth of the child; and (R.S.N. 1952, C. 60, S. 103).

(d) the costs of all proceedings taken under this Act, including a counsel fee not exceeding fifty dollars and any reasonable and actual out-of-pocket expenses incurred by counsel, and the Director shall pay to counsel for the complainant the amounts paid to the Director under this paragraph. (1962, No. 2, S.2).

ICC-1581 ICCI Exhibit P-059 Page 194

Matters to be considered in determining sums payable.

(2) In determining the weekly, monthly or yearly sum payable by the father of a child under this section, the magistrate shall take into consideration the ability of each of the father and the mother to provide for the maintenance and education of the child and the means of the father to provide for the proper subsistence of his wife and legitimate children, if any, and for the education of his legitimate children, if any.

Copy of order to be sent Director.

(3) Every order made by a magistrate under this Act shall be in duplicate and one of the copies shall be transmitted to the Director, the particulars of which shall be entered in a register to be kept by him for that purpose. (R.S.N. 1952, C. 60, S. 103).

Commutation of liability.

(4) A magistrate may order that the liability of the father under this Act shall be satisfied upon payment of

(a) the expenses of and incidental to the birth of the child;

(b) the lying-in and maintenance of the mother at and before the birth; and

(c) a specified sum not less than twelve hundred dollars to be paid in full in three equal instalments, the first instalment to be paid on or before the expiration of thirty days from the date on which the order is made, the second instalment to be paid on or before the expiration of twelve months from the last date prescribed by this paragraph for the payment of the first instalment and the third instalment to be paid on or before the expiration of two years from the last date prescribed by this paragraph for the payment of the first instalment. (1957, No. 20, S. 6).

Separate order respecting mother.

(5) The magistrate may in a separate order direct that the mother bear such part of the expense of the maintenance of her child as to him seems just.

Corroborative evidence.

19.—(1) An affiliation order shall not be made upon the evidence of the mother of a child unless her evidence as to the paternity of the child is corroborated by some other material evidence implicating the alleged father.

ICC-1581 ICCI Exhibit P-059 Page 195

Married woman a compellable witness.

(2) Subject to subsection (1) and notwithstanding any other statute or law to the contrary, in all proceedings under this Part a married woman is a competent and compellable witness to testify as to the paternity of her child in respect of whom the proceedings are taken. (R.S.N. 1952, C. 60, S. 130).

Bond to carry out order.

20.—(1) The magistrate shall, subject to subsection (2), order a father to give a bond for the fulfilment of an affiliation order for a sum of not less than twelve hundred dollars with sureties which, in the opinion of the magistrate, are sufficient, or in lieu of the bond to make with the magistrate a cash deposit to be fixed by the magistrate as security for the payments referred to in that section.

Magistrate may accept recognizance.

(2) The magistrate may, in any case where the Director gives his consent thereto in writing, accept the recognizance of the father for a sum of not less than that mentioned in subsection (1) instead of the bond with sureties or the cash deposit referred to in that subsection. (R.S.N. 1952, C. 60, S. 104; Am. 1950, No. 20, S. 7).

Order may be made in absence of alleged father.

21.—(1) If an alleged father conceals himself or avoids arrest under a warrant so that he cannot be brought before the magistrate as therein directed, the magistrate may upon proof of the facts by affidavit or oral testimony make an affiliation order against him in his absence.

Warrant for appearance of father after order made.

(2) In a case referred to in subsection (1) the magistrate shall issue a warrant directed to any or all constables requiring him or them to bring the father before the magistrate at a subsequent time and place therein mentioned, to show cause, if any, why he should not fulfil the affiliation order and enter into a bond to fulfil the order.

Action of magistrate on appearance of father.

(3) The magistrate shall on the appearance of a father referred to in subsection (2) confirm, reverse or vary the affiliation order or make a new affiliation order and order the father to enter into a bond to fulfil the affiliation order.

Father shall enter into bond.

(4) When the magistrate makes an order under subsection (3) the father shall enter into a bond with sufficient sureties conditioned to fulfil the affiliation order already made or as

ICC-1581 ICCI Exhibit P-059 Page 196

varied or the new order, as the case may be. (R.S.N. 1952, C. 60, S. 107 Am.).

(5)All sureties under this Act shall justify by affidavit to the satisfaction of the magistrate their ability to meet their obligations under the bond. (R.S.N. 1952, C. 60, S. 116).

In default of bond; imprisonment.

22.—(1) If a father after an affiliation order is made, confirmed or varied fails to furnish a bond conditioned to fulfil the order or the order as varied to the satisfaction of the magistrate or to make the cash deposit required as security by the magistrate, the magistrate may forthwith commit the father to gaol for a term of not less than six months and not more than twelve months, or until he furnishes the bond or makes the cash deposit as security and pays the costs and charges attending the commitment and conveying to gaol.

(2) Imprisonment under subsection (1) does not operate to release the father from liability for the maintenance of the child.

(3) The bond or cash deposit referred to in subsection (1) together with the costs and charges shall

(a) in St. John's be delivered to and approved by the Attorney General; or

(b) outside St. John's be delivered to and approved by the nearest magistrate

who shall forthwith notify the keeper of the gaol if they are satisfactory and in accordance with the commitment and if so the keeper of the gaol may then discharge the prisoner. (R.S.N. 1952, C. 60, S. 108, Am.).

Warrant to levy on goods of reputed father.

23. Where a person against whom an affiliation order is made fails to fulfil the terms of the order in whole or in part, whether or not he has been committed to gaol under Section 22, any magistrate may, on the application of the mother of the child or of any person on her behalf, the Director or a welfare officer or a surety on the bond, if any, issue a warrant of distress against the father directed to any or all constables requiring him

ICC-1581 ICCI Exhibit P-059 Page 197

or them to levy on the goods and chattels of the father the amounts which the father has been ordered to pay under this Act. (R.S.N. 1952, C. 60, S. 109).

Order shall bind estate of father after his death.

24.—(1) An affiliation order shall bind the estate of the father after his death and every sum payable thereunder is a debt due from and chargeable upon the estate of the father and recoverable at the suit of the Director but an affiliation order is, as to any payment falling due before or after the putative father's death, subject to review as provided in Sections 28 to 31 and after the death of the father an action or other proceeding shall not be taken thereon without the leave of a magistrate, and the magistrate, before granting leave, shall direct that notice be given to the widow and legitimate children of the father. (R.S.N. 1952, C. 60, S. 110).

Variation of orders.

(2) Notwithstanding any other provision of this Act, where it appears to the magistrate that the terms of an affiliation order cannot be carried out without depriving the widow or the legitimate children of the father of proper subsistence and education the magistrate

(a) shall vary the affiliation order to such an extent and in such manner that the widow of the father and the children born in wedlock, if any, shall be duly provided for before the child born out of wedlock; and

(b) may order that any sum payable under the affiliation order and remaining unpaid be paid in such manner as he shall direct or that the whole or any part of that sum shall not be required to be paid. (1958, No. 15, S. 6).

Cancellation of affiliation order.

25. A magistrate may but is not bound to, on the application of the Director, a welfare officer, the mother or the father of a child, cancel an affiliation order from the date of the marriage to the mother or such earlier date as the mother may wish. (1958, No. 15, S. 7).

Death of mother; proceedings by parents, etc.

26. If the mother of a child dies prior to action being taken or completed against the alleged father, her father or mother or the Director or welfare officer may, on behalf of the child, continue or institute action against the alleged father, in accordance

ICC-1581 ICCI Exhibit P-059 Page 198

with this Act and the magistrate before whom the action is brought may make any order in accordance with this Act, and for the purposes of making the order may use as evidence any depositions taken pursuant to Section 8. (R.S.N. 1952, C. 60, S. 111).

Variation of Orders

Magistrate may vary affiliation order.

27.—(1) Where an affiliation order has been made, upon the application from time to time of the Director, any person appointed by him, either parent of the child, the child or any person entitled to make complaint in respect of the child under this Act, and upon proof that there has been a substantial alteration in respect of the cost of living since the making of the affiliation order or the latest subsequent order varying it or that the father, owing to the terms of the order, is unable to make provision for the proper subsistence of his wife and legitimate children, if any, and for the education of those children, the magistrate may vary the original or subsequent order so made.

No application within one year.

(2) An application to vary an affiliation order shall not be made until after the lapse of one year from the date of the order it is sought to vary. (R.S.N. 1952, C. 60, S. 126).

Proceedings under this Part.

28.—(1) Subject to this Act,

(a) the provisions of The Summary Jurisdiction Act apply *mutatis mutandis* to proceedings under this Act including, but not so as to restrict the generality of the foregoing, the trial of all matters and the enforcing of the attendance of all parties and witnesses; and

(b) any order for the payment of money and any other order made under this Act may be enforced as if it was a judgment, order or conviction made under that Act, but imprisonment shall be ordered only under subsection (2).

Enforcement of order.

(2) Whenever default is made in the payment of any sum of money ordered to be paid under this Act, the magistrate who made the order or any other magistrate before whom a complaint similar to the original complaint could be laid or any

ICC-1581 ICCI Exhibit P-059 Page 199

magistrate who has jurisdiction in the locality in which the mother in whose favour the order is made resides

(a) may from time to time summon the person in default to explain the default;

(b) may, where service of the summons has been proved and the person summoned does not appear or reasonable excuse for his absence is not given or where it appears that the summons cannot be served or where an order for imprisonment has been made, issue a warrant for the arrest of the person;

(c) may, when a warrant has been issued or where the person in default fails to satisfy the magistrate that the default is because of inability to pay, order and adjudge the person to be imprisoned for a term not exceeding six months unless the sums of money payable under the order or such lesser sums as the magistrate may see fit to designate are sooner paid, but imprisonment under this subsection does not operate or release the person in default from liability under this Act or as a defence in further actions under this Act; and

(d) may impose upon the person in default such conditions as under the circumstances the magistrate deems advisable.

Transmission of order to facilitate enforcement.

(3) Whenever default is made in the payment of any sum of money ordered to be paid under this Act the magistrate who made the order may send a copy of the order, together with a statement showing such information as he possesses of the circumstances of the case and for facilitating the identification of the person against whom the order was made and the location of his place of residence, to any magistrate in or near that location and upon receipt thereof the magistrate may summon the person in default to explain the default and may exercise any of the powers mentioned in paragraphs (b), (c) and (d) of subsection (2) and when he has dealt with the matter he shall send a report thereon to the magistrate who made the order. (1958, No. 15, S. 8).

Appeal From Affiliation Order

Appeal to Supreme Court.

29. A party who is aggrieved in respect of an affiliation order or an order confirming, reversing or modifying an affiliation order or by an order made under this Act, or by the refusal to make an order may appeal from the decision granting or refusing the order to the Supreme Court consisting of one or more judges without a jury. (R.S.N. 1952, C. 60, S. 112).

Conditions for appeal.

30. Where a person against whom an affiliation order has been made appeals and desires a stay of proceedings he shall enter into a bond with sufficient sureties approved by the magistrate making the order, conditioned to perform the affiliation order if it is confirmed in whole or in part or to abide by and fulfil the judgment of the court on the appeal and to pay the taxed costs of the respondent if the court shall so order. (R.S.N. 1952, C. 60, S. 113).

Supreme Court may vary, set aside or confirm order.

31. The Supreme Court may vary, set aside or confirm the affiliation order or any order or may make an affiliation order or any order or may, by order directed to the magistrate, require him to make an order as the circumstances of the case require. (R.S.N. 1952, C. 60, S. 114).

Appeals governed by usual rules.

32. The proceedings on an appeal shall in other respects be governed by the same rules as appeals from summary convictions or orders made by a stipendiary magistrate. (R.S.N. 1952, C. 60, S. 125).

Actions Against Fathers For Contributions

33. The father of a child shall contribute to

Liability of alleged father for certain contributions.

(a) the medical and other expenses connected with the birth of the child, its maintenance and education until the child is able to maintain itself, and with its burial in case it dies before becoming able to maintain itself; and

(b) the expenses of the maintenance and care, medical and otherwise, of the mother of the child during three months previous to its birth and during such period

ICC-1581 ICCI Exhibit P-059 Page 201

after its birth the expenses of such medical or other special and unusual care and nursing as are necessary in connection with or as a consequence of the birth of the child. (R.S.N. 1952, C. 60, S. 117).

Action against alleged father for expenses.

34. (a) Actions may be brought for the contributions referred to in Section 33 against the father from time to time by the mother of the child, by her father or mother, the Director or any other person, having maintained the child or having necessarily expended money or rendered services in connection with any of the matters to which the father is required under that section to contribute. (R.S.N. 1952, C. 60, S. 118, Am.).

Action for debt.

(b) Actions brought under this section shall be brought as for a debt and the statement and particulars of claim shall indicate with sufficient clearness the nature and amount of the claim. (R.S.N. 1952, C. 60, S. 119).

Court to decide amount of defendant's liability.

35. The court trying the case shall decide, in view of the circumstances of both parents, what proportion, up to the whole, of the reasonable and necessary charges and expenses in connection with any of the matters for which the father is declared in this Act to be liable, shall be paid by him, and may give judgment against him for such amount as it deems just, and for costs of action. Such judgment and costs may be levied by warrant of distress on the goods of the defendant. (R.S.N. 1952, C. 60, S. 120).

Weekly payments.

36. If any action is brought under Section 34 by the mother of the child, her father or mother or the Director, the court may, in order to provide for the future maintenance and education of the child, make an order requiring the father to pay a sum of money weekly for such number of weeks as the court may determine. (R.S.N. 1952, C. 60, S. 121).

Enforcement of judgement.

37. Every judgment in an action brought under Section 34 and every order made under Section 36 may be enforced in the same manner and by the like proceedings as any judgment or order of a court of summary jurisdiction. (R.S.N. 1952, C. 60, S. 122).

ICC-1581 ICCI Exhibit P-059 Page 202

When Secs. 33 to 37 not to apply.

38. Sections 33 to 37 do not apply to a father who has fulfilled the terms of an affiliation order made against him under this Act in respect of the same child. (R.S.N. 1952, C. 60, S. 123).

Court to take into consideration payments made.

39. If the terms of an affiliation order have not been fulfilled the court in giving judgment in an action brought under Section 34 shall take into consideration any payments made under the order.

Order is conclusive of paternity.

40. In an action brought under Section 34 an affiliation order is conclusive evidence of the paternity of the child. (R.S.N. 1952, C. 60, S. 124).

Miscellaneous Provisions

Welfare officer may act in certain cases when authorized by Director.

41. Where the Director is authorized under this Act to lay an information or complaint, to commence an action or to continue any proceedings, the complaint or information may be laid, the action may be commenced and the proceedings may be continued or any of those things may be done by a welfare officer authorized in writing for the purpose by the Director. (1954, No. 34, S. 4).

Director may institute proceedings.

42. The Director or a person authorized by the Minister shall not be debarred from instituting or continuing proceedings under this Act by the death of the mother of the child for whom relief is sought. (R.S.N. 1952, C. 60, S. 127).

Director, etc., entitled to appear.

43. Where any proceedings are instituted under this Act by any person other than the Director or a person authorized by the Minister, the person instituting the proceedings shall give notice thereof to the Minister, and the Director or any person authorized by the Minister has the right to appear and intervene and be heard in person or by counsel on the proceedings. (R.S.N. 1952, C. 60, S. 128).

Private hearing.

44. All proceedings under this Act shall be heard by a magistrate in his chambers and not in open court. (R.S.N. 1952, C. 60, S. 129). In the case of an appeal to the Supreme Court it shall be in the discretion of the court whether the hearing shall be in open or non-open court, and whether any person, and

ICC-1581 ICCI Exhibit P-059 Page 203

what person, may be permitted to have a copy of the stenographic record of proceedings.

Payments to be made to Director.

45. Every payment ordered by a magistrate under this Act or under the repealed provisions of The Health and Public Welfare Act, 1931 from Section 636 to and including Section 671 or of Chapter 60 of The Revised Statutes of Newfoundland, 1952, Section 88 to and including Section 132 shall be made to the Director or to any other officer of the Department designated by the Minister. (R.S.N. 1952, C. 60, S. 131).

Duties of Director.

46. The Director shall

(a) see that all payments directed to be made by the father under an affiliation order are duly made and in default of payment

(i) may take all necessary proceedings for the enforcement of the order, including the enforcement of any security given by the father, and

(ii) shall take the proceedings authorized by law;

(b) see that all moneys collected under an affiliation order are paid and supplied forthwith, without any deduction, to or for the persons entitled to relief in accordance with the terms of the order and this Act, or the corresponding parts of the repealed Acts; (R.S.N. 1952, C. 60, S. 132).

(c) repay to the father the balance of the specified sum of money paid to the Director or held by the Department and paid by the father pursuant to

(i) an affiliation order made under subsection (4) of Section 18, or

(ii) any agreement made between the mother of a child and the father and approved by the Director under Section 11 of this Act or any former affiliation Act now repealed,

ICC-1581 ICCI Exhibit P-059 Page 204

where the child in respect of whom the order or agreement was made dies or is adopted or has at any time before the enactment of this paragraph died or been adopted before the specified sum of money has been or was fully expended. (1954, No. 34, S. 5).

Declaring Child a Neglected Child

Child may be declared neglected.

47.—(1) The magistrate dealing with an affiliation case, having regard to the welfare of the child, may declare the child to be a neglected child, and may order that the child be committed to the care and custody of the Director, and that the father or mother of the child, or both of them shall pay such sums weekly to the Director as the magistrate, on the application of the Director, may determine; and the provisions of this Act for the enforcement of orders shall apply to orders made under this Section.

Custody of child in other cases.

(2) Where an information has not been laid against the father of a child, the Director may apply to a magistrate for a summons or warrant, which the magistrate may issue, requiring the mother of the child or any other person in whose charge the child may be, to bring the child before the court; and the magistrate may also summon any person likely to have knowledge of the child; and on investigation of the facts of the case the magistrate may,

(a) declare the child to be a neglected child;

(b) order that the child be committed to the care and custody of the Director; and

(c) order the mother of the child to pay such sum weekly, if she is able, as the magistrate may, after hearing the Director and the mother, determine.

48. The Minister may from time to time prescribe and supply any forms necessary for use under this Act.

49. Part IV of chapter 60 of The Revised Statutes of Newfoundland, 1952, comprising Sections 88 to 132 both included, and all amendments to such Part are repealed.

AN ACT FURTHER TO AMEND THE WELFARE OF CHILDREN ACT.

(March 28, 1968)

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title.

1. This Act may be cited as The Welfare of Children (Amendment) Act, 1968.

Part III inserted.

2. The Welfare of Children Act, chapter 60 of The Revised Statutes of Newfoundland, 1952, is amended by inserting immediately after Section 63 as Part III the following:

"PART III

CONCERNING JUVENILES AND TRAINING SCHOOLS

Interpretation.

64. In this Part

(a) "authority" means the Youth Guidance Authority constituted under this Part;

(b) "committal order" includes any order made by lawful authority for the detention of a person in a training school;

(c) "court"means a Family Court or a magistrate's court;

(d) "Director" means the Director of Child Welfare appointed under The Child Welfare Act, 1964, the Act No. 45 of 1964;

(e) "Director of Corrections" means the Director of Corrections appointed under Part I of The Corrections Act, 1953, the Act No. 62 of 1953;

ICC-1581 ICCI Exhibit P-059 Page 206

(f) "judge" means a judge of a court;

(g) "juvenile" includes every child apparently or actually under the age of seventeen years;

(h) "Minister" means the Minister of Public Welfare;

(i) "parent" includes a guardian and every person who is liable by law to maintain a child;

(j) "peace officer" includes any superintendent or other employee of a training school and any officer or member of The Constabulary Force of Newfoundland or of the Royal Canadian Mounted Police;

(k) "probation officer" means a juvenile probation officer appointed or designated under this Part;

(l) "superintendent" means the chief executive officer of a training school; and

(m) "training school" means a training school established under this Act.

Purpose of this Part.

65. The purpose of this Part is to ensure that the care, custody and discipline of a juvenile shall approximate as nearly as may be that which should be given by his parents, and that as far as practicable every juvenile requiring discipline shall be treated not as a criminal but as a misdirected and misguided child and one needing help, guidance, training and encouragement.

Youth Guidance Authority.

66.—(1) The Lieutenant-Governor in Council shall appoint a Youth Guidance Authority for the province consisting of the Director, the Director of Corrections, the superintendent of the Boys' Home and Training School, the superintendent of the Girls' Home and Training School, a psychiatrist registered under The Newfoundland Medical Board Act, and three other persons.

ICC-1581 ICCI Exhibit P-059 Page 207

Duties.

(2) The authority shall, in addition to the duties hereinafter prescribed, perform such other duties consistent with this Act as may from time to time be designated by the Minister.

Chairman.

(3) The Director shall be chairman of the authority and in his absence another member of the authority elected by the members of the authority shall act as chairman.

Quorum.

(4) A majority of the members of the authority shall constitute a quorum for the transaction of business, and the majority opinion of the members present shall be a valid decision.

Supervision of voluntary inmates of training schools

67. Subject to the provisions of this Act, the authority shall examine and supervise the treatment of every juvenile admitted to a training school on a voluntary basis as though he had been lawfully committed to the training school.

Transfer of inmates of training school.

68.—(1) The Minister of Justice may, upon the request of the authority, direct the removal of any juvenile lawfully committed to a training school to a correctional institution for adults if he appears to require the training and treatment given in the adult institution rather than that given in the training school.

Examination of juvenile.

(2) Before making any request to the Minister of Justice under subsection (1), the authority shall cause the juvenile, in respect of whom the request is proposed to be made, to be examined by a psychiatrist registered and practising in Newfoundland, and shall obtain a report of such examination from the psychiatrist who made it and forward the report to the Minister of Justice when making the request.

Review.

(3) The authority shall review the case of every juvenile so transferred at least once every three months and shall make such recommendation as appears appropriate for his care.

Release from training school.

69.—(1) Subject to the provisions of any Act of the Parliament of Canada and of this Act, the authority may direct the release of a juvenile from a training school on probation.

ICC-1581 ICCI Exhibit P-059 Page 208

Terms and conditions of release.

(2) In the case of release under subsection (1), the authority shall prescribe the terms and conditions of the probation, and the Director is responsible for supervision of the juvenile while on probation.

Authority over probationer and parolee.

70.—(1) The Director may place before the authority for consideration the case of any person who is under its jurisdiction by probation and who

(a) has violated any of the terms and conditions of his probation;

(b) has failed to make a satisfactory adjustment on probation; or

(c) is believed to be adversely influenced by an unsuitable environment, whether in his home, school, place of work or other place frequented by him.

Idem.

(2) Upon examining such person, the authority may commit him to a training school or may continue or modify the terms and conditions of his probation.

Discharge.

71. The authority shall discharge from its jurisdiction and supervision any juvenile who has been on probation for a period of not less than six months as soon as in its opinion there is reasonable probability that he can be given full liberty without detriment to himself or to the community.

Commitment to training school.

72.—(1) Subject to any Act of the Parliament of Canada and to subsection (2), every juvenile committed to a training school shall be committed for an indefinite period and he shall thereupon be detained in a training school until he is released on probation.

Where juvenile committed to care and custody of Director for a fixed period.

(2) A juvenile who has been committed to the care and custody of the Director for a fixed period shall not be detained in a training school after the expiration of such period.

Notice to Minister of juveniles reported.

73. Every peace officer shall give notice in writing to the Minister of every juvenile who is alleged to have committed a delinquency and who is reported to him.

ICC-1581 ICCI Exhibit P-059 Page 209

Probation officers.

74.—(1) The Minister may designate members of the staff of the Department of Public Welfare as probation officers with power to act in that capacity at any place within the province.

Voluntary probation officers.

(2) The Director may, with the consent of any person, in writing appoint the person as a probation officer for the purpose of so acting in connection with a specified juvenile, and any person so appointed shall be known as a voluntary probation officer and shall act without remuneration.

Responsible to Director.

(3) Probation officers are responsible to the Director for the standard of performance of their work under this Part.

Powers and duties.

(4) Every probation officer has the powers of a peace officer in the performance of his duties under this Part.

Probation.

75.—(1) In case a juvenile is reported to the Minister to have committed a delinquency but is not brought before the court, the Minister shall, at the request of the parents of the juvenile, assign and provide the services of a probation officer to visit the juvenile and his home indefinitely to supervise and assist the juvenile, his parents and others pertinently affecting him, in any way which appears likely to correct or avoid delinquent behaviour in the juvenile.

Report to Minister.

(2) The probation officer assigned under subsection (1) shall report to the Minister his observations and opinions regarding the adjustment of the juvenile.

Supervision.

(3) During a period of supervision under this section the juvenile shall be subject to such regulations and conditions as may be prescribed by the Minister.

Discharge from probation.

76. The Minister shall unconditionally discharge from his supervision any juvenile described in subsection (1) of Section 75 who in his opinion no longer requires such supervision after being subject thereto for at least six months.

Expenses on behalf of juvenile.

77. The Minister may make provision for the maintenance of any juvenile placed on probation and for the payment of any expenses incurred by the Department of Public

ICC-1581 ICCI Exhibit P-059 Page 210

Welfare on behalf of the juvenile previous to the disposition of his case.

Establishment of training schools.

78.—(1) The Minister may establish training schools for the confinement, study and treatment of such juveniles as may be lawfully committed thereto for guidance and training.

Training school is detention home, institution and receiving home under The Child Welfare Act, 1964.

(2) Every training school established under this section is declared to be a detention home, an institution and a receiving home within the meaning of The Child Welfare Act, 1964, the Act No. 45 of 1964, and the Director may, subject to that Act, place any juvenile committed to his care and custody under that Act, in a training school established under this section for juveniles of the same sex as that juvenile.

Regulations for management of training school.

(3) The Minister may make rules and regulations for the management, internal economy and discipline of every training school operated under this Part and may prescribe the qualifications and duties of all officers and employees and the general and specific treatment of all persons confined in the training school.

Maintenance.

79. The cost of maintaining a training school shall be paid out of moneys appropriated by the Legislature for the purpose, but nothing herein contained shall prevent contributions towards such cost being made under or pursuant to any Act of the Parliament of Canada.

Staff.

80. A superintendent and such other officers and employees as may be required for the efficient administration of a training school shall be appointed or employed in the manner authorized by law.

Superintendent.

81. The superintendent is the chief executive officer of a training school under the supervision of the Director and shall

(a) direct and co-ordinate the programme of the training school; and

(b) control the internal management and administration of the training school as they relate to physical

ICC-1581 ICCI Exhibit P-059 Page 211

operations, matters of discipline and the treatment of all persons confined therein.

Authority to convey.

82. When a juvenile is committed to a training school, a copy of the committal order duly certified by the judge shall be sufficient authority for any peace officer to convey the juvenile to the training school and to deliver him to the superintendent.

Authority to detain.

83.—(1) The superintendent shall receive and detain every juvenile lawfully committed to the training school or removed thereto pursuant to the provisions of any Act of the Parliament of Canada or of the Legislature, until he is otherwise dealt with and he shall give to the peace officer or other person who delivers such juvenile an acknowledgment in writing of the delivery.

Notice to parents.

(2) Upon receiving a juvenile into the training school, the superintendent shall send to the juvenile's parents, guardians or other persons with whom the juvenile has been living a notice that the juvenile has been committed to the training school.

Special cause for detention.

84.—(1) Where a juvenile who is a transient is awaiting a hearing under this Act or The Child Welfare Act, 1964, the Act No. 45 of 1964, or in any other case where special circumstances appear to warrant such action, the Director may order that the juvenile be removed to and detained in separate quarters at a training school or other approved place pending the hearing and disposition of his case, but in that event every detention extended beyond eight days shall be reported in writing by the Director to the authority.

Transportation of juvenile on oral instructions of Director.

(2) Any peace officer, on receiving oral instructions from the Director affecting a juvenile, shall apprehend and transport the juvenile to the place of detention specified.

Confirmation of oral instructions.

(3) The Director shall immediately confirm such oral instructions by a written order.

ICC-1581 ICCI Exhibit P-059 Page 212

Director to be guardian of every child admitted to training school.

85.—(1) The Director shall be the guardian of every child admitted to a training school under a commitment, in the same manner and to the same extent as in the case of a guardian appointed by statute or by any court or by any will or instrument, and, subject to this Act, all rights and powers over the child of the parent or any other person whatsoever, except the Director, shall, upon admission of the child to the training school, cease and determine.

Superintendent responsible for care and training of children in training school.

(2) Subject to this section, the superintendent shall be responsible for the care and training of every child admitted to a training school while the child is in the training school.

Recommendation for probation.

86.—(1) The superintendent of a training school shall recommend to the authority any juvenile committed to the school who in the opinion of the superintendent would profit by a period of probation.

Examination after recommendation.

(2) Upon such recommendation, the authority shall examine the pertinent circumstances concerning the juvenile with a view to determining whether he should be released on probation, having in mind the best interests of the juvenile and the well-being of the community.

Review.

(3) Notwithstanding anything contained in this section, the authority shall review, at least once yearly, the case of every juvenile committed to a training school and shall place on probation every juvenile who appears to the authority to be able to profit by such treatment.

Ill person not to be released.

87. No juvenile shall be discharged from a training school when suffering from a contagious or infectious disease or from an acute or dangerous illness, unless arrangements for his care have been made and are approved by the authority.

Employees constituted peace officers.

88.—(1) The officers and employees of a training school are hereby constituted peace officers for the training school and the property pertaining thereto and are empowered to proceed against or arrest summarily all persons within the training school and its precincts who are therein suspected of having committed any offence against the laws of Canada or Newfoundland or the regulations of or governing the

ICC-1581 ICCI Exhibit P-059 Page 213

training school and to arrest any person who refuses to leave the training school premises when requested to do so and take that person before any court of competent jurisdiction and cause proper complaint to be made against him.

Offence.

(2) Any person who within a training school or its precincts conducts himself in a manner which is detrimental to the discipline of the training school or to the behaviour of any juvenile therein or who fails to comply with or otherwise contravenes any of the provisions of the regulations of or governing the training school or who refuses to leave the training school premises when requested to do so by an officer or employee of the training school is guilty of an offence and may be proceeded against or summarily arrested by the superintendent or by any employee and is liable on summary conviction to a fine of not more than one hundred dollars.

Special request for examination.

89.—(1) If a juvenile appears to be incorrigible or habitually engaged in socially unacceptable behaviour, his parents, guardians or a welfare officer of the Department of Public Welfare may make application in writing to the Director on a form provided for the purpose requesting an examination of the juvenile and guidance in treating the problem.

Examination.

(2) Upon receiving such request, the Director shall undertake such examination as he deems expedient.

Report.

(3) Upon completing his examination, the Director shall furnish to the person who requested the examination a statement in writing setting forth his opinion concerning the alleged problem together with any recommendations which he may see fit to make.

Application for voluntary admission.

90. Where the Director recommends a period of examination and training in a training school, and in such cases only, the parents or guardians may make voluntary application in writing to the authority requesting that the juvenile be admitted to a training school for training, and the authority shall approve or reject such application.

ICC-1581 ICCI Exhibit P-059 Page 214

Admission of voluntary subjects.

91.—(1) The superintendent shall receive as a subject for treatment and training any juvenile on whose behalf an application for voluntary admission to a training school has been duly approved by the authority under Section 90.

Subject to discipline.

(2) A juvenile so received shall be subject to the officers and staff of the training school and to the discipline and regulations of or governing the training school.

Period of detention.

(3) A juvenile so received shall not be detained more than five days after his parents or guardians have given the superintendent a notice in writing of their desire to remove the child from a training school.

Discharge.

(4) The superintendent, with the consent of the authority, may discharge the juvenile from a training school five days after giving his parents or guardians notice in writing of the superintendent's intention to discharge him and, in case of such discharge, the parents or guardians are thereupon responsible for the child as though he had never been admitted to a training school.

Payment by or in respect of voluntary subjects.

92. Where a juvenile is admitted to a training school upon voluntary application, the Minister may require payment by such person or by a person responsible for him, in respect of the services rendered, but no payment shall be required where, in the opinion of the Minister, the payment would constitute a hardship.

Employees' custodial powers.

93. Subject to this Act, every officer and employee working under the authority of this Act, regardless of the classification of his employment, has power to exercise custodial authority over and shall be a lawful guardian of persons committed to the custody of officers or to training schools authorized by this Act.

Treatment.

94. Confinement in a training school may include treatment appropriate for the help, guidance, training and encouragement of the person so confined.

Assistance.

95. The Minister may, in his discretion, provide an allowance for any person confined in a training school and, upon

ICC-1581 ICCI Exhibit P-059 Page 215

his release, may provide him with transportation to his home or the home of his parents or guardians, a suitable outfit of clothing and a sum of money to assist him in re-establishing himself in his community.

Regulations.

96. The Minister may make such rules and regulations which he deems necessary or desirable for carrying into effect the purposes and provisions of this Act according to their true intent and meaning and for supplying any deficiency therein."

Date of coming into force.

3. This Act shall come into force on a day to be fixed by proclamation of the Lieutenant-Governor in Council.

AN ACT FURTHER TO AMEND THE WELFARE OF CHILDREN ACT.

(April 28, 1970)

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title.

1. This Act may be cited as The Welfare of Children (Amendment) Act, 1970.

Repeal Sec. 73.

2. Section 73 of The Welfare of Children Act, chapter 60 of The Revised Statutes of Newfoundland, 1952, as enacted by the Act No. 5 of 1968, is repealed.

Short Title	Citation	Amendments	In Force
Child Welfare	SN 1964 No 45	.	June 10, 1964
		SN 1965 No 54	April 15, 1965
		SN 1966 No 71	March 28, 1966
		SN 1968 No 20	May 23, 1968
		SN 1969 No 26	March 31, 1969
		SN 1969 No 79	October 14, 1969
		SN 1970 No 12	June 18, 1970; s. 2(a) in force July 7, 1970

AN ACT TO AMEND AND CONSOLIDATE THE LAW RESPECTING THE WELFARE OF CHILDREN.

(June 10, 1964)

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title.

1. This Act may be cited as The Child Welfare Act, 1964.

INTERPRETATION.

Interpretation.

2. In this Act:—

(a) "child" means an unmarried boy of girl actually or apparently under the age of sixteen years;

(b) "board" means the Child Welfare Board appointed under this Act;

(c) "court" unless otherwise specified means a family or juvenile court, or a stipendiary magistrate;

(d) "department" means the Department of Public Welfare;

(e) "detention home" means a building or part of a building set apart permanently or temporarily for the custody or detention of children detained under this Act pending the disposition of their cases by a court;

(f) "Director" means the Director of Child Welfare appointed under this Act, and includes the Assistant Director of Child Welfare;

(g) "foster home" means a home, approved by the Director, other than that of his parents or relatives, in which a child who lacks normal parental relations may be placed to be treated as a member of the family;

(h) "guardian" means the natural parent or parents and any guardian of the child's person legally appointed, and

ICC-1581 ICCI Exhibit P-059 Page 219

includes the Director when the child has been committed to his care;

(i) "home" means a private dwelling occupied by persons who live as a household;

(j) "institution" means a building or part of a building, other than a private home, set apart for the care and custody of children, or a training school or an orphanage and includes an infants' home or maternity home;

(k) "judge", unless otherwise specified, means a judge of a family court or of a juvenile court or a stipendiary magistrate;

(l) "minister" means the Minister of Public Welfare;

(m) "neglected child" means a child

(i) who is abandoned or deserted by both parents, or if one is dead, by the survivor, or by his guardian;

(ii) whose parents, or parent if only one be living, have or has allowed him to be brought up by another person at that person's expense under unsatisfactory conditions;

(iii) whose parents, or surviving parent if only one, are undergoing imprisonment, and there is no other person legally liable to maintain the child;

(iv) whose parents, or surviving parent, or guardian or other person in whose charge he may be, cannot by reason of misfortune, disease or infirmity properly care for him, or are unfit to have charge of him, or refuse to maintain him;

(v) who is found wandering about without a proper or settled place of abode, or is found sleeping at night in barns, outhouses or in the open air, or any other undesirable place;

ICC-1581 ICCI Exhibit P-059 Page 220

(vi) who is found living with vicious or disreputable persons;

(vii) who by reason of neglect, intemperance or other vices of his parents or guardians is suffered to grow up without proper education and control, or in circumstances conducing to an idle and dissolute life;

(viii) whose parent or guardian is able to provide proper medical surgical or other remedial care for the child, but neglects to provide such care or, whether financially competent or not refuses permission for such care or any remedial measure when recommended by competent medical authority;

(ix) who is found begging in any place of public resort;

(x) who habitually frequents any tavern, pool-hall or gambling room;

(xi) who, being under the age of fourteen years, habitually sells anything in the streets or public places after nine o'clock at night;

(xii) who habitually absents himself from his home or school;

(xiii) who habitually uses obscene, profane or immoral language or is guilty of any indecent conduct in any public place;

(xiv) who is unlawfully assaulted beaten or ill-used or treated with cruelty or neglect by his parents or guardian;

(xv) who is found having in his possession obscene pictures, drawings or printed matter.

(xvi) who being under the age of sixteen years is employed anywhere between the hours of 9 p.m.

ICC-1581 ICCI Exhibit P-059 Page 221

and 8 a.m. on the following day. (This para: 1958, No. 15, S. 2);

(xvii) who

(i) being a female, or

(ii) being a male under twelve years, or

(iii) being between twelve and fourteen years old and without the written consent of his parents or guardian

is found selling newspapers or other articles in a public place,

(xviii) whose parents are dead, and who has no relatives liable to support him; or

(xix) who is illegitimate and whose mother is dead, incapacitated or without means or unwilling to support him, or who is brought before the court with the consent of the mother for the purpose of transferring the guardianship of him or her to the Director;

(n) "parent" includes grandparent, step-parent, foster-parent and parent by adoption;

(o) "psychiatrist" means a medical practitioner specially qualified in psychiatry, but shall include a registered medical practitioner not so officially qualified who may be employed under this Act when a qualified psychiatrist is not available;

(p) "receiving home" means a building or part of a building fitted for the reception and examination, physical or mental, of any neglected, delinquent or mentally defective child and established or approved as a receiving home by the Minister, and supervised by the Director;

ICC-1581 ICCI Exhibit P-059 Page 222

(q) "welfare officer" means a welfare officer of the Department of Public Welfare. (R.S.N. 1962, C. 60, S. 2, Am.).

DIRECTOR AND CHILD WELFARE BOARD.

Director of Child Welfare.

3. The Lieutenant-Governor in Council may appoint a Director of Child Welfare who shall administer and enforce this Act, under the control and direction of the Minister. (R.S.N. 1952, C. 60, S. 3).

Director may appear in Court.

4. The Director may appear in a court in respect of any matter arising out of any of the provisions of this Act, and conduct any prosecution instituted in consequence of any alleged violation of this Act. (R.S.N. 1952, C. 60 S. 5, Am.).

Assistant Director.

5. The Lieutenant-Governor in Council may appoint an Assistant Director of Child Welfare who shall perform such duties as the Director may direct and shall perform the duties of the Director in the absence of the Director or if there is no Director. (R.S.N. 1952, C. 60, S. 6).

Powers of welfare officers.

6.—(1) Every welfare officer is protected from civil actions for anything done in *bona fide* exercise of the powers conferred by this Act.

Idem.

(2) Every welfare officer has all of the powers of a constable under The School Attendance Act. (1959, C. 23, S. 3).

Child Welfare Board.

7.—(1) The Lieutenant-Governor in Council may appoint a board which shall be known as the Child Welfare Board and which shall consist of not less than five and not more than nine members.

Term of office.

(2) Members of the Child Welfare Board

(a) hold office during pleasure for three years from the first day of January following their appointment, and until their successors are appointed;

(b) are eligible for re-appointment; and

ICC-1581 ICCI Exhibit P-059 Page 223

(c) shall serve without remuneration but may be paid their actual travelling expenses, if any, incurred while attending meetings of the Board.

Vacancies.

(3) When a vacancy occurs amongst the members of the Child Welfare Board because of death, resignation or illness or if, for any other reason in the opinion of the Minister, a member should be replaced the Lieutenant-Governor in Council may appoint a successor to that member and the successor shall hold office for the remainder of the unexpired term of the member whom he replaces and the successor is eligible for re-appointment.

Existing members.

(4) The members of the Child Welfare Board holding office when this Act came into force shall continue in office, subject to this Act, for three years from the first day of January, 1964.

Chairman.

(5) The Lieutenant-Governor in Council may designate one of the members of the Child Welfare Board to be its chairman and the Board shall meet at his call or that of the Director.

Duties of Child Welfare Board.

(6) The Child Welfare Board shall

(a) meet as often as may be necessary for the consideration of questions pertaining to the welfare of the children of Newfoundland;

(b) assist and advise the Director in the administration of this Act;

(c) promote the proper treatment of children to whom this Act applies;

(d) encourage, through study and discussion, the development and maintenance of sound standards of child protection in Newfoundland; and

(e) perform such other duties consistent with this Act as may from time to time be prescribed by the Lieutenant-Governor in Council or the Minister. (R.S.N. 1952, C. 60, S 9, Am.).

Receiving homes.

8. Subject to the prior approval of the Lieutenant-Governor in Council, the Minister may establish receiving homes for

neglected, delinquent, mentally defective or handicapped children and the Director shall supervise those homes. (R.S.N. 1952, C. 60, S. 10).

Psychiatrist.

9. The Minister may from time to time appoint a medical practitioner, if possible one qualified in psychiatry, to examine the physical and mental condition of any child dealt with under this Act, and to report to the Minister thereon. (R.S.N. 1952, C. 60, S. 11, Amended).

PART I

Neglected Children

Director or other authorized person may apply for declaration of neglect.

10.—(1) Where it is believed on reasonable and probable grounds that a child is a neglected child, the Director or a welfare officer or any person authorized by the Director in writing may apply to a judge for a declaration that the child is a neglected child.

Notice.

(2) The Director or a welfare officer or the person authorized by the Director to make the application under subsection (1) shall at least ten days prior to the date set for the hearing of that application notify the parents or guardian, if known, of the child of

(a) the name of the child in respect of whom the application is being made;

(b) the subparagraph of paragraph (m) of Section 2 under which the child is considered to be a neglected child; and

(c) the time and place of the hearing of the application.

Hearing of application.

(3) The judge shall forthwith hear the application and may compel the attendance of witnesses on the hearing.

Order.

(4) If the judge finds upon the hearing of the application that the child is a neglected child, he may so declare and may make an order in respect of the child. (1961, C. 7, S. 2).

ICC-1581 ICCI Exhibit P-059 Page 225

Certain children may be brought to receiving home.

11. A constable, welfare officer, the Director or any person duly authorized in writing by the Director may apprehend without warrant and bring to a receiving home, a child who on reasonable or probable grounds he believes to be a neglected child and may detain or cause the child to be detained pending enquiry. (R.S.N. 1952, C. 60, S. 13, Am.).

Parents or guardian of child to be notified.

12.—(1) A person who has apprehended a child under Section 11, the Director, a welfare officer or any person duly authorized in writing by the Director shall within ten days after the date of the apprehension notify the parents or guardian, if any, or if known, of the child, stating the time and place for investigating the facts of the case, which time shall not be more than twenty days after the date of apprehension of the child, unless otherwise ordered by the judge.

Report to Director; return of child.

(2) A person who has apprehended a child under Section 11 shall make a written report to the Director, setting out the circumstances of the case and the time and place for investigating the facts if necessary and the Director may permit the child to be returned, pending the investigation, to his parents or either of them or to the guardian or other person in whose care the child may have been.

Witnesses may be compelled to attend.

(3) The judge may compel the attendance of witnesses in an investigation under this section.

Judge to investigate facts.

(4) The judge in an investigation under this section shall investigate the facts of the case and ascertain whether the child is a neglected child, his age, name and residence and the religion of the child and of his parents or guardian.

Order where child not found to be neglected.

(5) If on an investigation under this section the judge finds that a child is not a neglected child, he shall order that the child be returned to his parents, guardian or other person in whose care he may be.

Declaration that child neglected.

(6) If on an investigation under this section the judge finds that the child is a neglected child, he may so declare and in that event he may make an order under Section 15.

ICC-1581 ICCI Exhibit P-059 Page 226

Order to recite facts.

(7) An order made under Section 15 shall recite the facts so far as ascertained in an investigation under this section and the judge shall deliver a certified copy of the order to the Director. (R.S.N. 1952, C. 60, S. 14).

Temporary detention.

13. At any time pending the final determination of an examination the judge may make such order for the temporary detention and care of the child as he may deem proper. (R.S.N. 1952, C. 60, S. 15).

Wishes of child.

14. Nothing in this Act shall affect the power of the court to consult the wishes of a child declared to be a neglected child in determining what order ought to be made or any right which a child now possesses to exercise his own free choice. (R.S.N. 1952, C. 60, S. 16).

Orders may be made.

15.—(1)Where it appears to a judge that the public interest and the interest of a child declared by him to be a neglected child or of any child against whom an offence has been committed may be best served thereby the judge may make an order

(a) that the child be returned to his parents or guardians or other person in whose care he may be, subject to supervision by the Director;

(b) that the child be committed temporarily or permanently to the care and custody of some suitable person, subject to supervision by the Director; or

(c) that, subject to subsection (2), the child be committed temporarily or permanently to the care and custody of the Director, who in his discretion may order that the child be placed in a foster home, training school or other institution which has been approved by the Minister for the care of delinquent or neglected children.

Restriction on committment of child under twelve.

(2) A neglected child who is apparently under the age of twelve years shall not be committed to an institution unless and until an attempt has been made to provide for that child in his own home, or in a foster home and unless the court finds that the best interests of the child and the welfare of the community require the commitment. (R.S.N. 1952, C. 60, S. 17).

Review of matter by judge.

(3) Where a child has been committed temporarily to the care and custody of the Director, the Director or a welfare officer or some other person authorized by the Director in writing shall during the period of temporary commitment or at the expiration of that period bring the matter again before the judge for further and other consideration and action and if the parents or guardian of the child have been notified in accordance with subsection (4) the judge shall thereupon enquire and determine whether the circumstances justify an order returning the child to his parents or guardian or other person in whose care he may have been or a further order under this section and the judge shall make such order as the circumstances of the case require.

Notice.

(4) The Director or a welfare officer or some person authorized by the Director in writing shall notify the parents or guardian of the child of the time and place of the enquiry referred to in subsection (3).

Evidence at prior hearing, etc.

(5) Evidence taken at a prior hearing and the order of temporary committal made after the prior hearing may be admitted as evidence in an enquiry under subsection (3) without proof or on such proof as the judge may require.

Temporary detention.

(6) At any time pending the final determination of an enquiry under subsection (3) the judge may make such order for temporary detention and care of the child as he deems proper. ((3), (4), (5), (6) from 1961, No. 7, S. 3).

Copy of evidence to be sent to Director.

(7) The judge shall forward a copy of the evidence taken before him to the Director together with a statement containing all important facts relating to any child committed to his care and custody whether temporarily or permanently. (1959, No. 23, S. 4).

Temporary commitments to be made for definite period.

(8) Notwithstanding any other provision of this Act, when a child is committed temporarily to the care and custody of the Director, the commitment shall be made for a fixed period not exceeding twelve months. (1959, No. 23, S. 5).

Variation of order made under Sec. 15.

(9) When an order has been made under Section 15 the magistrate may, upon application of the Director or of a welfare officer or of any person designated for the purpose by the Dir-

ICC-1581 ICCI Exhibit P-059 Page 228

ector or of a parent or guardian of the child to whom the order relates or of any person entitled to make a complaint in respect of that child, vary the order from time to time, if he is satisfied that there has been a material alteration in the needs or the circumstances of the child. (1959, No. 23, S. 4).

Prolongation of care and custody in certain cases.

(10) When a child has been committed to the care and custody of the Director, and while in such custody reaches the age of sixteen years, the Director may in a fit case continue his care, custody and maintenance until the child reaches the age of eighteen years; and, subject to the approval of the Minister, until the child reaches the age of twenty-one years.

Regard to be had to religion in determining custody of child.

16.—(1) In determining the person to whose care a child shall be committed under this Act, the court shall endeavour to ascertain the religious persuasion to which the child 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 shall be brought up in accordance with his own religious persuasion; and that religious persuasion shall be specified in the order.

Exception.

(2) This section does not apply to the placing of a child in a situation, or in temporary accommodation, but due regard shall be given to the religious preferences of any child so placed and proper time shall be allowed for the exercise of religious duties.

Child Welfare Board may act where no family, etc., of same religion.

(3) Where there appears to be no suitable family, home or institution of the same religious faith as that professed by the child or his family with which he may be placed, or where there is a lack of evidence as to the religion of a child, the case shall be referred to the Child Welfare Board and the disposition of the child in this regard shall be within the discretion of that Board.

Mother's religion preferred where child illegitimate.

(4) For the purpose of this section, in the case of a child whose parents have not been married to each other, if the child has no religious preference the first determining factor shall be the preference of the mother, if she is living, or, if she is not living, the religious persuasion of the mother at the time of her death if it can be ascertained. (R.S.N. 1952, C. 60, S. 18).

ICC-1581 ICCI Exhibit P-059 Page 229

Trial of child.

17. A judge shall investigate the case of every child and dispose thereof in premises other than an open court room and in the case of a person charged with an offence against a child he may in his discretion proceed in camera. (R.S.N. 1952, C. 60, S. 19; Amended).

Examination respecting child on certain premises.

18. Where a relative or other suitable person possesses premises affording the necessary facilities and accommodation a child may, after apprehension under this Part, be temporarily placed in charge of that relative or person until his case is disposed of and the judge may in his discretion hold the examination into the case of that child in those premises. (R.S.N. 1952, C. 60, S. 20).

Parent loses right to custody of child.

19.—(1) Where a parent applies to the Supreme Court for a Court order for the production of a child committed under this Act and the Court is of the opinion that the parent has abandoned or deserted the child or that he has otherwise so conducted himself that the Court should refuse to enforce his rights to the custody of the child, the Court may in its discretion decline to make the order.

Court may order parent to pay expenses before giving him child.

(2) If at the time of an application under subsection (1) the child is being brought up by another person the Court, if it directs the child to be given up to the parent, may order that the parent shall pay to that other person the whole of the expense properly incurred in bringing up the child or such portion thereof as may seem just.

Parent to satisfy court that he is fit to have custody of child.

(3) Where a parent has abandoned or deserted his child or allowed his child to be brought up by another person at that person's expense for such time and under such circumstances as to satisfy the court that the parent was neglectful of his parental duties, the court shall not make an order for the delivery of the child to the parent unless at the time of the application under subsection (1) he satisfies the court that, having regard to the welfare of the child, he is a fit person to have the custody of the child.

Court may make order to secure child being brought up in his religion.

(4) If a court is of opinion that the parent who makes an application under subsection (1) ought not to have the custody of the child but that the child is being brought up in a religious persuasion which is different from that in which the parent has

ICC-1581 ICCI Exhibit P-059 Page 230

a legal right to require that the child be brought up, or which is not the religious persuasion which the child professes, the court may make such order as it may think fit to secure that the child be brought up in that religious persuasion. (R.S.N. 1952, C. 60, S. 23, Amended).

Children, and tobacco, liquor, etc.

20. A constable, welfare officer, a school teacher, the Director or any person acting under the authority or direction of the Director who suspects on reasonable grounds that a child has in his possession cigarettes, cigarette papers, tobacco, intoxicating liquor, harmful drugs, an obscene book or other printed, typewritten or other obscene matter or any obscene picture, photograph, model or other object, may take that child to the home of the child, or to a receiving home, or any other place in which children are cared for under this Act, for the purpose of having the clothing of the child searched by a proper person and if any thing referred to in this section is found upon that search it shall be disposed of as the Director may order. (R.S.N. 1952, C. 60, S. 24).

Order for payment of support of child.

21.—(1) (a) The Director may, when or at any time after an order is made under Section 15 and from from time to time, and

(b) the Director may, when or at any time after he has taken a child into his care and custody under Section 15 and from time to time,

apply to a court and the court may upon the application make an order for the payment by or the recovery from the parents or guardian of such reasonable sums as may from time to time have been spent for the support, care and welfare of the child in any home, shelter or institution in which the child may have been placed by the Director. (1958, No. 15, S. 3).

Pension or income of parent or guardian may be attached.

(2) A court making an order under subsection (1) may, in any case where there is a pension or income payable to the parent or guardian 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 and that further order is an

ICC-1581 ICCI Exhibit P-059 Page 231

authority to the person by whom the 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 the person by whom the pension or other income is paid. (R.S.N. 1952, C. 60, S. 25(2)).

PART II

MENTALLY DEFECTIVE CHILDREN

Mentally defective persons defined.

22.—(1) The following classes of children who are mentally defective shall be deemed to be defective within the meaning of this Act:—

(a) children in whose case there exists mental defectiveness of such a degree that they are unable to guard themselves against common physical dangers;

(b) children in whose case there exists mental defectiveness which, though not amounting to the condition stated in paragraph (a), is yet so pronounced that they are incapable of managing themselves or their affairs or, in the case of children, of being taught to do so;

(c) children in whose case there exists mental defectiveness which, though not amounting to the condition stated in paragraph (b), is yet so pronounced that they require care, supervision and control for their own protection or for the protection of others or involves disability of mind of such a nature and extent as to make them incapable of receiving normal education at school.

(2) This section shall cover defectiveness induced by disease or injury as well as defectiveness arising from inherent causes.

Receiving home for defective children.

23.—(1) The parent or guardian of a child suspected to be defective may take the child to the receiving home or to a shelter or to any other place designated by the Director for the temporary care of the child pending the examination of the child by a psychiatrist.

ICC-1581 ICCI Exhibit P-059 Page 232

Idem.

(2) If the psychiatrist finds a child to be a defective child the parents or guardian may, subject to the approval of the Director, take the child back to the child's home or may place the child in a home or institution suitable for the care and training of a defective child.

Parent to give notice to Director.

24. A parent, guardian or other person who has reason to believe that a child under his care is a defective child may notify the Director in writing of the facts of the case, giving the name and address of the child, and the Director shall forthwith make provision for a proper examination of the child by a psychiatrist. (R.S.N. 1952, C. 60, S. 155).

Physicians and others to notify Director where defective child known or suspected.

25. A physician, nurse, teacher, or other professional person who in the practise of his profession or the performance of his duties has knowledge of a defective child or of any person whom he suspects to be a defective child, shall give notice in writing of the facts of the case to the Director, giving, if possible, the name and address of the child and of the person or persons in whose care or custody the child is. (R.S.N. 1952, C. 60, S. 156, Am.).

Enquiry as to defective child.

26.—(1) On receipt of information in respect of a defective child or any person suspected to be a defective child, the Director shall cause an enquiry and investigation to be made and, if after that investigation he deems it advisable, he shall take the steps necessary to have the child examined by a psychiatrist.

Judge may order examination of defective child.

(2) If the parent or guardian of a defective child or of a person suspected to be a defective child refuses to co-operate with the Director in having an adequate examination made of the child, the Director may apply to a judge who may issue an order requiring the parents or guardian to bring the child before him for examination ordering that the child be apprehended and brought before him for examination.

Section not deemed to require Director to examine child, etc.

(3) Nothing herein shall be deemed to require the Director to make an examination or to bring a child before a judge under this section or to take any action with respect to a defective child unless he is satisfied that the child's good and welfare of the community require him so to do. (R.S.N. 1952, C. 60, S. 157).

ICC-1581 ICCI Exhibit P-059 Page 233

(4) Nothing herein shall warrant the removal of a defective child from his parents or from a home where he lives with persons of his own blood, unless he is also a neglected child.

Investigation into facts.

27. When a defective child or person suspected to be a defective child has been brought before a judge for examination, the judge shall investigate the facts of the case and ascertain the age of the child and the name, residence and religion of his parents and may authorize an examination of the child by a psychiatrist, who shall examine the physical and mental condition of the child and report to the judge thereon. (R.S.N. 1952, C. 60, S. 158).

Witnesses.

28. A judge may compel the attendance of witnesses on any investigation and for that purpose he has all the powers of a stipendiary magistrate. (R.S.N. 1952, C. 60, S. 159).

Notice of investigation to parents, etc.

29. The parents or person having the actual custody of a child at the time of his apprehension under this Act or up to the time that he was brought to the receiving home or other place of custody shall be notified of the investigation and any person may appear on behalf of the child. (R.S.N. 1952, C. 60, S. 160).

Custody of defective child.

30. If on the report of a psychiatrist under this Act the judge finds that a child is a defective child, the judge may order that the child be returned to the care of his parents or guardian, with or without the supervision and inspection of the Director, or he may order that the child be committed to the care and custody of the Director. (R.S.N. 1952, C. 60, S. 161).

Defective child may be detained.

31. The Director may detain or cause to be detained a defective child committed to his care and custody under this Act, for an indefinite period, in any institution recognized and approved of by the Lieutenant-Governor in Council for the purposes of this Part. (R.S.N. 1952, C. 60, S. 164).

Powers of Minister.

32.—(1) The Minister may at any time on the report of a psychiatrist and on the recommendation of the Director order the release on parole of a defective child detained in an institution.

ICC-1581 ICCI Exhibit P-059 Page 234

Defective child may be returned to institution.

(2) The Minister may, on the report of the psychiatrist and the recommendation of the Director, order that a defective child released on parole to be returned to the institution or to such other institution as the Minister may determine and the defective child shall thereafter be detained as under the original order for his detention.

Regulations.

(3) The Minister may make regulations with respect to

(a) the release of a defective child on parole;

(b) providing for the supervision of a defective child while on parole;

(c) any matter with respect to the carrying out of the provisions of this Part not herein specifically provided for. (R.S.N. 1952, C. 60, S. 165, Am.).

Inducing defective child to leave institution.

33. Any person who

(a) induces or attempts to induce a defective child to leave an institution where the child is detained under this Act;

(b) induces or attempts to induce a defective child to break or violate any of the terms on which the child is released on parole from an institution where he has been detained under this Act; or

(c) detains or harbours a defective child who has left an institution where he was detained

is guilty of an offence and liable on summary conviction before a judge to a fine of not more than one hundred dollars or to imprisonment for a period of not more than one month or to both fine and imprisonment. (R.S.N. 1952, C. 60, S. 165).

OFFENCES AGAINST CHILDREN.

34.—(1) Any person who—

(a) causes a child to be in a public place for the purpose of begging or receiving alms or of inducing the giving of

ICC-1581 ICCI Exhibit P-059 Page 235

alms, whether under the pretence of singing, playing, performing, offering anything for sale or otherwise;

(b) causes a child to be in a public place for the purpose of singing, playing or performing for profit or offering anything for sale; or

(c) wilfully commits or omits an act producing, promoting or contributing to a child being or becoming a neglected child,

is guilty of an offence and liable on summary conviction to a fine not exceeding two hundred dollars and in default of payment or in addition thereto is liable to imprisonment for a term not exceeding two months. (R.S.N. 1952, C. 60, S. 27).

Proper entertainments; child may take part; licence.

(2) Where an entertainment or series of entertainments conducted for charitable or educational purposes is to take place in premises used for public entertainments or in any place of public amusement, if it is shown that proper provision has been made to secure the health and kind treatment of a child proposed to be employed thereat, the Director may grant a licence for such time and during such hours of the day and, subject to such supervision, restrictions and conditions as he may think fit, for any child over the age of ten years to be so employed of whose fitness to take part in the entertainment or series of entertainments without injury he is satisfied and he may vary, add to or revoke the licence and the cost of investigation and all other expenses involved in the granting of the licence shall be paid by the person or persons making the application therefor. (R.S.N. 1952, C. 60, S. 28).

Non-application of Sec. 26.

(3) This section does not apply to the participation by a child in an entertainment or other exercises conducted by a school or under the supervision of the clergy of a church. (R.S.N. 1952, C. 60, S. 28; part).

Removal of child from custody of a person.

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

(a) convicted of committing in respect of that child any offence involving wilful injury to the person, physical or mental health or morals of the child;

ICC-1581 ICCI Exhibit P-059 Page 236

(b) committed for trial for the offence; or

(c) bound over to keep the peace towards the child

by any court, that court, either at the time when the person is convicted, committed for trial or bound over, and without requiring any new proceedings to be instituted for the purpose, or at any time, and any other court before which any person may bring such case, may, if satisfied on enquiry that it is expedient so to deal with the child, order that the child be taken out of custody, charge or care of the person so convicted, committed for trial or bound over, and be committed to the care of the Director until he attains the age of seventeen 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, but an order shall not be made under this section unless a parent of the child 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.

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

(3) When an order is made under this section in respect of a person who has been committed for trial, 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. (R.S.N. 1952, C. 60, S. 30).

Taking deposition from child in case of illness, etc.

36.—(1) Where a judge is satisfied on the evidence of a registered medical practitioner that the attendance before a court of any child in respect of whom any offence is alleged to have been committed would involve serious danger to his life or health, the judge may take or cause to be taken in writing the deposition of the child on oath or otherwise and shall there-

ICC-1581 ICCI Exhibit P-059 Page 237

upon subscribe the same and add thereto a statement of his reason for making the deposition, the day when and place where the deposition was taken and the names of the persons, if any, present at the taking thereof.

Giving child tobacco, liquor, etc.; offence.

37. A person who sells, gives to or causes to come into the possession of a child cigarettes, cigarette papers, tobacco, intoxicating liquor, any drug which is or in quantity might be harmful, an obscene book or other printed, typewritten or other written obscene matter or any obscene picture, photograph, model or other object is guilty of an offence and liable on summary conviction to a fine not exceeding two hundred dollars and in default of payment of the fine or in addition thereto to imprisonment for a term not exceeding two months. (R.S.N. 1952, C. 60, S. 32).

Employment of girls in restaurants, hotels, etc.

38. A person who employs an unmarried girl under the age of sixteen in a restaurant, tavern or hotel without the written consent of her parents or guardian is guilty of an offence and liable on summary conviction to a fine not exceeding two hundred dollars or in default of payment, to imprisonment for a term not exceeding two months or to both such fine and imprisonment. (R.S.N. 1952, C. 60, S. 33).

Unlawful to employ child between 9 p.m. and 8 a.m.

39.—(1) A person shall not employ a child under the age of sixteen years

(a) between the hours of nine o'clock in the evening and eight o'clock in the morning otherwise than in an employment in which members of the employer's family are employed under his or her continuous supervision;

(b) in any occupation which the Lieutenant-Governor in Council declares by Order to be a prohibited occupation for the purposes of this section.

Register of children employed.

(2) Every employer shall keep a register of every child employed by him.

Contents of register.

(3) The register shall contain the date of beginning of employment and the date of birth, which the employer shall verify, of every such child, but this subsection does not apply to occupa-

ICC-1581 ICCI Exhibit P-059 Page 238

tions in which members of the employer's family are employed under his or her continuous supervision.

Register to be open to inspection.

(4) The register shall be open to inspection at all reasonable times by any person authorized in writing by the Director to inspect it.

Offence to employ child who required to be in school.

(5) A person shall not during school hours on a day during which schools in the district in which the child resides are open employ for remuneration a child whose attendance at school is required under The School Attendance Act.

Offence to admit children to places of amusement during school hours.

(6) A person who has the control or management of a theatre, bowling alley or other place of public amusement of any kind shall not

(a) before the hour of half past four in the afternoon on a day during which the school at which the child is enrolled is open; or

(b) if the child is not enrolled at any school, on any day during which the schools in the district in which the child resides are open,

admit a child whose attendance at school is required under The School Attendance Act, except for organized games, entertainments or other activities arranged by the principal of the school.

Offence to allow unaccompanied children in certain places after 7 p.m.

(7) A person who has the control or management of a restaurant, theatre, bowling alley or other place of public amusement of any kind shall not admit thereto or allow to remain thereat a child apparently under the age of fifteen years after the hour of seven o'clock in the evening, unless the child is accompanied by his parent or guardian or by some adult with the consent of the parent or guardian.

Offence; penalty.

(8) A person who fails to comply with or violates any of subsections (1) to (7) is guilty of an offence and liable on summary conviction to

(a) a fine of not more than twenty dollars a day for every day during which a child is employed contrary to sub-

ICC-1581 ICCI Exhibit P-059 Page 239

section (1) or (5) or, in default of payment, to imprisonment for a term not exceeding six months; and

(b) a fine of not more than fifty dollars for an offence under subsection (2), (3), (4), (6) or (7) or, in default of payment, to imprisonment for a term not exceeding fourteen days.

Presence of child in prohibited place is prima facie evidence of guilt.

(9) The presence of a child mentioned in subsection (6) at any of the places mentioned in that subsection during school hours and the presence of a child mentioned in subsection (7) not accompanied by his parent or guardian or by some adult with the consent of the parent or guardian at any of the places mentioned in that subsection after seven o'clock in the evening is *prima facie* evidence of the guilt of the person in charge of the restaurant or place of public amusement at the time the child was present in the place. (R.S.N. 1952, C. 60, S. 34, with modifications).

Apparent age of child.

40. Where a person is charged with an offence under this Act in respect of a child who is alleged to be under a specified age and the child appears to the judge to be under that age, the child shall for the purpose of this Act be deemed to be under that age unless the contrary is proved. (R.S.N. 1952, C. 60, S. 35).

Offences; one summons for two or more children.

41.—(1) Where a person is charged with committing an offence under this Act in respect to two or more children, 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 unless upon separate informations.

One information respecting custody, assault, etc.

(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 offences of assault, ill-treatment, neglect, abandonment or exposure or separately, and may charge him with committing all or any of those 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 offence.

ICC-1581 ICCI Exhibit P-059 Page 240

Limitation.

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

Information need not specify dates where continuing offence.

(4) When an offence under this Act 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. (R.S.N. 1952, C. 60, S. 36).

POWER OF SEARCH

Procedure to search for child and to summon person guilty of neglect.

42.—(1) If it appears to a judge, on information laid before him on oath by any person who in the opinion of the judge is *bona fide* acting in the interests of the child, that there is reasonable cause to suspect that a child has been or is being ill-treated or neglected in any place within the jurisdiction of the judge in a manner likely to cause the child unnecessary suffering or to be injurious to his health or morals, the judge may issue a summons to the person apparently having custody of the child to bring the child before the judge; and failing obedience to such summons he may issue a warrant authorizing any person named therein to search for the child and if the person finds the child to bring the child forthwith before the judge, and the judge may cause him to be dealt with in accordance with this Act.

Idem.

(2) The judge may by a warrant issued under subsection (1) or a separate warrant cause a person accused of an offence in respect of the child to be apprehended and brought before him to be dealt with according to law.

Idem.

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

Child need not be named in information or warrant.

(4) It is not necessary in an information laid or warrant issued under this section to describe a child by name. (R.S.N. 1952, C. 60, S. 37).

ICC-1581 ICCI Exhibit P-059 Page 241

INTERFERING WITH WARDS

Certain offences respecting child.

43.—(1) A person shall not

(a) induce or attempt to induce a child to leave the building or premises or custody or control of any home, or institution to which the child has been confined by competent authority;

(b) induce or attempt to induce a child to leave any place where the child has been lawfully placed for the purposes of being nursed, supported, educated or adopted;

(c) induce or attempt to induce a child to break an agreement lawfully entered into by or with the authority of the Director; or

(d) detain or harbour a child referred to in paragraph (a), (b) or (c) after demand made by or on behalf of the Director or a welfare officer for delivery up of the child.

Penalty.

(2) A person who violates any provision of subsection (1) is guilty of an offence and liable on summary conviction to a fine of not more than one hundred dollars or, in default of payment of the fine, to imprisonment for a period of not more than one month. (R.S.N. 1952, C. 60, S. 38).

PART IV

MISCELLANEOUS PROVISIONS

Regulations respecting occupations of children.

44.—(1) The council of the City of St. John's, of the City of Corner Brook or of a municipality or community established or operating under The Local Government Act, 1961, The Community Councils Act, 1962 or any other Act establishing a city or other municipality or community may make regulations regulating, controlling and licensing the employment of children as:

(a) express or despatch messengers;

ICC-1581 ICCI Exhibit P-059 Page 242

(b) vendors of newspapers and small wares;

(c) shoe shiners; or

(d) pin boys in bowling alleys;

and for prohibiting children from engaging in any of those occupations without a licence.

Licence fees.

(2) A licence fee imposed under regulations made under subsection (1) shall not exceed the sum of fifty cents per annum and a child who is engaged in two or more of the occupations referred to in that subsection shall not be compelled to pay more than one licence fee.

Children to whom licences not to be issued.

(3) A licence shall not be issued under regulations made under subsection (1) to

(a) a female child;

(b) a male child under the age of twelve years; or

(c) a male child of the age of twelve years but under the age of fourteen years, unless the child presents written authority from his parents or guardian authorizing him to make application for a licence for the purpose of engaging in any of the occupations referred to in subsection (1).

Prohibited hours for children licensed to work.

(4) A licensee under regulations made under subsection (1) shall not engage in any occupation for which he is licensed after the hour of eight o'clock in the evening in the months of December, January and February, or after the hour of nine o'clock in the evening throughout the rest of the year, or during school hours.

Licence not to contravene Act.

(5) A licence is not valid if its terms or any of them contravene this Act and a licence which contravenes this Act shall be cancelled by the Director. (R.S.N. 1952, C. 60, S. 173).

ICC-1581 ICCI Exhibit P-059 Page 243

BOARDING, ETC. OF CHILDREN.

Acceptance of child for board and lodging.

45.—(1) A person shall not accept a child under the age of twelve years into a home for the purpose of providing that child with board or lodging unless that person

(a) has received permission from the Director under this section; or

(b) is of the same blood as the mother of the child where the child was born out of wedlock; or

(c) is of the same blood as the father or mother of the child where the child was born in wedlock.

Director may issue licences to people to accept children.

(2) The Director may issue licences to persons permitting them to receive children generally and provide them with board and lodging in their homes and each licence shall

(a) contain the name and address of and otherwise describe the licensee;

(b) specify the place in which the licensee is to receive, board or lodge the children and the number of children who may at any time be in receipt of board or lodging in that place; and

(c) contain such conditions as the Director may attach to the licence.

Director may attach conditions to licence.

(3) The Director may attach to a licence issued under this section such conditions as he deems fit and may attach different conditions to licences issued to different persons.

Director may refuse to issue and may revoke licences.

(4) The Director may refuse to issue or may revoke a licence under this section without assigning any reason for the refusal or revocation.

Offence.

(5) A person who violates or consents to a violation of subsection (1) or any condition attached to a licence issued under subsection (2) is guilty of an offence and liable on summary conviction to a fine not exceeding five hundred dollars or in

default of payment to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

Idem.

(6) A father or mother who allows or agrees to allow or gives up his or her child to be received into a home or provided with board and lodging contrary to subsection (1) is guilty of an offence and liable on summary conviction to the penalty set out in subsection (5).

Child may be declared neglected.

(7) Where a person has been convicted of an offence under subsection (5) or (6) the court may declare that the child in respect of whom the offence was committed is a neglected child.

Cases to which this section does not apply.

(8) This section does not apply where a child is received into a home to be provided with board and lodging and the board and lodging are to be provided for a period not in excess of one year

(a) during the temporary absence from the province of one or both of the parents;

(b) during the illness of one or both of the parents; or

(c) while the child is absent from the home of his parents for the purpose of attending school. (1958, No. 15, S. 10).

CUSTODY BY DIRECTOR.

Director may take child into his custody.

46.—(1) If because of the special circumstances he considers it in the best interests of the child so to do, the Director may, upon the written request of the parent or guardian of a child, take the child into his care and custody.

Director may arrange for child's support, care and welfare.

(2) The Director may, when he has accepted a child under subsection (1), make such arrangements for the support, care and welfare of the child as in the circumstances he deems fit.

Director does not thereby become legal guardian.

(3) The Director does not by taking a child into his care and custody under subsection (1) become the legal guardian of the child and he may terminate the care and custody at any time he sees fit.

ICC-1581 ICCI Exhibit P-059 Page 245

(4) When any other provision of this Act conflicts with this section, this section shall prevail. (R.S.N. 1952, C. 60, S. 175).

This section prevails where conflict.

CUSTODY GENERALLY.

47. Where in any proceeding before any Court, including the Supreme Court, the custody or upbringing of a child is in question, the Court, in deciding that question, shall regard the welfare of the child as the first and paramount consideration, notwithstanding whether from any other point of view the claim of the father, or any right at common law possessed by the father, in respect of such custody or upbringing is superior to that of the mother, or the claim of the mother is superior to that of the father.

Welfare of child paramount consideration.

GENERAL PROVISIONS.

48. A person entrusted with the care of a child shall permit the child to be visited and any place where the child may be or reside to be inspected by the Director or a welfare officer. (R.S.N. 1952, C. 60, S. 176).

Visits to child.

49.—(1) The Minister, by himself or by a person authorized by him, may at all reasonable times enter and inspect any institution for the care of children, and may ask such questions as he may think proper, and such questions shall be truly answered by the person in charge of the institution.

Inspection of child-care institutions by Minister; agreements with institutions, etc.

(2) The Minister may enter into an agreement with any institution or organization for the provision of any service under this Act.

50.—(1) Subject to such regulations, if any, as may be made by the Minister with the approval of the Lieutenant-Governor in Council, ministers of religion have the right of admission to every receiving home or other home or institution established or recognized under this Act for the care of children for the purpose of access to such of the children placed or detained therein as belong to their respective denominations and may give instructions to them on the days and at the times appointed by the regulations for the religious education of those children.

Ministers of religion have right of admission to institutions.

Religion of children to be safeguarded.

(2) The religious persuasion of every child coming within the scope of this Act or within the scope of any regulations or powers made or conferred by this Act shall in all cases be properly safeguarded. (R.S.N. 1952, C. 60, S. 179).

Suits to be before a juvenile court judge or magistrate.

51. Except where otherwise provided in this or any other Act, every information, suit or other proceeding under this Act may be laid, prosecuted or proceeded with before a family or juvenile court or a magistrate. (R.S.N. 1952, C. 60, S. 180)

Penalty where not otherwise specified.

52. Where no penalty is provided for a breach of any provision of this Act or of any regulation made under this Act, a person committing the breach or failing to observe the provisions thereof is liable on summary conviction to a penalty not exceeding one hundred dollars or in default of payment to imprisonment for a period not exceeding one month or to both fine and imprisonment. (R..S.N. 1952, C. 60, S. 181).

Appeal to Supreme Court.

53. Any person feeling aggrieved by any act or order of the Minister or by any order, judgment or conviction of any court under this Act may sue thereon or appeal therefrom to the Supreme Court or a judge thereof within the time limited by and subject to the provisions of The Summary Jurisdiction Act respecting appeals from Stipendiary Magistrates. (R.S.N. 1952, C. 60, S. 185).

Act to be liberally construed.

54. This Act shall be liberally construed to the end that the care of children coming within its provisions shall approximate as nearly as may be that which should be given by their parents.

55.—(1) The following parts of chapter 60 of The Revised Statutes of Newfoundland 1952 entitled "An Act respecting the Welfare of Children" are repealed:

(a) Sections 2 to 38, both included.

(b) Sections 153 to 184, both included.

(c) Schedule A.

ICC-1581 ICCI Exhibit P-059 Page 247

(2) The following parts of Acts amending chapter 60 are repealed:

1958 No. 15 Sections 2, 3, and 10.

1959 No. 23 Sections 2, 3 and 4.

1960 No. 6 Section 2.

1961 No. 7 Sections 2 and 3.

AN ACT TO AMEND THE CHILD WELFARE ACT, 1964.

(April 15, 1965)

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title.

1. This Act may be cited as The Child Welfare (Amendment) Act, 1965.

Amdt. Sec. 15 of 1964, No. 45.

2. Section 15 of The Child Welfare Act, 1964, the Act No. 45 of 1964, is amended

(a) by repealing subsection (2) and substituting the following:

"(2) A neglected child who is apparently under the age of twelve years shall not be committed to an institution unless and until an attempt has been made to provide for that child in his own home or in a foster home.";

(b) by repealing subsection (8) and substituting the following:

"(8) Notwithstanding any other provision of this Act, when a child is committed temporarily to the care and custody of the Director, the commitment shall be made for a fixed period not exceeding twelve months, but in no case shall an order be made at any time which would result in the continuous temporary commitment of the child beyond thirty-six months from the date of the first order for his temporary commitment."; and

(c) by adding to Section 15 the following as subsections (11), (12) and (13):

"(11) Where an order has been made under Section 57 of chapter 60 of The Revised Statutes of Newfoundland, 1952, the Judge shall forward a copy of the evidence taken before him to the Director together with

ICC-1581 ICCI Exhibit P-059 Page 249

a statement containing all important facts relating to any child committed to his care and custody whether temporarily or permanently.

(12) When an order has been made under Section 57 of chapter 60 of The Revised Statutes of Newfoundland, 1952, the Magistrate may, upon application of the Director, or of any person designated for that purpose by the Director, or of a parent or guardian of the child to whom the order relates or of any person entitled to make a complaint in respect of that child, vary the order from time to time, if he is satisfied that there has been a material alteration in the needs or circumstances of the child.

(13) Where an order has been made under Section 57 of chapter 60 of The Revised Statutes of Newfoundland, 1952, notwithstanding anything to the contrary contained in this Act, when a child is committed temporarily to the care and custody of the Director the commitment shall be made for a fixed period not exceeding twenty-four months."

Amdt. Sec. 21(1)(b).

3. Subsection (1)(b) of Section 21 of the said Act is amended by substituting for the words "Section 15" where they occur the words "Section 46".

Amdt. Sec. 49.

4. Section 49 of the said Act is amended by repealing subsection (1) and striking out the figure (2) in subsection (2).

Advertisements re adoption, care or boarding of children forbidden.

5. No unauthorized person shall insert or cause to be inserted in a newspaper or periodical or publish or cause to be published by radio or television any advertisement dealing with the adoption, boarding out or care of children.

AN ACT FURTHER TO AMEND THE CHILD WELFARE ACT, 1964.

(March 25, 1966)

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title.

1. This Act may be cited as The Child Welfare (Amendment) Act, 1966.

Amendment Sec. 46.

2. Section 46 of The Child Welfare Act, 1964, the Act No. 45 of 1964, is amended by inserting immediately after subsection (2) as subsection (2A) the following:

Continuation of care and custody in certain cases.

"(2A) If a child referred to in subsection (1) reaches the age of sixteen years while in the care and custody of the Director, the Director may, subject to subsection (3) and where he considers it in the best interests of the child so to do, continue his care, custody and maintenance of the child until the child reaches the age of eighteen years, or subject to the approval of the Minister, twenty-one years."

Insertion of new section.

3. The said Act is further amended by inserting immediately after Section 50, as Section 50A the following:

Regulations.

"50A.—(1) The Lieutenant-Governor in Council may make such regulations, not inconsistent with this Act, as he deems necessary or desirable for the more effective carrying out of the purposes of this Act according to its true spirit, intent and meaning and for dealing with any matters for which no express provision has been made or in respect of which only partial or imperfect provision has been made, and without limitation of the foregoing, may make regulations

(a) providing for the licensing of receiving homes and foster homes;

(b) prescribing the procedure governing applications and proceedings under this Act;

(c) prescribing the records to be kept under this Act and the returns to be made to the Minister;

(d) prescribing the duties under this Act of the Director and welfare officers;

(e) respecting foster homes and receiving homes;

(f) prescribing the documents or information which must accompany applications under this Act;

(g) prescribing the rate to be paid in respect of board, clothing and school books, or any of them, supplied to children, in foster homes receiving homes and other institutions, who have been committed to and are under the care and custody of the Director in accordance with this Act;

(h) providing for the payment of school fees and transportation of children who have been committed to and are under the care and custody of the Director in accordance with this Act;

(i) providing for medical and dental care for children who have been committed to and are under the care and custody of the Director in accordance with this Act; and

(j) providing for supplementary allowances for handicapped children.

Offence and penalty.

(2) Every person who fails to comply with or otherwise contravenes any provision of regulations made under subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding three hundred dollars and in default of payment of the fine to a period of imprisonment not exceeding three months or to both such fine and imprisonment.

Publication.

(3) Regulations made under this section shall be published in *The Newfoundland Gazette* and shall have effect

ICC-1581 ICCI Exhibit P-059 Page 252

from the date of publication or from such later date as may be stated in the regulations and shall be laid before the Legislature within fifteen days after they are made, if the Legislature is then in session, and if it is not, then within fifteen days after the commencement of the next ensuing session."

AN ACT FURTHER TO AMEND THE CHILD WELFARE ACT, 1964.

(May 23, 1968)

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title.

1. This Act may be cited as The Child Welfare (Amendment) Act, 1968.

Amdt. Sec. 2.

2. Section 2 of The Child Welfare Act, 1964, the Act No. 45 of 1964, is amended by

(a) deleting from paragraph (a) the words "boy of girl" and substituting therefor the words "boy or girl";

(b) deleting from paragraph (g) the words "approved by the Director" and substituting therefor the words "approved by the Director or other person designated by the Minister generally or specially for the purpose"; and

(c) deleting paragraph (l) and substituting therefor the following:

"(l) "Minister" means the Minister of Public Welfare;".

Amdt. Sec. 45.

3. Subsections (1), (2), (3) and (4) of Section 45 of the said Act are repealed and the following substituted therefor:

Acceptance of child for board and lodging.

"(1) A person shall not accept a child under the age of twelve years into a home for the purpose of providing that child with board or lodging unless that person

(a) has received permission under this section from the Director or other person designated by the Minister generally or specially for the purpose, hereinafter in this section referred to as the "designated person"; or

ICC-1581 ICCI Exhibit P-059 Page 254

(b) is of the same blood as the mother of the child where the child was born out of wedlock; or

(c) is of the same blood as the father or mother of the the child where the child was born in wedlock.

Issuance of licences to people to accept children.

(2) The Director or designated person may issue licences to persons permitting them to receive children generally and provide them with board and lodging in their homes and each licence shall

(a) contain the name and address of and otherwise describe the licensee;

(b) specify the place in which the licensee is to receive, board or lodge the children and the number of children who may at any time be in receipt of board or lodging in that place; and

(c) contain such conditions as the Director or designated person may attach to the licence.

Conditions may be attached to licences.

(3) The Director or designated person may attach to a licence issued under this section such conditions as he deems fit and may attach different conditions to licences issued to different persons.

Refusal to issue and revocation of licences.

(4) The Director or designated person may refuse to issue or may revoke a licence under this section without assigning any reason for the refusal or revocation."

AN ACT FURTHER TO AMEND THE CHILD WELFARE ACT, 1964.

(March 31, 1969)

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title.

1. This Act may be cited as The Child Welfare (Amendment) Act, 1969.

Amdt. Sec. 2.

2. Section 2 of The Child Welfare Act, 1964, the Act No. 45 of 1964, is amended by deleting from paragraph (k) the word "stipendiary".

Amdt. Sec. 15.

3. Subsection (10) of Section 15 of the said Act is repealed and the following substituted therefor:

Prolongation of care and custody in certain cases.

"(10) If a child who has been committed to the care and custody of the Director reaches the age of sixteen years while in such care and custody, the Director may, if he considers it advisable so to do, continue his care, custody and maintenance of that child until that child reaches the age of twenty-one years or until some earlier date considered advisable by him."

Amdt. Sec. 46.

4. Subsection (2A) of Section 46 of the said Act, as enacted by the Act No. 71 of 1966, is repealed and the following substituted therefor:

Prolongation of care and custody in certain cases.

"(2A) If a child referred to in subsection (1) reaches the age of sixteen years while in the care and custody of the Director, the Director may, subject to subsection (3) and where he considers it in the best interests of that child so to do, continue his care, custody and maintenance of that child until that child reaches the age of twenty-one years."

Addition of new section.

5. The said Act is further amended by inserting immediately after Section 48 as Section 48A the following:

ICC-1581 ICCI Exhibit P-059 Page 256

"48A.—(1) Every person having information of the abandonment, desertion, physical ill-treatment or need for protection of a child shall report the information to the Director or a welfare officer. Reporting of ill-treatment of children.

(2) Subsection (1) applies notwithstanding that the information is confidential or privileged, and no action lies against the informant unless the giving of the information is done maliciously or without reasonable and probable cause. Subsection (1) applies notwithstanding that information is confidential or privileged.

(3) Any person who fails to comply with or otherwise contravenes any of the provisions of this section is guilty of an offence." Offence.

AN ACT FURTHER TO AMEND THE CHILD WELFARE ACT, 1964.

(May 13, 1969)

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title.

1. This Act may be cited as The Child Welfare (Amendment No. 2) Act, 1969.

Repeal and substitution Sec. 11.

2. Section 11 of The Child Welfare Act, 1964, the Act No. 45 of 1964, is repealed and the following substituted therefor:

Apprehension of neglected children.

"11.—(1) Where he has reasonable or probable grounds for believing that a child is a neglected child,

(a) a constable or other peace officer;

(b) a welfare officer;

(c) the Director; or

(d) any person duly authorized by the Director

may apprehend that child without warrant.

Warrant.

(2) Where it appears to a judge, on information laid before him on oath, that there are reasonable or probable grounds for believing that there is a neglected child at any place under his jurisdiction, the judge may issue a warrant authorizing any person referred to in subsection (1) to

(a) enter, by force if necessary, a building or other place specified in the warrant and search for the child; and

(b) apprehend the child if, in his opinion, the child appears to be a neglected child,

ICC-1581 ICCI Exhibit P-059 Page 258

and it is not necessary to describe a child by name in an information or a warrant laid or issued under this subsection.

Placement of apprehended child.

(3) A child apprehended pursuant to subsection (1) or (2) may, pending enquiry, subject to subsection (4),

(a) be taken into custody and detained in

(i) a receiving home, or

(ii) a hospital, if the person apprehending the child, or the Director where he is not the apprehending person, considers it advisable; or

(b) be permitted, if the Director consents, to remain with his parents or either of them or with the guardian or other person in whose care the child may be found at the time of apprehension,

and, where a child is detained in a hospital pursuant to subparagraph (ii) of paragraph (a) and the medical superintendent or senior medical officer of the hospital advised of such detention, thereafter, for the purposes of this section and the disposal of the case of the child under this Act, the hospital shall be deemed to be a receiving home.

Where apprehended child a patient in a hospital.

(4) Where at the time of being apprehended a child is a patient in a hospital, the person apprehending him may, upon advising the medical superintendent or senior medical officer of the hospital, leave the child in the hospital, and thereafter, for the purposes of this section and the disposal of the case of the child under this Act, the hospital shall be deemed to be a receiving home and the child shall be deemed to be detained therein.

Medical attention.

(5) Where a child is detained pursuant to any of the provisions of subsection (3) or (4), the Director may, if a duly qualified medical practitioner recommends the provision of such care, authorize the provision of such medical, surgical and psychiatric care as the Director considers necessary,

ICC-1581 ICCI Exhibit P-059 Page 259

without the consent of the child's parents or guardians or of any other person and without an order of any court in the province including a court as defined by Section 2, and no liability attaches to the Director or to a duly qualified medical practitioner or to a hospital by reason only that a child is provided with medical, surgical or psychiatric care pursuant to this subsection.

Objections of parents to medical care.

(6) Subsection (5) shall have full force and effect notwithstanding that the child's parents or guardians, or any of them, or any other person, objects or refuses to consent to the provisions of any care referred to in that subsection.

Definition.

(7) For the purposes of this section, but without limitation of the generality of the meaning of the expression "medical care" or of the expression "surgical care", the provision of any blood transfusion or transfusions or injection or injections is included in the meaning of each such expression."

Date of coming into force.

3. This Act shall come into force on a day to be proclaimed by the Lieutenant-Governor in Council.

AN ACT FURTHER TO AMEND THE CHILD WELFARE ACT, 1964.

(June 18, 1970)

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title.

1. This Act may be cited as The Child Welfare (Amendment) Act, 1970.

Amdt. Sec. 2.

2. Section 2 of The Child Welfare Act, 1964, the Act No. 45 of 1964, is amended by

(a) deleting paragraph (d) and substituting therefor the following:

"(d) "department" means the Department of Social Services and Rehabilitation;";

and

(b) deleting from paragraph (p) the words "supervised by the Director" and substituting therefor the words "supervised by the Director, and is deemed to include a foster home".

Amdt. Sec. 15.

3. Section 15 of the said Act is amended by

(a) deleting subsection (7); and

(b) deleting subsection (11), as enacted by the Act No. 54 of 1965, and substituting therefor the following:

Certain information to be furnished to Director.

"(11) Where an order is made under Section 57 of The Welfare of Children Act, chapter 60 of The Revised Statutes of Newfoundland, 1952, the judge who makes the order shall, where he is satisfied that the Director will not otherwise be informed of the principal evidence on which the order is founded, submit to the

ICC-1581 ICCI Exhibit P-059 Page 261

Director a statement containing a summary of all important evidence taken before him and any other relevant information he deems should be brought to the attention of the Director."

Amdt. Sec. 50A.

4. Subsection (1) of Section 50A of the said Act, as enacted by the Act No. 71 of 1966, is amended by repealing paragraph (g) of that subsection and substituting therefor the following:

"(g) prescribing the rate to be paid in respect of board, clothing and school books, or any of them, supplied to children

(i) in foster homes, receiving homes and other institutions, who have been committed to and are under the care and custody of the Director in accordance with this Act, or

(ii) who reside with and are cared for by grandparents, and other relatives not being the parents, of such children in a home, which is considered by the Director or other person designated by the Minister for the purpose as being satisfactory for their welfare."

Date of coming into force of paragraph (a) of Section 2.

5. Paragraph (a) of Section 2 shall come into force on a day to be proclaimed by the Lieutenant-Governor in Council.

CHAPTER 37

An Act to Amend and Consolidate the Law Respecting the Welfare of Children

Short title.

1. This Act may be cited as The Child Welfare Act.

INTERPRETATION.

Interpretation.

2. In this Act

(a) "board" means the Child Welfare Board appointed under this Act;

(b) "child" means an unmarried boy or girl actually or apparently under the age of sixteen years;

(c) "court" unless otherwise specified means a family or juvenile court, or a stipendiary magistrate;

(d) "department" means the Department of Social Services and Rehabilitation;

(e) "detention home" means a building or part of a building set apart permanently or temporarily for the custody or detention of children detained under this Act pending the disposition of their cases by a court;

(f) "Director" means the Director of Child Welfare appointed under this Act, and includes the Assistant Director of Child Welfare;

(g) "foster home" means a home, approved by the Director or other person designated by the Minister generally or specially for the purpose, other than that of his parents or relatives, in which a child who lacks normal parental relations may be placed to be treated as a member of the family;

ICC-1581 ICCI Exhibit P-059 Page 263

(h) "guardian" means the natural parent or parents and any guardian of the child's person legally appointed, and includes the Director when the child has been committed to his care;

(i) "home" means a private dwelling occupied by persons who live as a household;

(j) "institution" means a building or part of a building, other than a private home, set apart for the care and custody of children, or a training school or an orphanage and includes an infants' home or maternity home;

(k) "judge", unless otherwise specified, means a judge of a family court or of a juvenile court or a magistrate;

(l) "Minister" means the Minister of Social Services and Rehabilitation;

(m) "neglected child" means a child

(i) who is abandoned or deserted by both parents, or if one is dead, by the survivor, or by his guardian;

(ii) whose parents, or parent if only one be living, have or has allowed him to be brought up by another person at that person's expense under unsatisfactory conditions;

(iii) whose parents, or surviving parent if only one, are undergoing imprisonment, and there is no other person legally liable to maintain the child;

(iv) whose parents, or surviving parent, or guardian or other person in whose charge he may be, cannot by reason of misfortune, disease or infirmity properly care for him, or are unfit to have charge of him, or refuse to maintain him;

(v) who is found wandering about without a proper or settled place of abode, or is found sleeping at

ICC-1581 ICCI Exhibit P-059 Page 264

night in barns, outhouses or in the open air, or any other undesirable place;

(vi) who is found living with vicious or disreputable persons;

(vii) who by reason of neglect, intemperance or other vices of his parents or guardians is suffered to grow up without proper education and control, or in circumstances conducing to an idle and dissolute life;

(viii) whose parent or guardian is able to provide proper medical surgical or other remedial care for the child, but neglects to provide such care or, whether financially competent or not refuses permission for such care or any remedial measure when recommended by competent medical authority;

(ix) who is found begging in any place of public resort;

(x) who habitually frequents any tavern, pool-hall, or gambling room;

(xi) who, being under the age of fourteen years, habitually sells anything in the streets or public places after nine o'clock at night;

(xii) who habitually absents himself from his home or school;

(xiii) who habitually uses obscene, profane or immoral language or is guilty of any indecent conduct in any public place;

(xiv) who is unlawfully assaulted, beaten or ill-used or treated with cruelty or neglect by his parents or guardian;

(xv) who is found having in his possession obscene pictures, drawings or printed matter;

(xvi) who being under the age of sixteen years is employed anywhere between the hours of 9 p.m. and 8 a.m. on the following day;

(xvii) who

(A) being a female, or

(B) being a male under twelve years, or

(C) being between twelve and fourteen years old and without the written consent of his parents or guardian

is found selling newspapers or other articles in a public place;

(xviii) whose parents are dead, and who has no relatives liable to support him; or

(xix) who is illegitimate and whose mother is dead, incapacitated or without means or unwilling to support him, or who is brought before the court with the consent of the mother for the purpose of transferring the guardianship of him or her to the Director;

(n) "parent" includes grandparent, step-parent, foster-parent and parent by adoption;

(o) "phychiatrist" means a medical practitioner specially qualified in phychiatry, but shall include a registered medical practitioner not so officially qualified who may be employed under this Act when a qualified psychiatrist is not available;

(p) "receiving home" means a building or part of a building fitted for the reception and examination, physical or mental, of any neglected, delinquent or mentally de-

ICC-1581 ICCI Exhibit P-059 Page 266

fective child and established or approved as a receiving home by the Minister, and supervised by the Director and is deemed to include a foster home.

(q) "welfare officer" means a welfare officer of the Department of Social Services and Rehabilitation.

DIRECTOR AND CHILD WELFARE BOARD.

Director of Child Welfare.

3. The Lieutenant-Governor in Council may appoint a Director of Child Welfare who shall administer and enforce this Act, under the control and direction of the Minister.

Director may appear in court.

4. The Director may appear in a court in respect of any matter arising out of any of the provisions of this Act, and conduct any prosecution instituted in consequence of any alleged violation of this Act.

Assistant Director.

5. The Lieutenant-Governor in Council may appoint an Assistant Director of Child Welfare who shall perform such duties as the Director may direct and shall perform the duties of the Director in the absence of the Director or if there is no Director.

Powers of welfare officers.

6.—(1) Every welfare officer is protected from civil actions for anything done in *bona fide* exercise of the powers conferred by this Act.

Idem.

(2) Every welfare officer has all of the powers of a constable under The School Attendance Act.

Child Welfare Board

7.—(1) The Lieutenant-Governor in Council may appoint a board which shall be known as the Child Welfare Board and which shall consist of not less than five and not more than nine members.

Term of office.

(2) Members of the Child Welfare Board

(a) hold office during pleasure for three years from the first day of January following their appointment, and until their successors are appointed;

(b) are eligible for re-appointment; and

(c) shall serve without remuneration but may be paid their actual travelling expenses, if any, incurred while attending meetings of the board.

Vacancies.

(3) When a vacancy occurs amongst the members of the Child Welfare Board because of death, resignation or illness or if, for any other reason in the opinion of the Minister, a member should be replaced the Lieutenant-Governor in Council may appoint a successor to that member and the successor shall hold office for the remainder of the unexpired term of the member whom he replaces and the successor is eligible for re-appointment.

Chairman.

(4) The Lieutenant-Governor in Council may designate one of the members of the Child Welfare Board to be its chairman and the board shall meet at his call or that of the Director.

Duties of Child Welfare Board.

(5) The Child Welfare Board shall

(a) meet as often as may be necessary for the consideration of questions pertaining to the welfare of the children of Newfoundland;

(b) assist and advise the Director in the administration of this Act;

(c) promote the proper treatment of children to whom this Act applies;

(d) encourage, through study and discussion, the development and maintenance of sound standards of child protection in Newfoundland; and

(e) perform such other duties consistent with this Act as may from time to time be prescribed by the Lieutenant-Governor in Council or the Minister.

Receiving homes.

8. Subject to the prior approval of the Lieutenant-Governor in Council, the Minister may establish receiving homes for neglected, delinquent, mentally defective or handicapped children and the Director shall supervise those homes.

ICC-1581 ICCI Exhibit P-059 Page 268

Psychiatrist.

9. The Minister may from time to time appoint a medical practitioner, if possible one qualified in psychiatry, to examine the physical and mental condition of any child dealt with under this Act, and to report to the Minister thereon.

PART I.

NEGLECTED CHILDREN.

Director or other authorized person may apply for declaration of neglect.

10.—(1) Where it is believed on reasonable and probable grounds that a child is a neglected child, the Director or a welfare officer or any person authorized by the Director in writing may apply to a judge for a declaration that the child is a neglected child.

Notice.

(2) The Director or a welfare officer or the person authorized by the Director to make the application under subsection (1) shall at least ten days prior to the date set for the hearing of that application notify the parents or guardian, if known, of the child of

(a) the name of the child in respect of whom the application is being made;

(b) the subparagraph of paragraph (m) of Section 2 under which the child is considered to be a neglected child; and

(c) the time and place of the hearing of the application.

Hearing of application.

(3) The judge shall forthwith hear the application and may compel the attendance of witnesses on the hearing.

Order.

(4) If the judge finds upon the hearing of the application that the child is a neglected child, he may so declare and may make an order in respect of the child.

Apprehension of neglected children.

11.—(1) Where he has reasonable or probable grounds for believing that a child is a neglected child,

(a) a constable or other peace officer;

ICC-1581 ICCI Exhibit P-059 Page 269

(b) a welfare officer;

(c) the Director; or

(d) any person duly authorized by the Director

may apprehend that child without warrant.

Warrant.

(2) Where it appears to a judge, on information laid before him on oath, that there are reasonable or probable grounds for believing that there is a neglected child at any place under his jurisdiction, the judge may issue a warrant authorizing any person referred to in subsection (1) to

(a) enter, by force if necessary, a building or other place specified in the warrant and search for the child; and

(b) apprehend the child if, in his opinion, the child appears to be a neglected child,

and it is not necessary to describe a child by name in an information or a warrant laid or issued under this subsection.

Placement of apprehended child.

(3) A child apprehended pursuant to subsection (1) or (2) may, pending enquiry, subject to subsection (4),

(a) be taken into custody and detained in

(i) a receiving home, or

(ii) a hospital, if the person apprehending the child, or the Director where he is not the apprehending person, considers it advisable; or

(b) be permitted, if the Director consents, to remain with his parents or either of them or with the guardian or other person in whose care the child may be found at the time of apprehension,

and, where a child is detained in a hospital pursuant to subparagraph (ii) of paragraph (a) and the medical superintendent or senior medical officer of the hospital advised of such detention, thereafter, for the purposes of this section and the disposal

ICC-1581 ICCI Exhibit P-059 Page 270

of the case of the child under this Act, the hospital shall be deemed to be a receiving home.

Where apprehended child a patient in a hospital.

(4) Where at the time of being apprehended a child is a patient in a hospital, the person apprehending him may, upon advising the medical superintendent or senior medical officer of the hospital, leave the child in the hospital, and thereafter, for the purposes of this section and the disposal of the case of the child under this Act, the hospital shall be deemed to be a receiving home and the child shall be deemed to be detained therein.

Medical attention.

(5) Where a child is detained pursuant to any of the provisions of subsection (3) or (4), the Director may, if a duly qualified medical practitioner recommends the provision of such care, authorize the provision of such medical, surgical and psychiatric care as the Director considers necessary, without the consent of the child's parents or guardians or of any other person and without an order of any court in the province including a court as defined by Section 2, and no liability attaches to the Director or to a duly qualified medical practitioner or to a hospital by reason only that a child is provided with medical, surgical or psychiatric care pursuant to this subsection.

Objections of parents to medical care.

(6) Subsection (5) shall have full force and effect notwithstanding that the child's parents or guardians, or any of them, or any other person, objects or refuses to consent to the provisions of any care referred to in that subsection.

Definition.

(7) For the purposes of this section, but without limitation of the generality of the meaning of the expression "medical care" or of the expression "surgical care", the provision of any blood transfusion or transfusions or injection or injections is included in the meaning of each such expression.

Parents or guardian of child to be notified.

12.—(1) A person who has apprehended a child under Section 11, the Director, a welfare officer or any person duly authorized in writing by the Director shall within ten days after the date of the apprehension notify the parents or guardian, if any, or if known, of the child, stating the time and place for investigating the facts of the case, which time shall not be more than twenty days after the date of apprehension of the child, unless otherwise ordered by the judge.

ICC-1581 ICCI Exhibit P-059 Page 271

Report to Director; return of child.

(2) A person who has apprehended a child under Section 11 shall make a written report to the Director, setting out the circumstances of the case and the time and place for investigating the facts if necessary and the Director may permit the child to be returned, pending the investigation, to his parents or either of them or to the guardian or other person in whose care the child may have been.

Witnesses may be compelled to attend.

(3) The judge may compel the attendance of witnesses in an investigation under this section.

Judge to investigate facts.

(4) The judge in an investigation under this section shall investigate the facts of the case and ascertain whether the child is a neglected child, his age, name and residence and the religion of the child and of his parents or guardian.

Order where child not found to be neglected.

(5) If on an investigation under this section the judge finds that a child is not a neglected child, he shall order that the child be returned to his parents, guardian or other person in whose care he may be.

Declaration that child neglected.

(6) If on an investigation under this section the judge finds that the child is a neglected child, he may so declare and in that event he may make an order under Section 15.

Order to recite facts.

(7) An order made under Section 15 shall recite the facts so far as ascertained in an investigation under this section and the judge shall deliver a certified copy of the order to the Director.

Temporary detention.

13. At any time pending the final determination of an examination the judge may make such order for the temporary detention and care of the child as he may deem proper.

Wishes of child.

14. Nothing in this Act shall affect the power of the court to consult the wishes of a child declared to be a neglected child in determining what order ought to be made or any right which a child now possesses to exercise his own free choice.

Orders may be made.

15.—(1) Where it appears to a judge that the public interest and the interest of a child declared by him to be a neglected child or of any child against whom an offence has been com-

ICC-1581 ICCI Exhibit P-059 Page 272

mitted may be best served thereby the judge may make an order

(a) that the child be returned to his parents or guardian or other person in whose care he may be, subject to supervision by the Director;

(b) that the child be committed temporarily or permanently to the care and custody of some suitable person, subject to supervision by the Director; or

(c) that, subject to subsection (2), the child be committed temporarily or permanently to the care and custody of the Director, who in his discretion may order that the child be placed in a foster home, training school or other institution which has been approved by the Minister for the care of delinquent or neglected children.

Restriction on committment of child under twelve.

(2) A neglected child who is apparently under the age of twelve years shall not be committed to an institution unless and until an attempt has been made to provide for that child in his own home, or in a foster home.

Review of matter by judge.

(3) Where a child has been committed temporarily to the care and custody of the Director, the Director or a welfare officer or some other person authorized by the Director in writing shall during the period of temporary commitment or at the expiration of that period bring the matter again before the judge for further and other consideration and action and if the parents or guardian of the child have been notified in accordance with subsection (4) the judge shall thereupon enquire and determine whether the circumstances justify an order returning the child to his parents or guardian or other person in whose care he may have been or a further order under this section and the judge shall make such order as the circumstances of the case require.

Notice.

(4) The Director or a welfare officer or some person authorized by the Director in writing shall notify the parents or guardian of the child of the time and place of the enquiry referred to in subsection (3).

Evidence at prior hearing, etc.

(5) Evidence taken at a prior hearing and the order of temporary committal made after the prior hearing may be admitted as evidence in an enquiry under subsection (3) without proof or on such proof as the judge may require.

Temporary detention.

(6) At any time pending the final determination of an enquiry under subsection (3) the judge may make such order for temporary detention and care of the child as he deems proper.

Temporary commitments to be made for definite period.

(7) Notwithstanding any other provision of this Act, when a child is committed temporarily to the care and custody of the Director, the commitment shall be made for a fixed period not exceeding twelve months, but in no case shall an order be made at any time which would result in the continuous temporary commitment of the child beyond thirty-six months from the date of the first order for his temporary commitment.

Variation of order made under Sec. 15.

(8) When an order has been made under Section 15 the magistrate may, upon application of the Director or of a welfare officer or of any person designated for the purpose by the Director or of a parent or guardian of the child to whom the order relates or of any person entitled to make a complaint in respect of that child, vary the order from time to time, if he is satisfied that there has been a material alteration in the needs or the circumstances of the child.

Prolongation of care and custody in certain cases.

(9) If a child who has been committed to the care and custody of the Director reaches the age of sixteen years while in such care and custody, the Director may, if he considers it advisable so to do, continue his care, custody and maintenance of that child until that child reaches the age of twenty-one years or until some earlier date considered advisable by him.

Certain information to be furnished to Director.

(10) Where an order is made under Section 20 of The Juveniles Act, the judge who makes the order shall, where he is satisfied that the Director will not otherwise be informed of the principal evidence on which the order is founded, submit to the Director a statement containing a summary of all important evidence taken before him and any other relevant information he deems should be brought to the attention of the Director.

ICC-1581 ICCI Exhibit P-059 Page 274

Variation of order.

(11) When an order has been made under Section 20 of The Juveniles Act, the magistrate may, upon application of the Director, or of any person designated for that purpose by the Director, or of a parent or guardian of the child to whom the order relates or of any person entitled to make a complaint in respect of that child, vary the order from time to time, if he is satisfied that there has been a material alteration in the needs or circumstances of the child.

Period of commitment.

(12) Where an order has been made under Section 20 of The Juveniles Act, notwithstanding anything to the contrary contained in this Act, when a child is committed temporarily to the care and custody of the Director the commitment shall be made for a fixed period not exceeding twenty-four months.

Regard to be had to religion in determining custody of child.

16.—(1) In determining the person to whose care a child shall be committed under this Act, the court shall endeavour to ascertain the religious persuasion to which the child 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 shall be brought up in accordance with his own religious persuasion; and that religious persuasion shall be specified in the order.

Exception.

(2) This section does not apply to the placing of a child in a situation, or in temporary accommodation, but due regard shall be given to the religious preferences of any child so placed and proper time shall be allowed for the exercise of religious duties.

Child Welfare Board may act where no family, etc., of same religion.

(3) Where there appears to be no suitable family, home or institution of the same religious faith as that professed by the child or his family with which he may be placed, or where there is a lack of evidence as to the religion of a child, the case shall be referred to the Child Welfare Board and the disposition of the child in this regard shall be within the discretion of that board.

Mother's religion preferred where child illegitimate.

(4) For the purpose of this section, in the case of a child whose parents have not been married to each other, if the child

ICC-1581 ICCI Exhibit P-059 Page 275

has no religious preference the first determining factor shall be the preference of the mother, if she is living, or, if she is not living, the religious persuasion of the mother at the time of her death if it can be ascertained.

Trial of child.

17. A judge shall investigate the case of every child and dispose thereof in premises other than an open court room and in the case of a person charged with an offence against a child he may in his discretion proceed in camera.

Examination respecting child on certain premises.

18. Where a relative or other suitable person possesses premises affording the necessary facilities and accommodation a child may, after apprehension under this Part, be temporarily placed in charge of that relative or person until his case is disposed of and the judge may in his discretion hold the examination into the case of that child in those premises.

Parent loses right to custody of child.

19.—(1) Where a parent applies to the Supreme Court for a court order for the production of a child committed under this Act and the court is of the opinion that the parent has abandoned or deserted the child or that he has otherwise so conducted himself that the court should refuse to enforce his rights to the custody of the child, the court may in its discretion decline to make the order.

Court may order parent to pay expenses before giving him child.

(2) If at any time of an application under subsection (1) the child is being brought up by another person, the court, if it directs the child to be given up to the parent, may order that the parent shall pay to that other person the whole of the expense properly incurred in bringing up the child or such portion thereof as may seem just.

Parent to satisfy court that he is fit to have custody of child.

(3) Where a parent has abandoned or deserted his child or allowed his child to be brought up by another person at that person's expense for such time and under such circumstances as to satisfy the court that the parent was neglectful of his parental duties, the court shall not make an order for the delivery of the child to the parent unless at the time of the application under subsection (1) he satisfies the court that, having regard

ICC-1581 ICCI Exhibit P-059 Page 276

to the welfare of the child, he is a fit person to have the custody of the child.

Court may make order to secure child being brought up in his religion.

(4) If a court is of opinion that the parent who makes an application under subsection (1) ought not to have the custody of the child but that the child is being brought up in a religious persuasion which is different from that in which the parent has a legal right to require that the child be brought up, or which is not the religious persuasion which the child professes, the court may make such order as it may think fit to secure that the child be brought up in that religious persuasion.

Children, and tobacco, liquor, etc.

20. A constable, welfare officer, a school teacher, the Director or any person acting under the authority or direction of the Director who suspects on reasonable grounds that a child has in his possession cigarettes, cigarette papers, tobacco, intoxicating liquor, harmful drugs, an obscene book or other printed, typewritten or other obscene matter or any obscene picture, photograph, model or other object, may take that child to the home of the child, or to a receiving home, or any other place in which children are cared for under this Act, for the purpose of having the clothing of the child searched by a proper person and if any thing referred to in this section is found upon that search it shall be disposed of as the Director may order.

Order for payment of support of child.

21.—(1) (a) The Director may, when or at any time after an order is made under Section 15 and from time to time; and

(b) the Director may, when or at any time after he has taken a child into his care and custody under Section 46 and from time to time,

apply to a court and the court may upon the application make an order for the payment by or the recovery from the parents or guardian of such reasonable sums as may from time to time have been spent for the support, care and welfare of the child in any home, shelter or institution in which the child may have been placed by the Director.

ICC-1581 ICCI Exhibit P-059 Page 277

Pension or income of parent or guardian may be attached.

(2) A court making an order under subsection (1) may, in any case where there is a pension or income payable to the parent or guardian 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 and that further order is an authority to the person by whom the 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 the person by whom the pension or other income is paid.

PART II.

MENTALLY DEFECTIVE CHILDREN.

Mentally defective persons defined.

22.—(1) The following classes of children who are mentally defective shall be deemed to be defective within the meaning of this Act

(a) children in whose case there exists mental defectiveness of such a degree that they are unable to guard themselves against common physical dangers;

(b) children in whose case there exists mental defectiveness which, though not amounting to the condition stated in paragraph (a), is yet so pronounced that they are incapable of managing themselves or their affairs or, in the case of children, of being taught to do so;

(c) children in whose case there exists mental defectiveness which, though not amounting to the condition stated in paragraph (b), is yet so pronounced that they require care, supervision and control for their own protection or for the protection of others or involves disability of mind of such a nature and extent as to make them incapable of receiving normal education at school.

(2) This section shall cover defectiveness induced by disease or injury as well as defectiveness arising from inherent causes.

ICC-1581 ICCI Exhibit P-059 Page 278

Receiving home for defective children.

23.—(1) The parent or guardian of a child suspected to be defective may take the child to the receiving home or to a shelter or to any other place designated by the Director for the temporary care of the child pending the examination of the child by a psychiatrist.

Idem.

(2) If the psychiatrist finds a child to be a defective child the parents or guardian may, subject to the approval of the Director, take the child back to the child's home or may place the child in a home or institution suitable for the care and training of a defective child.

Parent to give notice to Director.

24. A parent, guardian or other person who has reason to believe that a child under his care is a defective child may notify the Director in writing of the facts of the case, giving the name and address of the child, and the Director shall forthwith make provision for a proper examination of the child by a psychiatrist.

Physicians and others to notify Director where defective child known or suspected.

25. A physician, nurse, teacher, or other professional person who in the practise of his profession or the performance of his duties has knowledge of a defective child or of any person whom he suspects to be a defective child, shall give notice in writing of the facts of the case to the Director, giving, if possible, the name and address of the child and of the person or persons in whose care or custody the child is.

Enquiry as to defective child.

26.—(1) On receipt of information in respect of a defective child or any person suspected to be a defective child, the Director shall cause an enquiry and investigation to be made and, if after that investigation he deems it advisable, he shall take the steps necessary to have the child examined by a psychiatrist.

Judge may order examination of defective child.

(2) If the parent or guardian of a defective child or of a person suspected to be a defective child refuses to co-operate with the Director in having an adequate examination made of the child, the Director may apply to a judge who may issue an order requiring the parents or guardian to bring the child before him for examination ordering that the child be apprehended and brought before him for examination.

Section not deemed to require Director to examine child, etc.

(3) Nothing herein shall be deemed to require the Director to make an examination or to bring a child before a judge under this section or to take any action with respect to a defective child unless he is satisfied that the child's good and welfare of the community require him so to do.

(4) Nothing herein shall warrant the removal of a defective child from his parents or from a home where he lives with persons of his own blood, unless he is also a neglected child.

Investigation into facts.

27. When a defective child or person suspected to be a defective child has been brought before a judge for examination, the judge shall investigate the facts of the case and ascertain the age of the child and the name, residence and religion of his parents and may authorize an examination of the child by a psychiatrist, who shall examine the physical and mental condition of the child and report to the judge thereon.

Witnesses.

28. A judge may compel the attendance of witnesses on any investigation and for that purpose he has all the powers of a stipendiary magistrate.

Notice of investigation to parents, etc.

29. The parents or person having the actual custody of a child at the time of his apprehension under this Act or up to the time that he was brought to the receiving home or other place of custody shall be notified of the investigation and any person may appear on behalf of the child.

Custody of defective child.

30. If on the report of a psychiatrist under this Act the judge finds that a child is a defective child, the judge may order that the child be returned to the care of his parents or guardian, with or without the supervision and inspection of the Director, or he may order that the child be committed to the care and custody of the Director.

Defective child may be detained.

31. The Director may detain or cause to be detained a defective child committed to his care and custody under this Act, for an indefinite period, in any institution recognized and approved of by the Lieutenant-Governor in Council for the purposes of this Part.

Powers of Minister.

32.—(1) The Minister may at any time on the report of a psychiatrist and on the recommendation of the Director order the release on parole of a defective child detained in an institution.

Defective child may be returned to institution.

(2) The Minister may, on the report of the psychiatrist and the recommendation of the Director, order that a defective child released on parole to be returned to the institution or to such other institution as the Minister may determine and the defective child shall thereafter be detained as under the original order for his detention.

Regulations.

(3) The Minister may make regulations with respect to

(a) the release of a defective child on parole;

(b) providing for the supervision of a defective child while on parole;

(c) any matter with respect to the carrying out of the provisions of this Part not herein specifically provided for.

Inducing defective child to leave institution.

33. Any person who

(a) induces or attempts to induce a defective child to leave an institution where the child is detained under this Act;

(b) induces or attempts to induce a defective child to break or violate any of the terms on which the child is released on parole from an institution where he has been detained under this Act; or

(c) detains or harbours a defective child who has left an institution where he was detained

is guilty of an offence and liable on summary conviction before a judge to a fine of not more than one hundred dollars or to imprisonment for a period of not more than one month or to both fine and imprisonment.

OFFENCES AGAINST CHILDREN.

Offences.

34.—(1) Any person who

(a) causes a child to be in a public place for the purpose of begging or receiving alms or of inducing the giving of alms, whether under the pretence of singing, playing, performing, offering anything for sale or otherwise;

(b) causes a child to be in a public place for the purpose of singing, playing or performing for profit or offering anything for sale; or

(c) wilfully commits or omits an act producing, promoting or contributing to a child being or becoming a neglected child,

is guilty of an offence and liable on summary conviction to a fine not exceeding two hundred dollars and in default of payment or in addition thereto is liable to imprisonment for a term not exceeding two months.

Proper entertainments; child may take part; licence.

(2) Where an entertainment or series of entertainments conducted for charitable or educational purposes is to take place in premises used for public entertainments or in any place of public amusement, if it is shown that proper provision has been made to secure the health and kind treatment of a child proposed to be employed thereat, the Director may grant a licence for such time and during such hours of the day and, subject to such supervision, restrictions and conditions as he may think fit, for any child over the age of ten years to be so employed of whose fitness to take part in the entertainment or series of entertainments without injury he is satisfied and he may vary, add to or revoke the licence and the cost of investigation and all other expenses involved in the granting of the licence shall be paid by the person or persons making the application therefor.

Non-application.

(3) This section does not apply to the participation by a child in an entertainment or other exercises conducted by a school or under the supervision of the clergy of a church.

ICC-1581 ICCI Exhibit P-059 Page 282

Removal of child from custody of a person.

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

(a) convicted of committing in respect of that child any offence involving wilful injury to the person, physical or mental health or morals of the child;

(b) committed for trial for the offence; or

(b) bound over to keep the peace towards the child

by any court, that court, either at the time when the person is convicted, committed for trial or bound over, and without requiring any new proceedings to be instituted for the purpose, or at any time, and any other court before which any person may bring such case, may, if satisfied on enquiry that it is expedient so to deal with the child, order that the child be taken out of custody, charge or care of the person so convicted, committed for trial or bound over, and be committed to the care of the Director until he attains the age of seventeen 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, but an order shall not be made under this section unless a parent of the child 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.

Order.

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

Voidance of order.

(3) When an order is made under this section in respect of a person who has been committed for trial, 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.

Taking deposition from child in case of illness, etc.

36. Where a judge is satisfied on the evidence of a registered medical practitioner that the attendance before a court of any child in respect of whom any offence is alleged to have been committed would involve serious danger to his life or health, the judge may take or cause to be taken in writing the deposition of the child on oath or otherwise and shall thereupon subscribe the same and add thereto a statement of his reason for making the deposition, the day when and place where the deposition was taken and the names of the persons, if any, present at the taking thereof.

Giving child tobacco, liquor, etc.; offence.

37. A person who sells, gives to or causes to come into the possession of a child cigarettes, cigarette papers, tobacco, intoxicating liquor, any drug which is or in quantity might be harmful, an obscene book or other printed, typewritten or other written obscene matter or any obscene picture, photograph, model or other object is guilty of an offence and liable on summary conviction to a fine not exceeding two hundred dollars and in default of payment of the fine or in addition thereto to imprisonment for a term not exceeding two months.

Employment of girls in restaurants, hotels, etc.

38. A person who employs an unmarried girl under the age of sixteen in a restaurant, tavern or hotel without the written consent of her parents or guardian is guilty of an offence and liable on summary conviction to a fine not exceeding two hundred dollars or in default of payment, to imprisonment for a term not exceeding two months or to both such fine and imprisonment.

Unlawful to employ child between 9 p.m. and 8 a.m.

39.—(1) A person shall not employ a child under the age of sixteen years

(a) between the hours of nine o'clock in the evening and eight o'clock in the morning otherwise than in an employment in which members of the employer's family are employed under his or her continuous supervision;

(b) in any occupation which the Lieutenant-Governor in Council declares by Order to be a prohibited occupation for the purposes of this section.

Register of children employed.

(2) Every employer shall keep a register of every child employed by him.

ICC-1581 ICCI Exhibit P-059 Page 284

Contents of register.

(3) The register shall contain the date of beginning of employment and the date of birth, which the employer shall verify, of every such child, but this subsection does not apply to occupations in which members of the employer's family are employed under his or her continuous supervision.

Register to be open to inspection.

(4) The register shall be open to inspection at all reasonable times by any person authorized in writing by the Director to inspect it.

Offence to employ child who required to be in school.

(5) A person shall not during school hours on a day during which schools in the district in which the child resides are open employ for remuneration a child whose attendance at school is required under The School Attendance Act.

Offence to admit children to places of amusement during school hours.

(6) A person who has the control or management of a theatre, bowling alley or other place of public amusement of any kind shall not

(a) before the hour of half past four in the afternoon on a day during which the school at which the child is enrolled is open; or

(b) if the child is not enrolled at any school, on any day during which the schools in the district in which the child resides are open,

admit a child whose attendance at school is required under The School Attendance Act, except for organized games, entertainments or other activities arranged by the principal of the school.

Offence to allow unaccompanied children in certain places after 7 p.m.

(7) A person who has the control or management of a restaurant, theatre, bowling alley or other place of public amusement of any kind shall not admit thereto or allow to remain thereat a child apparently under the age of fifteen years after the hour of seven o'clock in the evening, unless the child is accompanied by his parent or guardian or by some adult with the consent of the parent or guardian.

Offence; penalty.

(8) A person who fails to comply with or violates any of subsections (1) to (7) is guilty of an offence and liable on summary conviction to

ICC-1581 ICCI Exhibit P-059 Page 285

(a) a fine of not more than twenty dollars a day for every day during which a child is employed contrary to subsection (1) or (5) or, in default of payment, to imprisonment for a term not exceeding six months; and

(b) a fine of not more than fifty dollars for an offence under subsection (2), (3), (4), (6) or (7) or, in default of payment, to imprisonment for a term not exceeding fourteen days.

Presence of child in prohibited place is *prima facie* evidence of guilt.

(9) The presence of a child mentioned in subsection (6) at any of the places mentioned in that subsection during school hours and the presence of a child mentioned in subsection (7) not accompanied by his parent or guardian or by some adult with the consent of the parent or guardian at any of the places mentioned in that subsection after seven o'clock in the evening is *prima facie* evidence of the guilt of the person in charge of the restaurant or place of public amusement at the time the child was present in the place.

Apparent age of child.

40. Where a person is charged with an offence under this Act in respect of a child who is alleged to be under a specified age and the child appears to the judge to be under that age, the child shall for the purpose of this Act be deemed to be under that age unless the contrary is proved.

Offences; one summons for two or more children.

41.—(1) Where a person is charged with committing an offence under this Act in respect to two or more children, 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 unless upon separate informations.

One information respecting custody, assault, etc.

(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 offences of assault, ill-treatment, neglect, abandonment or exposure or separately, and may charge him with committing all or any of those 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 offence.

ICC-1581 ICCI Exhibit P-059 Page 286

Limitation.

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

Information need not specify dates where continuing offence.

(4) When an offence under this Act 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.

POWER OF SEARCH.

Procedure to search for child and to summon person guilty of neglect.

42.—(1) If it appears to a judge, on information laid before him on oath by any person who in the opinion of the judge is *bona fide* acting in the interests of the child, that there is reasonable cause to suspect that a child has been or is being ill-treated or neglected in any place within the jurisdiction of the judge in a manner likely to cause the child unnecessary suffering or to be injurious to his health or morals, the judge may issue a summons to the person apparently having custody of the child to bring the child before the judge; and failing obedience to such summons he may issue a warrant authorizing any person named therein to search for the child and if the person finds the child to bring the child forthwith before the judge, and the judge may cause him to be dealt with in accordance with this Act.

Idem.

(2) The judge may by a warrant issued under subsection (1) or a separate warrant cause a person accused of an offence in respect of the child to be apprehended and brought before him to be dealt with according to law.

Idem.

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

Child need not be named in information or warrant.

(4) It is not necessary in an information laid or warrant issued under this section to describe a child by name.

ICC-1581 ICCI Exhibit P-059 Page 287

INTERFERING WITH WARDS.

Certain offences respecting child.

43.—(1) A person shall not

(a) induce or attempt to induce a child to leave the building or premises or custody or control of any home, or institution to which the child has been confined by competent authority;

(b) induce or attempt to induce a child to leave any place where the child has been lawfully placed for the purposes of being nursed, supported, educated or adopted;

(c) induce or attempt to induce a child to break an agreement lawfully entered into by or with the authority of the Director; or

(d) detain or harbour a child referred to in paragraph (a), (b) or (c) after demand made by or on behalf of the Director or a welfare officer for delivery up of the child.

Penalty.

(2) A person who violates any provision of subsection (1) is guilty of an offence and liable on summary conviction to a fine of not more than one hundred dollars or, in default of payment of the fine, to imprisonment for a period of not more than one month.

PART IV.

MISCELLANEOUS PROVISIONS.

Regulations respecting occupations of children.

44.—(1) The council of the City of St. John's, of the City of Corner Brook or of a municipality or community established or operating under The Local Government Act, The Community Councils Act, or any other Act establishing a city or other municipality or community may make regulations regulating, controlling and licensing the employment of children as:

(a) express or despatch messengers;

(b) vendors of newspapers and small wares;

(c) shoe shiners; or

(d) pin boys in bowling alleys,

and for prohibiting children from engaging in any of those occupations without a licence.

Licence fees.

(2) A licence fee imposed under regulations made under subsection (1) shall not exceed the sum of fifty cents per annum and a child who is engaged in two or more of the occupations referred to in that subsection shall not be compelled to pay more than one licence fee.

Children to whom licences not to be issued.

(3) A licence shall not be issued under regulations made under subsection (1) to

(a) a female child;

(b) a male child under the age of twelve years; or

(c) a male child of the age of twelve years but under the age of fourteen years, unless the child presents written authority from his parents or guardian authorizing him to make application for a licence for the purpose of engaging in any of the occupations referred to in subsection (1).

Prohibited hours for children licensed to work.

(4) A licensee under regulations made under subsection (1) shall not engage in any occupation for which he is licensed after the hour of eight o'clock in the evening in the months of December, January and February, or after the hour of nine o'clock in the evening throughout the rest of the year, or during school hours.

Licence not to contravene Act.

(5) A licence is not valid if its terms or any of them contravene this Act and a licence which contravenes this Act shall be cancelled by the Director.

BOARDING, ETC., OF CHILDREN.

Acceptance of child for board and lodging.

45.—(1) A person shall not accept a child under the age of twelve years into a home for the purpose of providing that child with board or lodging unless that person

(a) has received permission under this section from the Director or other person designated by the Minister generally or specially for the purpose, hereinafter in this section referred to as the "designated person"; or

(b) is of the same blood as the mother of the child where the child was born out of wedlock; or

(c) is of the same blood as the father or mother of the child where the child was born in wedlock.

Issuance of licences to people to accept children.

(2) The Director or designated person may issue licences to persons permitting them to receive children generally and provide them with board and lodging in their homes and each licence shall

(a) contain the name and address of and otherwise describe the licensee;

(b) specify the place in which the licensee is to receive, board or lodge the children and the number of children who may at any time be in receipt of board or lodging in that place; and

(c) contain such conditions as the Director or designated person may attach to the licence.

Conditions may be attached to licences.

(3) The Director or designated person may attach to a licence issued under this section such conditions as he deems fit and may attach different conditions to licences issued to different persons.

Refusal to issue and revocation of licences.

(4) The Director or designated person may refuse to issue or may revoke a licence under this section without assigning any reason for the refusal or revocation.

Offence.

(5) A person who violates or consents to a violation of subsection (1) or any condition attached to a licence issued under subsection (2) is guilty of an offence and liable on summary conviction to a fine not exceeding five hundred dollars or in default of payment to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

Idem.

(6) A father or mother who allows or agrees to allow or gives up his or her child to be received into a home or provided with board and lodging contrary to subsection (1) is guilty of an offence and liable on summary conviction to the penalty set out in subsection (5).

Child may be declared neglected.

(7) Where a person has been convicted of an offence under subsection (5) or (6) the court may declare that the child in respect of whom the offence was committed is a neglected child.

Cases to which this section does not apply.

(8) This section does not apply where a child is received into a home to be provided with board and lodging and the board and lodging are to be provided for a period not in excess of one year

(a) during the temporary absence from the province of one or both of the parents;

(b) during the illness of one or both of the parents; or

(c) while the child is absent from the home of his parents for the purpose of attending school.

CUSTODY BY DIRECTOR.

Director may take child into his custody.

46.—(1) If because of the special circumstances he considers it in the best interests of the child so to do, the Director may, upon the written request of the parent or guardian of a child, take the child into his care and custody.

Director may arrange for child's support, care and welfare.

(2) The Director may, when he has accepted a child under subsection (1), make such arrangements for the support, care and welfare of the child as in the circumstances he deems fit.

Prolongation of care and custody in certain cases.

(3) If a child referred to in subsection (1) reaches the age of sixteen years while in the care and custody of the Director, the Director may, subject to subsection (4) and where he considers it in the best interests of that child so to do, continue his care, custody and maintenance of that child until that child reaches the age of twenty-one years.

Director does not thereby become legal guardian.

(4) The Director does not by taking a child into his care and custody under subsection (1) become the legal guardian of the child and he may terminate the care and custody at any time he sees fit.

This section prevails where conflict.

(5) When any other provision of this Act conflicts with this section, this section shall prevail.

CUSTODY GENERALLY.

Welfare of child paramount consideration.

47. Where in any proceeding before any court, including the Supreme Court, the custody or upbringing of a child is in question, the court, in deciding that question, shall regard the welfare of the child as the first and paramount consideration, notwithstanding whether from any other point of view the claim of the father, or any right at common law possessed by the father, in respect of such custody or upbringing is superior to that of the mother, or the claim of the mother is superior to that of the father.

GENERAL PROVISIONS.

Visits to child.

48. A person entrusted with the care of a child shall permit the child to be visited and any place where the child may be or reside to be inspected by the Director or a welfare officer.

Reporting of ill-treatment of children.

49.—(1) Every person having information of the abandonment, desertion, physical ill-treatment or need for protection of a child shall report the information to the Director or a welfare officer.

Subsection (1) applies notwithstanding that information is confidential or privileged.

(2) Subsection (1) applies notwithstanding that the information is confidential or privileged, and no action lies against the informant unless the giving of the information is done maliciously or without reasonable and probable cause.

Offence.

(3) Any person who fails to comply with or otherwise contravenes any of the provisions of this section is guilty of an offence.

ICC-1581 ICCI Exhibit P-059 Page 292

Advertisements re adoption, care or boarding of children forbidden.

50. No unauthorized person shall insert or cause to be inserted in a newspaper or periodical or publish or cause to be published by radio or television any advertisement dealing with the adoption, boarding out or care of children.

Agreements with institutions.

51. The Minister may enter into an agreement with any institution or organization for the provision of any service under this Act.

Ministers of religion have right of admission to institutions.

52.—(1) Subject to such regulations, if any, as may be made by the Minister with the approval of the Lieutenant-Governor in Council, ministers of religion have the right of admission to every receiving home or other home or institution established or recognized under this Act for the care of children for the purpose of access to such of the children placed or detained therein as belong to their respective denominations and may give instructions to them on the days and at the times appointed by the regulations for the religious education of those children.

Religion of children to be safeguarded.

(2) The religious persuasion of every child coming within the scope of this Act or within the scope of any regulations or powers made or conferred by this Act shall in all cases be properly safeguarded.

Regulations.

53.—(1) The Lieutenant-Governor in Council may make such regulations, not inconsistent with this Act, as he deems necessary or desirable for the more effective carrying out of the purposes of this Act according to its true spirit, intent and meaning and for dealing with any matters for which no express provision has been made or in respect of which only partial or imperfect provision has been made, and without limitation of the foregoing, may make regulations

(a) providing for the licensing of receiving homes and foster homes;

(b) prescribing the procedure governing applications and proceedings under this Act;

(c) prescribing the records to be kept under this Act and the returns to be made to the Minister;

ICC-1581 ICCI Exhibit P-059 Page 293

(d) prescribing the duties under this Act of the Director and welfare officers;

(e) respecting foster homes and receiving homes;

(f) prescribing the documents or information which must accompany applications under this Act;

(g) prescribing the rate to be paid in respect of board, clothing and school books, or any of them, supplied to children

(i) in foster homes, receiving homes and other institutions, who have been committed to and are under the care and custody of the Director in accordance with this Act, or

(ii) who reside with and are cared for by grandparents, and other relatives not being the parents, of such children in a home, which is considered by the Director or other person designated by the Minister for the purpose as being satisfactory for their welfare;

(h) providing for the payment of school fees and transportation of children who have been committed to and are under the care and custody of the Director in accordance with this Act;

(i) providing for medical and dental care for children who have been committed to and are under the care and custody of the Director in accordance with this Act; and

(j) providing for supplementary allowances for handicapped children.

Offence and penalty.

(2) Every person who fails to comply with or otherwise contravenes any provision of regulations made under subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding three hundred dollars and in default of pay-

ICC-1581 ICCI Exhibit P-059 Page 294

ment of the fine to a period of imprisonment not exceeding three months or to both such fine and imprisonment.

Publication.

(3) Regulations made under this section shall be published in *The Newfoundland Gazette* and shall have effect from the date of publication or from such later date as may be stated in the regulations and shall be laid before the Legislature within fifteen days after they are made, if the Legislature is then in session, and if it is not, then within fifteen days after the commencement of the next ensuing session.

Suits to be before a juvenile court judge or magistrate.

54. Except where otherwise provided in this or any other Act, every information, suit or other proceeding under this Act may be laid, prosecuted or proceeded with before a family or juvenile court, or a magistrate.

Penalty where not otherwise specified.

55. Where no penalty is provided for a breach of any provision of this Act or of any regulation made under this Act, a person committing the breach or failing to observe the provisions thereof is liable on summary conviction to a penalty not exceeding one hundred dollars or in default of payment to imprisonment for a period not exceeding one month or to both fine and imprisonment.

Appeal to Supreme Court.

56. Any person feeling aggrieved by any act or order of the Minister or by any order, judgment or conviction of any court under this Act may sue thereon or appeal therefrom to the Supreme Court or a judge thereof within the time limited by and subject to the provisions of The Summary Jurisdiction Act respecting appeals from stipendiary magistrates.

Act to be liberally construed.

57. This Act shall be liberally construed to the end that the care of children coming within its provisions shall approximate as nearly as may be that which should be given by their parents.

AN ACT TO AMEND, REVISE AND CONSOLIDATE THE LAW RESPECTING THE WELFARE OF CHILDREN.

(May 5, 1972)

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

SHORT TITLE.

1. This Act may be cited as The Child Welfare Act, 1972. **Short title.**

INTERPRETATION. **Interpretation.**

2. In this Act

(a) "child" means an unmarried boy or girl actually or apparently under the age of sixteen years;

(b) "Board" means the Child Welfare Board appointed under this Act or any predecessor Act to this Act;

(c) "Court", save where the context otherwise allows, means a Family Court, a Juvenile Court or a Magistrate;

(d) "Department" means the Department of Social Services and Rehabilitation;

(e) "detention home" means a building or part of a building set apart permanently or temporarily for the custody or detention of children detained under this Act, or any predecessor Act to this Act, pending the disposition of their cases by a Court;

(f) "Director" means the Director of Child Welfare appointed under this Act, or any predecessor Act to this Act, and includes the Assistant Director of Child Wel-

ICC-1581 ICCI Exhibit P-059 Page 296

fare appointed under this Act, or any predecessor Act to this Act;

(g) "Family Court" means a Family Court referred to in The Family Courts Act, chapter 118 of The Revised Statutes of Newfoundland, 1952;

(h) "foster home", with respect to a child who lacks normal parental relations, means a home, approved by the Director or other person designated by the Minister generally or specially for the purpose, other than that of his parents or relatives, in which such child may be placed to be treated as a member of the family;

(i) "guardian", with respect to a child, means the natural parent or parents and any guardian of the child's person legally appointed, and includes the Director when the child has been committed to his care;

(j) "home" means a private dwelling occupied by persons who live as a household;

(k) "institution" means a building or part of a building, other than a private home, set apart for the care and custody of children, or a training school or an orphanage and includes an infants' home or maternity home;

(l) "Judge", save where the context otherwise allows, means a judge of a Family Court or of a Juvenile Court or a Magistrate;

(m) "Juvenile Court" means a Juvenile Court referred to in Part II of The Welfare of Children Act, chapter 60 of The Revised Statutes of Newfoundland, 1952 or any Court duly established under or by any provincial statute for the purpose of dealing with juvenile delinquents or young offenders or specially authorized by the Governor in Council (Canada) or the Lieutenant-Governor in Council for such purpose;

ICC-1581 ICCI Exhibit P-059 Page 297

(n) "Magistrate" includes a Stipendiary Magistrate, a District Magistrate and an Assistant Magistrate appointed under the laws of the province;

(o) "Minister" means the Minister of Social Services and Rehabilitation;

(p) "neglected child" means a child

(i) who is abandoned or deserted by both parents, or if one is dead, by the survivor, or by his guardian,

(ii) whose parents, or parent if only one be living, have or has allowed him to be brought up by another person at that person's expense under unsatisfactory conditions,

(iii) whose parents, or surviving parent if only one, are or is undergoing imprisonment, and there is no other person legally liable to maintain the child,

(iv) whose parents, or surviving parent, or guardian or other person in whose charge he may be, cannot by reason of misfortune, disease or infirmity properly care for him, or are unfit to have charge of him, or refuse to maintain him,

(v) who is found wandering about without a proper or settled place of abode, or is found sleeping at night in barns, outhouses or in the open air, or any other undesirable place,

(vi) who is found living with vicious or disreputable persons,

(vii) who, by reason of neglect, intemperance or other vice of his parents or guardians, is suffered to grow up without proper education and control, or in circumstances conducive to an idle and dissolute life,

ICC-1581 ICCI Exhibit P-059 Page 298

(viii) whose parent or guardian is able to provide proper medical, surgical or other remedial care for the child, but neglects to provide such care or, whether financially competent or not, refuses permission for such care or any remedial measure when recommended by competent medical authority,

(ix) who is found begging in any place of public resort,

(x) who habitually frequents any tavern, pool-hall or gambling room,

(xi) who, being under the age of fourteen years, habitually sells anything in the streets or public places after nine o'clock at night,

(xii) who habitually absents himself from his home or school,

(xiii) who habitually uses obscene, profane or immoral language or is guilty of any indecent conduct in any public place,

(xiv) who is unlawfully assaulted, ill-used or treated with cruelty or neglect by his parents or guardian,

(xv) who is found having in his possession any obscene picture, drawing or printed matter,

(xvi) who, being under the age of sixteen years, is employed anywhere between the hours of nine o'clock at night and eight o'clock of the following day,

(xvii) who,

(A) being a female,

(B) being a male under twelve years, or

(C) being a male between twelve and fourteen years old and without the written consent of his parents or guardian,

ICC-1581 ICCI Exhibit P-059 Page 299

is found selling newspapers or other articles in a public place,

(xviii) in respect of whom an offence under subsection (4) or (5) of Section 4 of The Adoption of Children Act, 1972 or the equivalent provisions of any predecessor Act to that Act has been committed,

(xix) whose parents are dead, and who has no relatives liable to support him, or

(xx) who is illegitimate and whose mother is dead, incapacitated or without means or unwilling to support him, or who is brought before the Court with the consent of the mother for the purpose of transferring the guardianship of him to the Director;

(q) "parent" includes grandparent, step-parent, foster-parent and parent by adoption;

(r) "psychiatrist" means a medical practitioner specially qualified in psychiatry, but is deemed to include a registered medical practitioner not so officially qualified who may be employed under this Act when a qualified psychiatrist is not available;

(s) "receiving home" means a building or part of a building fitted for the reception and examination, physical or mental, of any neglected, delinquent or mentally defective child and established or approved as a receiving home by the Minister, and supervised by the Director, and is deemed to include a foster home;

(t) "situation" means a place where a child is placed for employment under the supervision of the Director; and

(u) "welfare officer" means a welfare officer of the Department.

ICC-1581 ICCI Exhibit P-059 Page 300

PART I.

DIRECTOR AND CHILD WELFARE BOARD.

Director of Child Welfare.

3. The Lieutenant-Governor in Council may appoint a Director of Child Welfare who shall administer and enforce this Act, under the control and direction of the Minister.

Director may appear in Court.

4. The Director may appear in a Court in respect of any matter arising out of any of the provisions of this Act and he may conduct any prosecution instituted in consequence of any alleged violation of this Act.

Assistant Director.

5. The Lieutenant-Governor in Council may appoint an Assistant Director of Child Welfare who shall perform such duties as the Director may direct and shall perform the duties of the Director in the absence, or inability to act, of the Director or if there is no Director.

Powers of certain officers.

6.—(1) The Director, the Assistant Director of Child Welfare and every welfare officer and other officer of the Department is protected from civil actions for anything done in *bona fide* exercise of the powers conferred by this Act.

Idem.

(2) Every welfare officer has all of the powers of a constable under The School Attendance Act, 1962.

Child Welfare Board.

7.—(1) The Lieutenant-Governor in Council may appoint a board which shall be known as the Child Welfare Board and which shall consist of not less than five and not more than nine members.

Term of office.

(2) Members of the Board

(a) shall hold office during pleasure for three years from the first day of January following their appointment, and until their successors are appointed;

(b) are eligible for reappointment; and

(c) shall serve without remuneration, but may be paid their actual travelling expenses, if any, incurred while attending meetings of the Board.

ICC-1581 ICCI Exhibit P-059 Page 301

Vacancies.

(3) When a vacancy occurs amongst the members of the Board because of death, resignation or illness or if, for any other reason in the opinion of the Minister, a member should be replaced, the Lieutenant-Governor in Council may appoint a successor to that member and the successor shall hold office for the remainder of the unexpired term of the member whom he replaces and the successor is eligible for re-appointment.

Chairman.

(4) The Lieutenant-Governor in Council may designate one of the members of the Board to be its chairman, and the Board shall meet at his call or that of the Director.

Duties of Board.

(5) The Board shall

(a) meet as often as may be necessary for the consideration of questions pertaining to the welfare of the children of Newfoundland;

(b) assist and advise the Director in the administration of this Act;

(c) promote the proper treatment of children to whom this Act applies;

(d) encourage, through study and discussion, the development and maintenance of sound standards of child protection in Newfoundland; and

(e) perform such other duties consistent with this Act as may from time to time be prescribed by the Lieutenant-Governor in Council or the Minister.

Receiving homes.

8. Subject to the prior approval of the Lieutenant-Governor in Council, the Minister may establish receiving homes for neglected, delinquent, mentally defective or handicapped children, and the Director shall supervise those homes.

Psychiatrist.

9. The Minister may from time to time appoint a medical practitioner, if possible one qualified in psychiatry, to examine the physical and mental condition of any child dealt with under this Act and to report to the Minister thereon.

ICC-1581 ICCI Exhibit P-059 Page 302

PART II.

NEGLECTED CHILDREN.

Director or other authorized person may apply for declaration of neglect.

10.—(1) Where it is believed, on reasonable or probable grounds, that a child is a neglected child, the Director or a welfare officer or any person authorized by the Director in writing may apply to a Judge for a declaration that the child is a neglected child.

Notice.

(2) The Director or a welfare officer or the person authorized by the Director to make the application under subsection (1) shall, at least ten days prior to the date set for the hearing of that application, notify the child's parents or guardian, if known, of

(a) the name of the child in respect of whom the application is being made;

(b) the subparagraph of paragraph (p) of Section 2 under which the child is considered to be a neglected child; and

(c) the time and place of the hearing of the application.

Hearing of application.

(3) The Judge shall forthwith hear the application and may compel the attendance of witnesses on the hearing.

Order.

(4) If the Judge, upon the hearing of the application, finds that the child is a neglected child, he may so declare and may make an order in respect of the child.

Apprehension of neglected children.

11.—(1) Where he has reasonable or probable grounds for believing that a child is a neglected child,

(a) a constable or other peace officer;

(b) a welfare officer;

(c) the Director; or

(d) any person duly authorized by the Director

ICC-1581 ICCI Exhibit P-059 Page 303

may apprehend that child without warrant.

Warrant.

(2) Where it appears to a Judge, on information laid before him on oath, that there are reasonable or probable grounds for believing that there is a neglected child at any place under his jurisdiction, the Judge may issue a warrant authorizing any person referred to in subsection (1) to

(a) enter, by force if necessary, any building or other place specified in the warrant and search for the child; and

(b) apprehend the child if, in his opinion, the child appears to be a neglected child,

and it is not necessary to describe a child by name in an information or a warrant laid or issued under this subsection.

Placement of apprehended child.

(3) A child apprehended pursuant to subsection (1) or (2) may, pending enquiry, subject to subsection (4),

(a) be taken into custody and detained in

(i) a receiving home, or

(ii) a hospital, if the person apprehending the child, or the Director where he is not the apprehending person, considers it advisable; or

(b) be permitted, if the Director consents, to remain with his parents or either of them or with the guardian or other person in whose care the child may be found at the time of apprehension,

and, where a child is detained in a hospital pursuant to subparagraph (ii) of paragraph (a) and the medical superintendent or senior medical officer of the hospital advised of such detention, thereafter, for the purposes of this section and the disposal of the case of the child under this Act, the hospital shall be deemed to be a receiving home.

Where apprehended child a patient in a hospital.

(4) Where at the time of being apprehended a child is a patient in a hospital, the person apprehending him may, upon advising the medical superintendent or senior medical officer of

ICC-1581 ICCI Exhibit P-059 Page 304

the hospital, leave the child in the hospital, and thereafter, for the purposes of this section and the disposal of the case of the child under this Act, the hospital shall be deemed to be a receiving home and the child shall be deemed to be detained therein.

Medical attention.

(5) Where a child

(a) is detained pursuant to any of the provisions of subsection (3) or (4);

(b) has been committed to the care of the Director or other person; or

(c) has been taken into the care and custody of the Director under Section 46 of this Act,

the Director or a welfare officer may, if a duly qualified medical practitioner recommends the provision of such care, authorize the provision of such medical, surgical and psychiatric care as the Director or the welfare officer considers necessary, without the consent of the parents or guardians of the child or of any other person and without an order of any court in the province including a Court as defined by Section 2, and no liability attaches to the Director or to a welfare officer or to a duly qualified medical practitioner or to a hospital by reason only that a child is provided with medical, surgical or phychiatric care pursuant to this subsection.

Objections of parents to medical care.

(6) Subsection (5) shall have full force and effect notwithstanding that the child's parents or guardians, or any of them, or any other person, objects or refuses to consent to the provision of any care referred to in that subsection.

Definition.

(7) For the purposes of this section, but without limitation of the generality of the meaning of the expression "medical care" or of the expression "surgical care", the provision of any blood transfusion or transfusions or injection or injections is included in the meaning of each such expression.

Parents or guardian of child to be notified.

12.—(1) A person who has apprehended a child under Section 11, the Director, a welfare officer or any person duly authorized in writing by the Director shall, within ten days after the

ICC-1581 ICCI Exhibit P-059 Page 305

date of the apprehension, notify the parents or guardian, if any, or if known, of the child, stating the time and place for judicially investigating the facts of the case, which time shall not be more than twenty days after the date of apprehension of the child, unless otherwise ordered by the Judge.

Report to Director; return of child.

(2) A person who has apprehended a child under Section 11 shall make a written report to the Director, setting out the circumstances of the case and the time and place for judicially investigating the facts if necessary, and the Director may permit the child to be returned, pending the investigation, to his parents or either of them or to the guardian or other person in whose care the child may have been.

Witnesses may be compelled to attend.

(3) The Judge may compel the attendance of witnesses in an investigation under this section.

Judge to investigate facts.

(4) The Judge, in an investigation under this section, shall investigate the facts of the case and ascertain whether the child is a neglected child, his age, name and residence and the religion of the child and of his parents or guardian.

Order where child not found to be neglected.

(5) If on an investigation under this section the Judge finds that a child is not a neglected child, he shall order that the child be returned to his parents, guardian or other person in whose care he may be.

Declaration that child neglected.

(6) If on an investigation under this section the Judge finds that the child is a neglected child, he may so declare, and in that event he may make an order under Section 15.

Order to recite facts.

(7) An order made under Section 15 shall recite the facts so far as ascertained in an investigation under this section and the Judge shall deliver a certified copy of the order to the Director.

Temporary detention.

13. At any time pending the final determination of an investigation under Section 12, the Judge may make such order for the temporary detention and care of the child concerned as he may deem proper, and the provisions of subsection (2) of Section 15 shall, *mutatis mutandis*, apply to such order for temporary detention and care.

ICC-1581 ICCI Exhibit P-059 Page 306

Wishes of child.

14. Nothing in this Act shall affect the power of the Court to consult the wishes of a child declared to be a neglected child in determining what order ought to be made or any right which a child now possesses to exercise his own free choice.

Orders may be made.

15.—(1) Where it appears to a Judge that the public interest and the interests of a child declared by him to be a neglected child or of any child against whom an offence has been committed may be best served thereby, the Judge may, subject to subsection (7) of Section 12, make an order

(a) that the child be returned to his parents or guardians or other person in whose care he may be, subject to supervision by the Director;

(b) that the child be committed temporarily or permanently to the care and custody of some suitable person, subject to supervision by the Director; or

(c) that, subject to subsection (3), the child be committed temporarily or permanently to the care and custody of the Director, who in his discretion may order that the child be placed in a foster home, training school or other institution which has been approved by the Minister for the care of delinquent or neglected children.

Maintenance where order made under subsection (1).

(2) Where a child is, by order under subsection (1), committed temporarily or permanently to the care and custody of

(a) a person under paragraph (b) of that subsection; or

(b) the Director under paragraph (c) of that subsection,

the Judge may in such order, or any later order, order any parent or guardian or other person responsible for the maintenance of that child to provide maintenance for that child in such weekly, bi-weekly, semi-monthly or monthly sum as he considers reasonable and payable to such person or persons on behalf of that child as he may direct, and

(c) the Judge may make any such order for maintenance retroactive to any date not sooner than the date of the committal under the said paragraph(b) or (c),

ICC-1581 ICCI Exhibit P-059 Page 307

and the provisions of this subsection shall, *mutatis mutandis*, apply to orders made under subsection (4) or (7).

Where neglected child under twelve years of age.

(3) A neglected child who is or is apparently under the age of twelve years shall not be committed to an institution unless an attempt has first been made to provide for that child in his own home or in a foster home.

Review of matter by Judge.

(4) Where a child has been committed temporarily to the care and custody of

(a) a person under paragraph (b) of subsection (1); or

(b) the Director under paragraph (c) of that subsection,

the Director or welfare officer or some other person authorized by the Director in writing shall during the period of temporary commitment or at or after the expiration of that period bring the matter again before the Judge for further and other consideration and action and if the parents or guardian of the child have been notified in accordance with subsection (5) the Judge shall thereupon enquire and determine whether the circumstances justify an order returning the child to his parents or guardian or other person in whose care he may have been or a further order under this section, and the Judge shall make such order as the circumstances of the case require.

Notice.

(5) The Director or a welfare officer or some person authorized by the Director in writing shall notify the parents or guardian of the child of the time and place of the enquiry referred to in subsection (4).

Evidence at prior hearing, etc.

(6) Evidence taken at a prior hearing and the order of temporary committal made after the prior hearing may be admitted as evidence in an enquiry under subsection (4) without proof or on such proof as the Judge may require.

Temporary detention.

(7) At any time pending the final determination of an enquiry under subsection (4) the Judge may make such order for temporary detention and care of the child as he deems proper.

ICC-1581 ICCI Exhibit P-059 Page 308

Temporary commitment to be for fixed period.

(8) Notwithstanding any other provision of this Act, when a child is committed temporarily under this Act to the care and custody of the Director, the commitment shall be made for a fixed period not exceeding twelve months, but in no case shall an order be made at any time which would result in the continuous temporary commitment of the child beyond thirty-six months from the date of the first order for his temporary commitment.

Variation of order; termination of commitment or order for maintenance.

(9) When an order has been made under this section, a Judge may, upon application of the Director or of a welfare officer or of any person designated for the purpose by the Director or of a parent or guardian of the child to whom the order relates or of any person entitled to make a complaint in respect of that child,

(a) vary the order from time to time;

(b) terminate any commitment or order for maintenance, temporary or permanent, or both such commitment and order for maintenance, made in the order; or

(c) terminate any commitment or order for maintenance, temporary or permanent, or both such commitment and order for maintenance, made in the order, and make any order (hereinafter in this section referred to as a "further order") that he could originally have made under this section,

if such Judge is satisfied that

(d) there has been a material alteration in the needs or circumstances of the child or of any person against whom an order for maintenance is made under this section; or

(e) the welfare of such child is for any reason best served by such

(i) variation,

(ii) termination, or

ICC-1581 ICCI Exhibit P-059 Page 309

(iii) termination and further order,

and the provisions of this subsection apply to any further order made under paragraph (c) of this subsection, and

(f) evidence taken at any prior hearing and any prior order relevant to the matter being considered by the Judge may be admitted as evidence for the purposes of this subsection (9) without proof or on such proof as the Judge may require.

Pension or income attachable.

(10) Without limitation of the generality of his powers, a Judge making an order for maintenance under this section may, in any case where there is a pension or income payable to the person against whom the order for maintenance is made and capable of being attached, after giving the person by whom the pension or income is payable an opportunity of being heard, order that such part as the Judge may see fit of the pension or income be attached and be paid to such person or persons as the Judge may direct, and such order is authority to the person by whom the pension or other income is payable to make the payment so ordered, and the receipt of the person or persons to whom the payment is ordered to be made shall be a good discharge to the person by whom the pension or other income is payable.

Prolongation of care and custody in certain cases.

(11) Subject to subsections (15) and (16), if a child who has been committed to the care and custody of the Director reaches the age of sixteen years while in such care and custody, the Director may, if he considers it advisable so to do,

(a) continue his care and custody of that child until that child reaches the age of nineteen years or until some earlier date considered advisable by him; and

(b) continue his maintenance of that child until that child reaches the age of twenty-one years or until some earlier date considered advisable by him.

Certain information to be furnished to Director.

(12) Where an order is made under Section 57 of The Welfare of Children Act, chapter 60 of The Revised Statutes of Newfoundland, 1952, the Judge who makes the order shall, where he is satisfied that the Director will not otherwise be informed of

ICC-1581 ICCI Exhibit P-059 Page 310

the principal evidence on which the order is founded, submit to the Director a statement containing a summary of all important evidence taken before him and any other relevant information he deems should be brought to the attention of the Director.

Variation of order made under Section 57 of The Welfare of Children Act.

(13) When an order has been made under Section 57 of The Welfare of Children Act, chapter 60 of The Revised Statutes of Newfoundland, 1952, the Judge who made the order or another Judge may, upon application of the Director, or of any person designated for that purpose by the Director, or of a parent or guardian of the child to whom the order relates or of any person entitled to make a complaint in respect of that child, vary (including, without limitation of the generality of the word "vary", the adding of provisions respecting maintenance or the altering of such provisions if already made) the order from time to time, if he is satisfied that there has been a material alteration in the needs or circumstances of the child.

Period of temporary committal under Sec. 57 of The Welfare of Children Act.

(14) Where an order has been made under Section 57 of The Welfare of Children Act, chapter 60 of The Revised Statutes of Newfoundland, 1952, notwithstanding anything to the contrary in this Act, when a child is committed temporarily to the care and custody of the Director the commitment shall be made for a fixed period not exceeding twenty-four months.

Continuation of care and custody with respect to provisions of Sec. 57 of The Welfare of Children Act.

(15) Subject to subsection (16), if a person who has been committed to the care and custody of the Director under Section 57 of The Welfare of Children Act, chapter 60 of The Revised Statutes of Newfoundland, 1952, reaches the age of seventeen years while in such care and custody, the Director may, if he considers it advisable so to do,

(a) continue his care and custody of that child until that child reaches the age of nineteen years or until some earlier date considered advisable by him; and

(b) continue his maintenance of that child until that child reaches the age of twenty-one years or until some earlier date considered advisable by him.

Maintenance.

(16) Where the Director continues his maintenance of a child

ICC-1581 ICCI Exhibit P-059 Page 311

(a) under subsection (11) beyond the child's attainment of the age of sixteen years; or

(b) under subsection (15) beyond the child's attainment of the age of seventeen years,

a Judge may, on application of the Director or a welfare officer or some other person authorized by the Director in writing, order any parent or guardian or other person responsible for the maintenance of that child to provide maintenance for that child in such weekly, bi-weekly, semi-monthly or monthly sum as he considers reasonable and payable to such person or persons on behalf of that child as he may direct: Provided, however, that such order shall have no effect after the child attains the age of nineteen years.

Regard to be had to religion in determining custody of child.

16.—(1) In determining the person to whose care a child shall be committed under this Act, the Court shall endeavour to ascertain the religious persuasion to which the child 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 shall be brought up in accordance with his own religious persuasion, and that religious persuasion shall be specified in the order.

Exception.

(2) This section does not apply to the placing of a child in a situation, or in temporary accommodation, but due regard shall be given to the religious preferences of any child so placed, and proper time shall be allowed for the exercise of religious duties.

Board may act where no family, etc., of same religion.

(3) Where there appears to be no suitable family, home or institution of the same religious faith as that professed by the child or his family with which he may be placed, or where there is a lack of evidence as to the religion of the child, the case shall be referred to the Board and the disposition of the child in this regard shall be within the discretion of the Board.

Mother's religion preferred where child illegitimate.

(4) For the purpose of this section, in the case of a child whose parents have not been married to each other, if the child has no religious preference the first determining factor shall be the preference of the mother, if she is living, or, if she is not living, the

ICC-1581 ICCI Exhibit P-059 Page 312

religious persuasion of the mother at the time of her death if it can be ascertained.

Trial of child.

17. A Judge shall investigate the case of every child and dispose thereof in premises other than an open court room, and, in the case of a person charged with an offence against a child, he may in his discretion proceed *in camera*.

Examination respecting child on certain premises.

18. Where a relative or other suitable person possesses premises affording the necessary facilities and accommodation, a child may, after apprehension under this Part, be temporarily placed in charge of that relative or person until his case is disposed of, and the Judge may in his discretion hold the examination into the case of that child in those premises.

Parent loses right to custody of child.

19.—(1) Where a parent applies to the Supreme Court for an order for the production of a child committed under this Act and that Court is of the opinion that the parent has abandoned or deserted the child or that he has otherwise so conducted himself that that Court should refuse to enforce his rights to the custody of the child, that Court may in its discretion decline to make the order.

Court may order parent to pay expenses before giving him child.

(2) If, at the time of an application under subsection (1), the child is being brought up by another person, the Supreme Court if it directs the child to be given up to the parent, may order that the parent shall pay to that other person the whole of the expense properly incurred in bringing up the child or such portion thereof as may seem just.

Parent to satisfy Court that he is fit to have custody of child.

(3) Where a parent has abandoned or deserted his child or allowed his child to be brought up by another person at that person's expense for such time and under such circumstances as to satisfy the Supreme Court that the parent was neglectful of his parental duties, that Court shall not make an order for the delivery of the child to the parent unless, at the time of the application under subsection (1), he satisfies that Court that, having regard to the welfare of the child, he is a fit person to have the custody of the child.

ICC-1581 ICCI Exhibit P-059 Page 313

Court may make order to secure child being brought up in his religion.

(4) If the Supreme Court is of the opinion that the parent who makes an application under subsection (1) ought not to have the custody of the child but that the child is being brought up in a religious persuasion which is different from that in which the parent has a legal right to require that the child be brought up, or which is not the religious persuasion which the child professes, that Court may make such order as it may think fit to secure that the child be brought up in that religious persuasion.

Possession of harmful drugs by children.

20. A constable, a welfare officer, a school teacher, the Director or any person acting under the authority or direction of the Director who suspects, on reasonable grounds, that a child has in his possession cigarettes, cigarette papers, tobacco, intoxicating liquor, harmful drugs, an obscene book or other printed, typewritten or other obscene matter or an obscene picture, photograph, model or other object, may take that child to the home of the child, or to a receiving home, or any other place in which children are cared for under this Act, for the purpose of having the clothing of the child searched by a suitable person and, if any thing referred to in this section is found upon that search, it shall be disposed of as the Director may order.

PART III.

Mentally Defective Children.

Mentally defective children defined.

21. Children in whom there exists, subject to Section 22, mental defectiveness

(a) of such a degree that they are unable to guard themselves against common physical dangers;

(b) which, though not amounting to the condition stated in paragraph (a), is yet so pronounced that they are incapable of managing themselves or their affairs or of being taught to do so; or

(c) which, though not amounting to the condition stated in paragraph (b), is yet so pronounced that they require care, supervision and control for their own protection or for the protection of others or which involves

ICC-1581 ICCI Exhibit P-059 Page 314

disability of mind of such a nature and extent as to make them incapable of receiving normal education at school

are deemed to be defective within the meaning of this Act.

Idem.

22. Section 21 shall cover defectiveness induced by disease or injury as well as defectiveness arising from inherent causes.

Receiving home for defective children.

23.—(1) The parent or guardian of a child suspected to be defective may take the child to a receiving home or to a shelter or to any other place designated by the Director for the temporary care of the child pending the examination of the child by a psychiatrist.

Idem.

(2) If the psychiatrist finds a child to be a defective child, the parent or guardian may, subject to the approval of the Director, take the child back to the child's home or may place the child in a home or institution suitable for the care and training of a defective child.

Parent to give notice to Director.

24. A parent, guardian or other person who has reason to believe that a child under his care is a defective child may notify the Director in writing of the facts of the case, giving the name and address of the child, and the Director shall forthwith make provision for a proper examination of the child by a psychiatrist.

Physicians and others to notify Director where defective child known or suspected.

25. A physician, nurse, teacher, or other professional person who, in the practise of his profession or the performance of his duties, has knowledge of a defective child or of any person whom he suspects to be a defective child, shall give notice in writing of the facts of the case to the Director, giving, if possible the name and address of the child and of the person or persons in whose care and custody the child is.

Enquiry as to defective child.

26.—(1) On receipt of information in respect of a defective child or any person suspected to be a defective child, the Director shall, subject to subsection (2) of this section, cause an enquiry and investigation to be made and, if after that investigation he deems it advisable, he shall take the steps necessary to have the child examined by a psychiatrist.

ICC-1581 ICCI Exhibit P-059 Page 315

Judge may order examination of defective child.

(2) If the parent or guardian of a defective child or of a person suspected to be a defective child refuses to co-operate with the Director in having an adequate examination made of the child, the Director may apply to a Judge who may issue an order requiring the parent or guardian to bring the child before him for examination, or the Judge may order that the child be apprehended and brought before him for examination.

Section not deemed to require Director to examine child, etc.

(3) Nothing in this Act shall be deemed to require the Director to make an examination or to bring a child before a Judge under this section or to take any action with respect to a defective child unless he is satisfied that the child's good and the welfare of the community require him so to do.

Saving.

(4) Nothing in this Act shall warrant the removal of a defective child from his parents or from a home where he lives with persons of his own blood, unless he is also a neglected child.

Investigation into facts.

27. When a defective child or person suspected to be a defective child has been brought before a Judge for examination, the Judge shall investigate the facts of the case and ascertain the age of the child and the name, residence and religion of his parents and may authorize an examination of the child by a psychiatrist, who shall examine the physical and mental condition of the child and report to the Judge thereon.

Witnesses.

28. A Judge may compel the attendance of witnesses on any investigation and, for that purpose, he has all the powers of a Magistrate.

Notice of investigation to parents, etc.

29. The parents or person having the actual custody of a child at the time of his apprehension under this Act or up to the time that he was brought to a receiving home or other place of custody shall be notified of the investigation, and any person may appear on behalf of the child.

Custody of defective child.

30. If, on the report of a psychiatrist under this Act, the Judge finds that a child is a defective child, the Judge may order that the child be returned to the care of his parents or guardian, with or without the supervision and inspection of the Director, or he may order that the child be committed to the care and custody of the Director.

ICC-1581 ICCI Exhibit P-059 Page 316

Defective child may be detained.

31. The Director may detain or cause to be detained a defective child committed to his care and custody under this Act, for an indefinite period, in any institution recognized and approved of by the Lieutenant-Governor in Council for the purposes of this Part.

Powers of Minister.

32.—(1) The Minister may at any time, on the report of a psychiatrist and on the recommendation of the Director, order the conditional release of a defective child detained in an institution.

Defective child may be returned to institution.

(2) The Minister may, on the report of the psychiatrist and the recommendation of the Director, order that a defective child released on conditional release be returned to the institution referred to in subsection (1) or to such other institution as the Minister may determine, and the defective child shall thereafter be detained as under the original order for his detention.

Regulations.

(3) The Minister may make regulations with respect to

(a) the release of a defective child on conditional release;

(b) providing for the supervision of a defective child while on conditional release; and

(c) any matter with respect to the carrying out of the provisions of this Part not herein specifically provided for.

Inducing defective child to leave institution.

33. Any person who

(a) induces or attempts to induce a defective child to leave an institution where the child is detained under this Act;

(b) induces or attempts to induce a defective child to break or violate any of the terms on which the child is released on conditional release from an institution where he has been detained under this Act; or

(c) detains or harbours a defective child who has left an institution where he was detained

ICC-1581 ICCI Exhibit P-059 Page 317

is guilty of an offence and liable on summary conviction before a Judge to a fine not exceeding two hundred dollars or, in default of payment, to imprisonment for a term not exceeding two months, or to both such fine and such imprisonment.

PART IV.

Offences Against Children.

Ill-treatment of children.

34.—(1) Subject to subsection (3), any person who

(a) causes a child to be in a public place for the purpose of begging or receiving alms or of inducing the giving of alms, whether under the pretence of singing, playing, performing, offering anything for sale or otherwise;

(b) causes a child to be in a public place for the purpose of singing, playing or performing for profit or offering anything for sale; or

(c) wilfully commits or omits an act producing, promoting or contributing to a child being or becoming a neglected child,

is guilty of an offence and liable on summary conviction to a fine not exceeding two hundred dollars or, in default of payment, to imprisonment for a term not exceeding two months, or to both such fine and such imprisonment.

Proper entertainments; child may take part; licence.

(2) Subject to subsection (3), where an entertainment or series of entertainments conducted for charitable or educational purposes is to take place in premises used for public entertainments or in any place of public amusement, if it is shown that proper provision has been made to secure the health and kind treatment of a child proposed to be employed thereat, the Director may grant a licence for such time and during such hours of the day and, subject to such supervision, restrictions and conditions as he may think fit, for any child over the age of ten years to be so employed of whose fitness to take part in the entertainment or series of entertainments without injury he is satisfied, and he may vary, add to or revoke the licence, and the cost of investigation and all other expenses involved in the granting of

ICC-1581 ICCI Exhibit P-059 Page 318

the licence shall be paid by the person or persons making the application therefor.

Saving.

(3) This section does not apply to the participation by a child in an entertainment or other exercises conducted by a school or under the supervision of the clergy of a church.

Removal of child from custody of a person.

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

(a) convicted of committing in respect of that child any offence involving wilful injury to the person, physical or mental health or morals of the child;

(b) committed for trial for the offence; or

(c) bound over to keep the peace towards the child

by any court, that court, either at the time when the person is convicted, committed for trial or bound over, and without requiring any new proceedings to be instituted for the purpose, or at any time, and any other court before which any person may bring such case, may, if satisfied on enquiry that it is expedient so to deal with the child, order that the child 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 the Director until he attains the age of seventeen 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, but an order shall not be made under this section unless a parent of the child 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.

Respecting orders under this section.

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

ICC-1581 ICCI Exhibit P-059 Page 319

Idem.

(3) When an order is made under this section in respect of a person who has been committed for trial, 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.

Taking deposition from child in case of illness, etc.

36. Where a judge of any court is satisfied on the evidence of a registered medical practitioner that the attendance before the court of any child in respect of whom any offence is alleged to have been committed would involve serious danger to his life or health, the judge may take or cause to be taken in writing the deposition of the child on oath or otherwise and shall thereupon subscribe the same and add thereto a statement of his reason for making the deposition, the day when and place where the deposition was taken and the names of the persons, if any, present at the taking thereof.

Giving child tobacco, liquor, etc.; offence.

37. A person who sells, gives to or causes to come into the possession of a child cigarettes, cigarette papers, tobacco, intoxicating liquor, any drug which is or in quantity might be harmful, an obscene book or other printed, typewritten or other written obscene matter or any obscene picture, photograph, model or other object is guilty of an offence and liable on summary conviction to a fine not exceeding two hundred dollars or, in default of payment, to imprisonment for a term not exceeding two months, or to both such fine and such imprisonment.

Employment of girls in restaurants, hotels, etc.

38. A person who employs an unmarried girl under the age of sixteen years in a restaurant, tavern or hotel without the written consent of her parents or guardian is guilty of an offence and liable on summary conviction to a fine not exceeding two hundred dollars or, in default of payment, to imprisonment for a term not exceeding two months, or to both such fine and such imprisonment.

Unlawful to employ child between 9 p.m. and 8 a.m.

39.—(1) A person shall not employ a child under the age of sixteen years

(a) between the hours of nine o'clock in the evening of one day and eight o'clock in the morning of the following day otherwise than in an employment in which mem-

ICC-1581 ICCI Exhibit P-059 Page 320

bers of the employer's family are employed under his or her continuous supervision; or

(b) in any occupation which the Lieutenant-Governor in Council, by order, declares to be a prohibited occupation for the purposes of this section.

Register of children employed.

(2) Every employer shall keep a register of every child employed by him.

Contents of register.

(3) The employer shall insert in the register referred to in subsection (2) the date of beginning of employment and the date of birth, which the employer shall verify, of every child employed by him, but this subsection does not apply to occupations in which members of the employer's family are employed under his or her continuous supervision.

Register to be open to inspection.

(4) The employer and any of his employees authorized to deal with the register referred to in subsection (2) shall cause that register to be open to inspection at all reasonable times by any person authorized in writing by the Director to inspect it.

Offence to employ child who is required to be in school.

(5) A person shall not during school hours on a day during which schools in the district in which the child resides are open employ for remuneration a child whose attendance at school is required under The School Attendance Act, 1962.

Offence to admit childern to places of amusement during school hours.

(6) A person who has the control or management of a theatre, bowling alley or other place of public amusement of any kind, or authorized to admit persons thereto, shall not

(a) before the hour of half past four in the afternoon on a day during which the school at which the child is enrolled is open; or

(b) if the child is not enrolled at any school, on any day during which the schools in the district in which the child resides are open,

admit a child whose attendance at school is required under The School Attendance Act, 1962 except for organized games, enter-

ICC-1581 ICCI Exhibit P-059 Page 321

tainments or other activities arranged by the principal of the school.

Offence to allow unaccompanied children in certain places after 7 p.m.

(7) A person who has the control or management of a restaurant, theatre, bowling alley or other place of public amusement of any kind, or authorized to admit persons thereto, shall not admit thereto or allow to remain thereat a child apparently under the age of fifteen years after the hour of seven o'clock in the evening, unless the child is accompanied by his parent or guardian or by some adult with the consent of the parent or guardian.

Offence; penalty.

(8) A person who fails to comply with or violates any of the provisions of subsections (1) to (7) is guilty of an offence and liable on summary conviction to

(a) a fine of not more than twenty dollars a day for every day during any part of which a child is employed contrary to subsection (1) or (5) or, in default of payment, to imprisonment for a term not exceeding six months; and

(b) a fine of not more than fifty dollars for an offence under subsection (2), (3), (4), (6) or (7) or, in default of payment, to imprisonment for a term not exceeding fourteen days.

Presence of child in prohibited place is prima facie evidence of guilt.

(9) The presence of a child mentioned in subsection (6) at any of the places mentioned in that subsection during school hours and the presence of a child mentioned in subsection (7) not accompanied by his parent or guardian or by some adult with the consent of the parent or guardian at any of the places mentioned in that subsection after seven o'clock in the evening is *prima facie* evidence of the guilt of the person having the control or management thereof or authorized to admit persons thereto at the time the child was present in the place.

Apparent age of child.

40. Where a person is charged with an offence under this Act in respect of a child who is alleged to be under a specified age, and the child appears to the Judge to be under that age, the child shall, for the purpose of this Act, be deemed to be under that age unless the contrary is proved.

Offences; one summons for two or more children.

41.—(1) Where a person is charged with committing an offence under this Act in respect of two or more children, 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 unless upon separate information.

Limitation.

(2) A person shall not be summarily convicted of an offence under this Act unless the offence was wholly or partly committed within six months before the information was laid, but, subject to this subsection, evidence may be taken of acts constituting or contributing to constitute the offence and committed at any previous time.

Information need not specify dates where continuing offence.

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

POWER OF SEARCH.

Procedure to search for child and to summon person guilty of neglect.

42.—(1) If it appears to a Judge, on information laid before him on oath by any person who in the opinion of the Judge is *bona fide* acting in the interests of the child, that there is reasonable cause to suspect that a child has been or is being ill-treated or neglected in any place within the jurisdiction of the Judge, the Judge may issue a summons to the person apparently having custody of the child to bring the child before the Judge, and, failing obedience to such summons, he may issue a warrant authorizing any person named therein to search for the child and, if the person finds the child, to bring the child forthwith before the Judge, and the Judge may cause him to be dealt with in accordance with this Act.

Idem.

(2) The Judge may, by a warrant issued under subsection (1) or a separate warrant, cause a person accused of an offence in respect of the child to be apprehended and brought before him to be dealt with according to law.

Idem.

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

ICC-1581 ICCI Exhibit P-059 Page 323

(4) It is not necessary in an information laid or warrant issued under this section to describe a child by name. Child need not be named in information or warrant.

INTERFERING WITH WARDS.

43.—(1) A person shall not Certain offences respecting child.

(a) induce or attempt to induce a child to leave the building or premises or custody or control of any home or institution to which the child has been confined by competent authority;

(b) induce or attempt to induce a child to leave any place where the child has been lawfully placed for the purposes of being nursed, supported, educated or adopted;

(c) induce or attempt to induce a child to break an agreement lawfully entered into by or with the authority of the Director; or

(d) detain or harbour a child referred to in paragarph (a), (b) or (c) after demand made by or on behalf of the Director or a welfare officer for delivery up of the child.

(2) A person who violates any provision of subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding two hundred dollars or, in default of payment, to imprisonment for a term not exceeding two months, or to both such fine and such imprisonment. Penalty.

PART V.

GENERAL.

44.—(1) Regulations may be made by Regulations respecting occupations of children.

(a) the City of St. John's;

(b) the Corner Brook City Council;

(c) The St. John's Metropolitan Area Board;

ICC-1581 ICCI Exhibit P-059 Page 324

(d) the council of a community established or continuing and operating under The Community Councils Act, 1962; or

(e) a Town Council, Rural District Council or board of trustees established or continuing and operating under The Local Government Act, 1966

regulating, controlling and licensing the employment of children as

(f) express or despatch messengers;

(g) vendors of newspapers and small wares;

(h) shoe shiners; or

(i) pin boys in bowling alleys,

and for prohibiting children from engaging in any of those occupations without a licence.

Licence fees.

(2) A licence fee imposed under regulations made under subsection (1) shall not exceed the sum of fifty cents per annum, and a child who is engaged in two or more of the occupations referred to in that subsection shall not be compelled to pay more than one licence fee.

Children to whom licences not to be issued.

(3) A licence to engage in an occupation shall not be issued under regulations made under subsection (1) to

(a) a female child;

(b) a male child under the age of twelve years; or

(c) a male child of the age of twelve years but under the age of fourteen years, unless the child presents written authority from his parents or guardian authorizing him to make application for such licence.

Prohibited hours for children licensed to work.

(4) A licensee under regulations made under subsection (1) shall not engage in any occupation for which he is licensed after the hour of eight o'clock in the evening in the months of Decem-

ICC-1581 ICCI Exhibit P-059 Page 325

ber, January and February, or after the hour of nine o'clock in the evening throughout the rest of the year, or during school hours.

Licence not to contravene Act.

(5) A licence is not valid if its terms or any of them contravene this Act, and a licence which contravenes this Act shall be cancelled by the Director.

Acceptance of child for board and lodging.

45.—(1) A person shall not accept a child under the age of twelve years into a home for the purpose of providing that child with board or lodging, or both, unless that person

(a) has received permission under this section from the Director or other person designated by the Minister generally or specially for the purpose, hereinafter in this section referred to as the "designated person";

(b) is of the same blood as the mother of the child where the child was born out of wedlock; or

(c) is of the same blood as the father or mother of the child where the child was born in wedlock.

Issuances of licences to people to accept children.

(2) The Director or designated person may issue licences to persons permitting them to receive children generally and provide them with board and lodging in their homes and each licence shall

(a) contain the name and address of and otherwise describe the licensee;

(b) specify the place in which the licensee is to receive, board or lodge the children and the number of children who may at any time be in receipt of board or lodging at that place; and

(c) contain such conditions as the Director or designated person may attach to the licence.

Conditions may be attached to licences.

(3) The Director or designated person may attach to a licence issued under this section such conditions as he deems fit, and

ICC-1581 ICCI Exhibit P-059 Page 326

may attach different conditions to licences issued to different persons.

Refusal to issue and revocation of licences.

(4) The Director or designated person may refuse to issue or may revoke a licence under this section without assigning any reason for the refusal or revocation.

Offence.

(5) A person who violates or consents to a violation of subsection (1) or any condition attached to a licence issued under subsection (2) is guilty of an offence and liable on summary conviction to a fine not exceeding five hundred dollars or, in default of payment, to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

Idem.

(6) A father or mother who allows or agrees to allow or gives up his or her child to be received into a home or provided with board or lodging, or both, contrary to subsection (1) is guilty of an offence and liable on summary conviction to the penalty set out in subsection (5).

Child may be declared neglected.

(7) Where a person has been convicted of an offence under subsection (5) or (6), the Court may declare that the child in respect of whom the offence was committed is a neglected child.

Cases to which this section does not apply.

(8) This section does not apply where a child is received into a home to be provided with board and lodging and the board and lodging are to be provided for a period not in excess of one year

(a) during the temporary absence from the province of one or both of the parents;

(b) during the illness of one or both of the parents; or

(c) while the child is absent from the home of his parents for the purpose of attending school.

Director may take child into his custody.

46.—(1) If, because of the special circumstances, he considers it in the best interests of the child so to do, the Director may, upon the written request of the parent or guardian of a child, take the child into his care and custody.

ICC-1581 ICCI Exhibit P-059 Page 327

Director may arrange for child's support, care and welfare.

(2) The Director may, when he has accepted a child under subsection (1), make such arrangements for the support, care and welfare of the child as in the circumstances he deems fit.

Prolongation of care and custody in certain cases.

(3) If a child referred to in subsection (1) reaches the age of sixteen years while in the care and custody of the Director, the Director may, where he considers it in the best interests of that child so to do,

(a) continue his care and custody of that child until that child reaches the age of nineteen years or until some earlier date considered advisable by him; and

(b) continue his maintenance of that child until that child reaches the age of twenty-one years or until some earlier date considered advisable by him.

Provision of maintenance for children taken into care and custody of Director under subsection (1).

(4) Where the Director has, under the provisions of subsection (1), taken a child into his care and custody, he may, at any time, and from time to time, apply to a Judge for an order for the payment by the parents or guardians of the child to such person or persons as the Judge may direct of all or any of such sums as may from time to time theretofore have been expended for the maintenance of the child, and the Judge to whom such application is made shall make such order as he may consider reasonable under the circumstances.

Pension or income may be attached.

(5) Without limitation of the generality of his powers, a Judge making an order under subsection (4) may, in any case where there is a pension or income payable to the parent or guardian concerned and capable of being attached, after giving the person by whom the pension or income is payable an opportunity of being heard, order that such part as the Judge may see fit of the pension or income be attached and be paid to such person or persons as the Judge may direct, and such order is authority to the person by whom the pension or income is payable to make the payment so ordered, and the receipt of the person or persons to whom the payment is ordered to be made shall be a good discharge to the person by whom the pension or other income is payable.

ICC-1581 ICCI Exhibit P-059 Page 328

Director does not thereby become legal guardian.

(6) The Director does not by taking a child into his care and custody under subsection (1) become the legal guardian of the child and he may terminate the care and custody at any time he sees fit.

This section prevails where conflict.

(7) When any other provision of this Act conflicts with this section, this section shall prevail.

Welfare of child paramount consideration.

47. Where in any proceeding before any court, including the Supreme Court, the custody or upbringing of a child is in question, the court, in deciding that question, shall regard the welfare of the child as the first and paramount consideration, notwithstanding whether, from any other point of view, the claim of the father, or any right at common law possessed by the father, in respect of such custody or upbringing is superior to that of the mother, or the claim of the mother is superior to that of the father.

Visits to child.

48. A person entrusted with the care of a child shall permit the child to be visited, and any place where the child may be or reside to be inspected, by the Director or a welfare officer.

Reporting of ill-treatment of children.

49.—(1) Every person having information of the abandonment, desertion, physical ill-treatment or need for protection of a child shall report the information to the Director or a welfare officer.

Subsection (1) applies notwithstanding that information is confidential or privileged.

(2) Subsection (1) applies notwithstanding that the information is confidential or privileged, and no action lies against the informant unless the giving of the information is done maliciously or without reasonable and probable cause.

Offence.

(3) Any person who fails to comply with or otherwise contravenes any of the provisions of this section is guilty of an offence.

Agreements.

50. The Minister may enter into an agreement with any institution or organization for the provision of any service under this Act.

Ministers of religion have right of admission to institutions.

51.—(1) Subject to such regulations, if any, as may be made by the Minister with the approval of the Lieutenant-Governor in Council, ministers of religion have the right of admission to

ICC-1581 ICCI Exhibit P-059 Page 329

every receiving home or other home or institution established or recognized under this Act for the care of children for the purpose of access to such of the children placed or detained therein as belong to their respective denominations and may give instructions to them on the days and at the time appointed by the regulations for the religious education of those children.

Religion of children to be safe-guarded.

(2) The religious persuasion of every child coming within the scope of this Act or within the scope of any regulations or powers made or conferred by this Act shall in all cases be properly safe-guarded.

Regulations.

52.—(1) The Lieutenant-Governor in Council may make such regulations, not inconsistent with this Act, as he deems necessary or desirable for the more effective carrying out of the purposes of this Act according to its true spirit, intent and meaning and for dealing with any matters for which no express provision has been made or in respect of which only partial or imperfect provision has been made, and without limitation of the foregoing, may make regulations

(a) providing for the licensing of receiving homes and foster homes;

(b) prescribing the procedure governing applications and proceedings under this Act;

(c) prescribing the records to be kept under this Act and the returns to be made to the Minister;

(d) prescribing the duties under this Act of the Director and welfare officers;

(e) respecting foster homes and receiving homes;

(f) prescribing the documents or information which must accompany applications under this Act;

(g) prescribing the rate to be paid in respect of board, clothing and school books, or any of them supplied to the children

ICC-1581 ICCI Exhibit P-059 Page 330

(i) in foster homes, receiving homes and other institutions, who have been committed to and are under the care and custody of the Director in accordance with this Act, or

(ii) who reside with and are cared for by grandparents, or other relatives not being the parents, of such children in a home, which is considered by the Director or other person designated by the Minister for the purpose as being satisfactory for their welfare;

(h) providing for the payment of school fees and for transportation of children who have been committed to and are under the care and custody of the Director in accordance with this Act;

(i) for the purposes of Section 51;

(j) providing for medical and dental care for children who have been committed to and are under the care and custody of the Director in accordance with this Act;

(k) providing for supplementary allowances for handicapped children; and

(l) respecting any matter, whether of any of the foregoing kinds or not, necessary or advisable to carry out effectively the intent and purpose of this Act.

Offence and penalty.

(2) Every person who fails to comply with or otherwise contravenes any provision of regulations made under subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding two hundred dollars or, in default of payment, to imprisonment for a term not exceeding two months, or to both such fine and such imprisonment.

Publication.

(3) Regulations made under this section shall be published in *The Newfoundland Gazette* and shall have effect from the date of publication or from such later date as may be stated in the regulations and shall be laid before the Legislature within fifteen days after they are made, if the Legislature is then in session,

ICC-1581 ICCI Exhibit P-059 Page 331

and if it it is not, then within fifteen days after the commencement of the next ensuing session.

Offence respecting advertising concerning adoption, boarding out, etc.

53. A person shall not, without prior written permission from the Minister or the Director, insert or cause to be inserted in any newspaper or other printed publication or publish or cause to be published by means of radio or television any advertisement dealing with the adoption, boarding out or care of children coming within the purview of this Act or of The Adoption of Children Act, 1972.

Courts having jurisdiction under this Act.

54. Except where otherwise provided in this or any other Act, every information, suit or other proceeding under this Act may be laid, prosecuted or proceeded with before a Family Court, a Juvenile Court or a Magistrate.

General offence.

55.—(1) Every person who fails to comply with or otherwise contravenes any provision of this Act or of regulations made under this Act is guilty of an offence.

Penalty where not otherwise specified.

(2) Where no penalty is provided for a breach of any provision of this Act or of any regulation made under this Act, a person committing the breach or failing to observe the provisions thereof is liable on summary conviction to a fine not exceeding two hundred dollars, or in default of payment, to imprisonment for a term not exceeding two months, or to both such fine and such imprisonment.

Appeal to Supreme Court.

56. Any person feeling aggrieved by any act or order of the Minister or the Director or by any order, judgment or conviction of any Court under this Act may sue thereon or appeal therefrom to the Supreme Court or a Judge thereof within the time limited by and subject to the provisions, *mutatis mutandis*, of The Summary Jurisdiction Act respecting appeals from Magistrates.

Act to be liberally construed.

57. This Act shall be liberally construed to the end that the care of children coming within its provisions shall approximate as nearly as may be that which should be given by their parents.

Payments.

58. Any payments required to be made by or on behalf of Her Majesty in right of the province pursuant to any agreement

ICC-1581 ICCI Exhibit P-059 Page 332

entered into under this Act or in carrying out the provisions of this Act or the regulations shall be paid by the Minister of Finance, on the request of the Minister, out of the Consolidated Revenue Fund of the province.

PART VI

REPEAL.

Repeal.

59.—(1) The Child Welfare Act, 1964, the Act No. 45 of 1964, and all amendments made thereto are repealed.

Revocation or amendment of regulations previously made.

(2) Any regulations made under The Child Welfare Act, 1964 or any predecessor Act to that Act and in force immediately before the coming into force of this Act may be amended or revoked by regulations made under this Act as if they were made hereunder, and, in so far as they are not revoked and as from time to time amended, shall continue in force and all the consequences shall follow as if they had been made under the provisions of this Act.

Definition of "regulations".

(3) For the purposes of this section, the expression "regulations" includes any order prescribing regulations and any order made in the execution of a power given by statute.

ICC-1581 ICCI Exhibit P-059 Page 333

AN ACT RESPECTING THE APPLICATION AND EFFECT OF CERTAIN ACTS PASSED IN THE PRESENT SESSION OF THE LEGISLATURE UPON THE REVISED STATUTES OF NEWFOUNDLAND, 1970.

(May 5, 1972)

WHEREAS under and by virtue of The Revised Statutes Act, 1970, the public general statutes of Newfoundland as contained in The Revised Statutes of Newfoundland, 1952 and as passed in the years 1953 to 1970, both inclusive, are being consolidated and revised and such consolidation and revision will be brought into force by proclamation under the title of The Revised Statutes of Newfoundland, 1970;

AND WHEREAS upon the coming into force of The Revised Statutes of Newfoundland, 1970, The Revised Statutes of Newfoundland, 1952, and all Acts passed at all sessions of the Legislature in the years 1953 to 1970, both inclusive, except the Acts and parts of Acts comprised in Schedules A, B and C to The Revised Statutes of Newfoundland, 1970, shall stand repealed and of no effect;

AND WHEREAS various Acts have been or may be passed in the present session of the Legislature whereby certain chapters, or parts thereof, of The Revised Statutes of Newfoundland, 1952 and certain of the said Acts, or parts thereof passed in the years 1953 to 1970, both inclusive, have been or will be repealed, amended or otherwise referred to;

AND WHEREAS such repeals, amendments or references as aforesaid of necessity will not appear in The Revised Statutes of Newfoundland, 1970, which will incorporate only statutes passed up to the end of the session of the Legislature in the year 1970;

AND WHEREAS it is desirable to make provision as to the application of all such repeals, amendments or references:

ICC-1581 ICCI Exhibit P-059 Page 334

BE IT THEREFORE ENACTED by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title.

1. This Act may be cited as The Statutes Amendment Act, 1972.

Amendments of certain Acts to apply to The Revised Statutes of Newfoundland, 1970.

2. Whenever by virtue of any Act passed in the present session of the Legislature, any chapter of The Revised Statutes of Newfoundland, 1952 or any part thereof or any Act passed at any session of the Legislature in the years 1953 to 1970, both inclusive, or any part thereof, is repealed, amended or otherwise referred to, such repeal, amendment or reference shall be held to be a repeal, amendment or reference of or to the provisions of The Revised Statutes of Newfoundland, 1970, having the same effect as such chapter or Act or part thereof.

Date of coming into force.

3. This Act shall come into force and effect on the day on which The Revised Statutes of Newfoundland, 1970, come into force and effect.

AN ACT RESPECTING THE DEPARTMENT OF SOCIAL SERVICES.

(March 29, 1973)

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short Title.

Short title.

1. This Act may be cited as The Department of Social Services Act, 1973.

Interpretation.

Interpretation.

2. In this Act

(a) "Assistant Deputy Minister" means the Assistant Deputy Minister of Social Services referred to in Section 4;

(b) "Department" means the Department of Social Services constituted by this Act;

(c) "Deputy Minister" means the Deputy Minister of Social Services appointed under this Act;

(d) "Director of Administration" means the Director of Administration referred to in Section 4;

(e) "Minister" means the Minister of Social Services referred to in Section 3; and

(f) "regulations" means regulations made under this Act.

Constitution of Department.

Department constituted.

3.—(1) There shall be a department of the Government called the Department of Social Services over which the Minister of Social Services for the time being appointed by the Lieutenant-

ICC-1581 ICCI Exhibit P-059 Page 336

(3) Each and every continuance for a day or a part of a day of the failure to comply or other contravention referred to in subsection (1) constitutes a separate offence.

Each day's continuance a separate offence.

34. A prosecution under this Act or the regulations shall not be taken except with the written consent of the Minister.

Consent to prosecution.

CONCERNING WELFARE OFFICERS.

35.—(1) All Welfare Officers appointed under this Act or The Department of Social Services and Rehabilitation Act, 1971 or any predecessor Act to The Department of Social Services and Rehabilitation Act, 1971 are, while they hold such office and by virtue of their office, commissioners for oaths within the meaning of The Commissioners for Oaths Act, as now or hereafter amended, and shall be so styled and may exercise within Newfoundland the powers conferred by the last-mentioned Act, and each of them shall write or stamp below his signature on every affidavit, declaration, affirmation or certificate made before or given by him as such commissioner the words 'A Commissioner for Oaths in and for Newfoundland, being a Welfare Officer acting under The Department of Social Services Act, 1973'.

Welfare Officers to be commissioners for oaths.

(2) Without limitation of subsection (1), a Welfare Officer may, while acting under the provisions of that subsection, take and receive statutory declarations.

Idem.

CONSEQUENTIAL AMENDMENTS.

36.—(1) The Acts mentioned in the Schedule to this Act are amended in the manner and to the extent set forth in that Schedule.

Consequential amendments.

(2) Section 6 is not restricted by any particularization of amendments appearing in the Schedule to this Act.

Idem.

(3) This Act is subject to the provisions of The Public Service (Rearrangements and Transfers of Duties) Act.

Concerning The Public Service (Rearrangements and Transfers of Duties) Act.

Concerning certain disputes.

(4) In the event of any question as to the substitution referred to in Section 6, the Lieutenant-Governor in Council may, by order, direct what substitution shall be in effect, and that substitution shall have the force and effect of law for all purposes.

REPEAL.

Repeal.

37.—(1) The Department of Social Services and Rehabilitation Act, 1971, the Act No. 45 of 1971, and all amendments made thereto are repealed.

Revocation or amendment of regulations previously made.

(2) Any regulations, of a kind similar to any of the regulations that may be made under this Act, made under The Department of Social Services and Rehabilitation Act, 1971 or any predecessor Act to The Department of Social Services and Rehabilitation Act, 1971 or under any other Act and in force immediately before the coming into force of this Act may be amended or revoked by regulations made under this Act as if they were made hereunder and, in so far as they are not revoked and as from time to time amended, shall continue in force and all the consequences shall follow as if they had been made under the provisions of this Act.

Definition of "regulations".

(3) For the purposes of this section, the expression "regulations" includes any order prescribing regulations and any order made in the execution of a power given by statute.

COMING INTO FORCE.

Coming into force.

38. This Act shall come into force on the first day of April, 1973.

SCHEDULE

Item	Act Affected	Amendment
1.	The Adoption of Children Act, 1972	The definitions of "Minister" and "Department" are altered to correspond to the definitions of "Minister" and "Department" in The Department of Social Services Act, 1973.
2.	The Blind Persons Allowances Act	The definition of "Minister" is altered to correspond to the definition of "Minister" in The Department of Social Services Act, 1973.
3.	The Child Welfare Act, 1972	The definitions of "Minister" and "Department" are altered to correspond to the definitions of "Minister" and "Department" in The Department of Social Services Act, 1973.
4.	The Children of Unmarried Parents Act, 1972	The definition of "Minister" is altered to correspond to the definition of "Minister" in The Department of Social Services Act, 1973.
5.	The Disabled Persons Act	The definition of "Minister" is altered to correspond to the definition of "Minister" in The Department of Social Services Act, 1973.
6.	The Family Courts Act	Subsection (2) of Section 15 is amended by deleting the words "Social Services and Rehabilitation" and substituting therefor the words "Social Services".
7.	Part XII of The Health and Public Welfare Act	Wherever in the Part the words "Social Services and Rehabilitation" appear, they are replaced by the words "Social Services".
8.	The Juveniles Act (formerly The Welfare of Children Act)	See the provisions of The Government Reorganization (General and Miscellaneous Provisions) Act, 1973.
9.	The Maintenance Act	The definition of "officer" is amended by deleting the words "Social Services and Rehabilitation" and substituting therefor the words "Social Services".
10.	The Old Age Assistance Act	The definition of "Minister" is altered to correspond to the definition of "Minister" in The Department of Social Services Act, 1973.
11.	The Permanent Marine Disasters Fund Act	Section 2 is amended by deleting the reference to the first Minister mentioned in that section and substituting therefor the reference to the Minister of Social Services.
12.	The Social Assistance Act, 1971	The definitions of "Minister", "Assistant Deputy Minister" and "Department" are altered to correspond to the definitions of "Minister", "Assistant Deputy Minister" and "Department" in The Department of Social Services Act, 1973.
13.	The Welfare of Children Act	See the provisions of The Government Reorganization (General and Miscellaneous Provisions) Act, 1973.

AN ACT FURTHER TO AMEND THE CHILD WELFARE ACT, 1972.

(May 21, 1974)

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title.

1. This Act may be cited as The Child Welfare (Amendment) Act, 1974.

Amdt. Sec. 2.

2. Section 2 of The Child Welfare Act, 1972, the Act No. 37 of 1972, is amended by inserting immediately after paragraph (s) as paragraph (sA) the following:

"(sA) "relative" means a person related by blood, marriage or adoption;".

Addition of new Section 2A.

3. The said Act is further amended by adding immediately after Section 2 as Section 2A the following:

This Act to be read with another Act.

"2A. This Act shall be read with The Employment of Children Act, Chapter 112 of The Revised Statutes of Newfoundland, 1970, as now or hereafter amended, and any regulations heretofore or hereafter made thereunder."

AN ACT FURTHER TO AMEND THE JUDICATURE ACT.

(May 21, 1974)

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title.

1. This Act may be cited as The Judicature (Amendment) Act, 1974.

Amdt. Sec. 3.

2. Section 3 of The Judicature Act, Chapter 187 of The Revised Statutes of Newfoundland, 1970, is amended

(a) by deleting paragraph (d) and substituting therefor as paragraphs (d) and (dA) the following:

"(d) "Court" or "Supreme Court" means the Supreme Court of Newfoundland referred to in Section 5, and, when the subject or context requires, the Court of Appeal or the Trial Division;

(dA) "Court of Appeal" means the Appeal Division of the Court referred to in Section 5;";

(b) by deleting paragraph (f) and substituting therefor the following:

"(f) "judge" means a judge of the Court and includes the Chief Justice of Newfoundland and the Chief Justice of the Trial Division;"; and

(c) by deleting the period at the end of paragraph (v) and substituting therefor a semicolon and by inserting immediately after paragraph (v) as paragraph (w) the following:

"(w) "Trial Division" means the Trial Division of the Court referred to in Section 5."

ICC-1581 ICCI Exhibit P-059 Page 343

References to "Supreme Court" and "Court" in Part V.

(4) Every reference in this Part V of this Act to "Supreme Court" and "Court" shall, unless the context otherwise requires, be read as if the reference were a reference to the "Trial Division"."

Repeal and substitution Sec. 178.

34. Section 178 of the said Act is repealed and the following substituted therefor:

Submission.

"178.—(1) A submission, unless a contrary intention is expressed therein, shall be irrevocable, except by leave of a judge of the Trial Division, and shall have the same effect in all respects as if it had been made an order of the judge.

References to "Supreme Court" and "Court" in Part VI.

(2) Every reference in this Part VI of this Act to "Supreme Court" and "Court" shall, unless the context otherwise requires, be read as if the reference were a reference to the "Trial Division"."

Repeal Secs. 255 and 256.

35. Sections 255 and 256 of the said Act are repealed.

Amdt. Sec. 260.

36. Section 260 of the said Act is amended by deleting the words "Chief Justice" and substituting therefor the words "Chief Justice of Newfoundland".

Amdt. Sec. 260A.

37. Section 260A of the said Act, as enacted by the Act No. 76 of 1971, is amended by deleting the words "Chief Justice" wherever they occur and substituting therefor the words "Chief Justice of Newfoundland".

Addition of new sections.

38. The said Act is further amended by adding immediately after Section 261 as Sections 262, 263 and 264 the following:

References in Acts; adaptation of Rules.

"262. Whenever in any Act or in any Rules of Court the Supreme Court is referred to the reference shall be taken to mean the appropriate Division of the Supreme Court of Newfoundland referred to in Section 5, and until complete and appropriate Rules of Court are made consonant with the division of the Supreme Court into the Court of Appeal and the Trial Division the Rules of Court from time to time in force shall be adapted to conform to the appropriate Division as near as is practicable under the circumstances.

Concerning certain references in Acts.

263.—(1) Where, in

(a) any of the Acts, as amended, referred to in Schedule C, or

(b) any other Act whatsoever,

provision is made for appeal from a decision or other determination of the Lieutenant-Governor in Council, a Minister, Department of Government, Deputy Minister, Registrar, Court of Revision, Commission, Board, Corporation or other person or body or combination of persons or bodies to

(c) the Supreme Court,

(d) a judge of the Supreme Court, or

(e) the Supreme Court or a judge thereof,

such reference in such Act, and in particular in any section specifically referred to in the said Schedule C, to the said Court, judge, or Court or judge shall be deemed to be a reference to a judge of the Trial Division.

Idem.

(2) Where, in

(a) any of the Acts, as amended, referred to in Schedule D, or

(b) any other Act whatsoever, other than those referred to in subsection (1) of this section,

provision is made for appeal

(c) from a judge of the Supreme Court to the Supreme Court, or

(d) to the Supreme Court, as a court of appeal, as it was constituted immediately before the date of the coming into force of this Section 263,

such reference in such Act, and in particular in any section specifically referred to in the said Schedule D, to the

Supreme Court shall be deemed to be a reference to the Court of Appeal.

Application.

(3) The provisions of this section apply, *mutatis mutandis*, to references and stated cases with equal force as they do to appeals.

Generality of this section not restricted by schedules.

(4) No particularization in any schedule referred to in this section shall restrict the generality of the provisions of this section.

Some consequential amendments.

264. Notwithstanding anything to the contrary in this Act, the reference in

(a) subsection (1) of Section 17 and paragraph (a) of subsection (1) of Section 19 of The Adoption of Children Act, 1972 to the Supreme Court or a Judge of the Supreme Court, as the case may be, shall be interpreted as a reference to the Trial Division or a judge of the Trial Division, as the case may be;

(b) Sections 13 and 14 of The Assignment of Book Debts Act to a judge of the Supreme Court shall be interpreted as a reference to a judge of the Trial Division;

(c) Section 4 of The Attachment of Wages Act to a judge of the Supreme Court shall be interpreted as a reference to a judge of the Trial Division;

(d) Section 36 of The Automobile Dealers Act, 1973 to a Judge of the Supreme Court of Newfoundland shall be interpreted as a reference to a judge of the Trial Division;

(e) Section 20 of The Bills of Sale Act to a judge of the Supreme Court shall be interpreted as a reference to a judge of the Trial Division;

(f) Sections 32 and 34 of The Children of Unmarried Parents Act, 1972 to the Supreme Court consisting

ICC-1581 ICCI Exhibit P-059 Page 346

of one or more Judges without a jury or to the Supreme Court shall be interpreted as a reference to the Court of Appeal;

(g) Section 174 of The Companies Act to "the Court constituted of two or three judges, as the case may be," shall be interpreted as a reference to the Court of Appeal;

(h) The Crown Lands (Mines and Quarries) Act to a judge shall be interpreted as a reference to a judge of the Trial Division;

(i) subsection (6) of Section 90 of The Crown Lands (Mines and Quarries) Act to the court shall be interpreted as a reference to the Court of Appeal;

(j) Section 82 of The Election Act to a Judge shall be interpreted as a reference to a judge of the Trial Division;

(k) Section 100 of The Election Act to the Supreme Court or to the Supreme Court or a judge thereof, as the case may be, shall be interpreted as a reference to the Trial Division or a judge thereof;

(l) the controverted elections provisions of The Election Act to the Supreme Court or to two judges thereof, as the case may be, shall be interpreted as a reference to the Trial Division or to two judges thereof, as the case may be;

(m) The Expropriation Act (except Section 32(5)) to the Supreme Court, or a judge thereof, or a judge of the Supreme Court, as the case may be, shall be interpreted as a reference to the Trial Division, the Trial Division or a judge thereof or a judge of the Trial Division, as the case may be;

(n) The Family Relief Act to a judge or the judge shall be interpreted as a reference to a judge of the Trial Division;

(nn) paragraph (i) of Section 2 of The Urban and Rural Planning Act to the Supreme Court of Newfoundland shall be interpreted as a reference, as the subject or context requires, to the Court of Appeal or the Trial Division;

(oo) Section 88 of The Urban and Rural Planning Act to a judge of the Supreme Court shall be interpreted as a reference to a judge of the Trial Division;

(pp) Sections 100 and 115 of The Urban and Rural Planning Act to the Supreme Court, to the Court or a judge thereof or to a judge of the Court, as the case may be, shall be interpreted as a reference to a judge of the Trial Division; and

(qq) Section 7 of The Warehousemen's Lien Act to a judge (in respect of the Supreme Court) shall be interpreted as a reference to a judge of the Trial Division."

Addition of schedules.

39. The said Act is further amended by adding thereto immediately after Schedule B as Schedule C and Schedule D the following:

SCHEDULE C

ACT	SECTION OR SECTIONS
The Adoption of Children Act, 1972	11C(1)
The Automobile Dealers Act, 1973	36(1)
The Building Contractors (Licensing) Act	24
The Change of Name Act	7
The Child Welfare Act, 1972	56
The City of St. John's Act	263, 403B(10)
The Civil Service Act	49
The Collection Agencies Act, 1973	30(1)
The Constabulary (Pensions) Act	36

42.—(1) This Act, or any section or part thereof, shall come into force on a day to be proclaimed by the Lieutenant-Governor in Council. Date of coming into force.

(2) Notwithstanding subsection (1) of this section, Section 5C of the said Act, as enacted by Section 5 of this Act, shall not come into force in respect of any judicial district referred to in The District Courts Act except upon proclamation of the Lieutenant-Governor in Council, other than a proclamation referred to in subsection (1) of this section, after the coming into force of the said Section 5C. Idem.

AN ACT FURTHER TO AMEND THE CHILD WELFARE ACT, 1972.

(December 20, 1974)

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title.

1. This Act may be cited as The Child Welfare (Amendment No. 2) Act, 1974.

Amdt. Sec. 2.

2. Section 2 of The Child Welfare Act, 1972, the Act No. 37 of 1972, is amended by repealing subparagraph (xvii) of paragraph (p) and substituting for it the following:

"(xvii) who,

(A) being under the age of twelve years, or,

(B) being between the ages of twelve and fourteen years and without the written consent of his parents or guardian

is found selling newspapers or other articles in a public place,".

Amdt. Sec. 45.

3. Section 45 of the said Act is amended by deleting from paragraphs (b) and (c) the words "of the same blood as" and substituting for them in each case the words "a relative of".

Amdt. certain sections.

4. The said Act is further amended by deleting the words "Welfare Officer" wherever they occur and substituting for them the words "social worker".

AN ACT FURTHER TO AMEND THE CHILD WELFARE ACT, 1972.

(June 11, 1976)

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title.

1. This Act may be cited as The Child Welfare (Amendment) Act, 1976.

Amdt. Sec. 39(1).

2. Subsection (1) of Section 39 of The Child Welfare Act, the Act No. 37 of 1972, is amended by repealing paragraph (a) and substituting therefor the following:

"(a) between the hours of ten o'clock in the evening of one day and seven o'clock in the morning of the following day; or".

Amdt. Sec. 52(3).

3. Subsection (3) of Section 52 of the said Act is amended by deleting from subsection (3) the words "or from such later date" and substituting therefor the words "or such earlier or later date".

ICC-1581 ICCI Exhibit P-059 Page 351

(6) In addition to the penalties set out in subsection (3) the court may order that exemplary damages be paid to an employee by any person found guilty of an offence under subsection (2).

Documents; proof of service

74. Where any written notice, direction, order, determination or other document is required or permitted by this Act to be served, dispatched or sent to any person, production of a receipt from the postal authority that that notice, direction, order, determination or document was left at a post office for delivery by registered mail is *prima facie* proof that the notice, direction, order, determination or document was delivered to the person to whom it was addressed.

PART XI

Repeals and Consequential Amendments

Repeal of RSN 1977 cc 9; 111; 112; 238; 395; 404; and 1973 No. 19

75. The following Acts (hereinafter in this Part referred to, respectively, as a "former Act") are repealed:

(a) *The Annual Vacations With Pay Act;*

(b) *The Employment (Notice of Termination) Act;*

(c) *The Employment of Children Act;*

(d) *The Minimum Wage Act;*

(e) *The Weekly Day of Rest Act;*

(f) *The Workmen's Wages Act;* and

(g) *The Termination of Employment Act, 1973.*

1977 c.29

76. Schedule A of *The Department of Labour and Manpower Act* is amended by striking out the references therein to *The Annual Vacations With Pay Act, The Employment (Notice of Termination) Act, The Employment of Children Act, The Minimum Wage Act, The Weekly Day of Rest Act* and *The Workmen's Wages Act.*

1972 No. 37 amended

77. Section 2A of *The Child Welfare Act, 1972* is amended by striking out the words and figures "The Employment of Children Act, Chapter 112 of The Revised Statutes of New-

ICC-1581 ICCI Exhibit P-059 Page 352

foundland, 1970" and substituting "Part VII of *The Labour Standards Act*".

78. Subsection (1) of section 24 of *The Industrial Standards Act* is amended by striking out the words "The Minimum Wage Act" where they occur and by substituting "Part IV of *The Labour Standards Act*". RSN 1970 c.170 amended

79. Subsection (5) of section 14 of *The Building Contractors (Licensing) Act* is amended by striking out the words "The Workmen's Wages Act" therein and by substituting "Part V of *The Labour Standards Act*". RSN 1970 c.26 amended

80.(1) Sections 5 to 9 of *The Hours of Work Act* are repealed. RSN 1970 c.158 amended

(2) The said Act is further amended

(a) by striking out the figures "6, 7, 8, 9" in subsection (2) of section 12 thereof, and

(b) by striking out the words and figure "Subject to Section 6" in section 13 thereof.

81. Where a provision of this Act conflicts with a provision of *The Barbers and Hairdressers Shop Closing Act, The Hours of Work Act* or any other Act of the province passed before the coming into force of this Act that relates to specific undertakings or the conditions of employment of employees, the provision of *The Barbers and Hairdressers Shop Closing Act, The Hours of Work Act* and that other Act, as the case may be, prevails. Application of RSN 1970 cc 20 & 158

82.(1) Where a former Act is repealed by this Act, the Part of this Act that relates to the same subject-matter as the former Act is hereby declared for the avoidance of doubt to be substituted for that former Act within the meaning and for the purposes of subsection (2) of section 28 of *The Interpretation Act*. Effect of repeal of former Act

(2) All regulations and orders that were made under a former Act and in force immediately before the coming into force of the Part or provision of this Act that relates to the same subject-

CHAPTER 69

AN ACT TO AMEND THE CHILD WELFARE ACT 1972.

(June 17, 1977)

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

1. Paragraph (p) of section 2 of *The Child Welfare Act, 1972* is repealed and the following substituted:

1972 No. 37; 1972 No. 11; 1973 No. 31; 1974 Nos. 34 and 100

"(p) "neglected child" means

(i) a child who is without proper supervision or control,

(ii) a child who is living in circumstances that are unfit or improper for the child,

(iii) a child in the care or custody of a person who is unfit, unable or unwilling to exercise proper care over the child,

(iv) a child whose life, health, or emotional welfare is endangered,

(v) a child who is in the care and custody of a person

(A) who fails to provide for his education, or

(B) who does not try to prevent habitual absences of the child from school when there is no valid reason for the absence,

ICC-1581 ICCI Exhibit P-059 Page 354

(vi) a child in respect of whom an offence has been committed under subsection (4) or (5) of section 4 of *The Adoption of Children Act, 1972*, or under an equivalent statutory provision in force before that Act,

(vii) a child who has no living parents and who has no person willing to assume responsibility or with a legal responsibility for his maintenance,

(viii) a child who is in the care or custody of a person who refuses or fails

(A) to provide or obtain proper medical or other recognized remedial care or treatment necessary for the health or well-being of the child, or

(B) to permit such care and treatment to be supplied to the child when it is considered essential by a duly qualified medical practitioner;".

supervise the evaluation of personnel and provide for a comprehensive program of training;

(d) shall respond to and take command at fires personnally or through subordinate officers and direct firefighting activities;

(e) shall establish a liaison with provincial fire fighting and prevention authorities and keep abreast of latest developments and firefighting methods, equipment and administration and promote public awareness of fire prevention techniques;

(f) shall prepare reports on firefighting equipment and apparatus and the condition of buildings and businesses within the municipality regarding fire protection;

(g) shall recommend to council fire protection plans for their consideration and implement such plans upon approval; and

(h) shall carry out such other duties as may from time to time be assigned to him by the manager, or where there is no manager, by the council.

SCHEDULE C

CONSEQUENTIAL AMENDMENTS

Act Amended	Amendment
The Assessment Act	Paragraph (e) of section 2 is repealed and the following substituted: (e) "council" means a town council, community council or

committee as if they had been made under The Municipalities Act."

The Child Welfare Act, 1972

Paragraphs (d) and (e) of subsection (1) of section 44 are repealed and the following substituted:

"(d) the council of a town, community or region constituted or continued under The Municipalities Act."

The City of St.John's Act

Paragraph (b) of subsection (2) of section 73A is repealed and the following substituted:

"(b) a council of a town, community or region constituted or continued under The Municipalities Act;".

The City of Corner Brook Act

Paragraph (a) of subsection (1) of section 16 is amended by striking out "The Local Government (Elections) Act and substituting "Part V of The Municipalities Act".

Section 25 is amended by striking out The Local Government (Elections) Act and substituting "Part V of The Municipalities Act".

Section 82 is amended by striking out "The Local Government Act and substituting "The Municipalities Act".

Subsection (2) of section 152 is amended by striking out "The Local Government (Elections) Act" and substituting "Part V of The Municipalities Act".

CHAPTER 54

AN ACT TO AMEND THE CHILD WELFARE ACT, 1972

(Assented to July 14, 1981)

Analysis

Section:

1. S.2(p) Rep. Definitions
2. S.2(a.1) Added. Definitions
3. S.2.1 Added. Interpretation
4. S.11(5) Amdt. Apprehension of children
5. S.15(1) Added. Order
6. S.49(3) Amdt. Offence for not reporting ill-treatment of children
7. Consequential amendments

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislation Session convened, as follows:

1972 c.37 as amended

1. Paragraph (p) of section 2 of The Child Welfare Act, 1972 is repealed.

2. Section 2 of the said Act is amended by adding immediately after paragraph (a) the following:

"(a.1) "child in need of protection" means

(i) a child who is without adequate care or supervision;

(ii) a child who is without necessary food, clothing or shelter, as may be available with

the level of financial assistance given in relation to that child under the laws of the province;

(iii) a child who is living in circumstances that are unfit or improper for the child;

(iv) a child in the care or custody of a person who is unfit, unable or unwilling to provide adequate care for the child;

(v) a child who is living in a situation where there is severe domestic violence;

(vi) a child who is physically or sexually abused, physically or emotionally neglected, sexually exploited or in danger of such treatment;

(vii) a child who is in the care and custody of a person who fails to provide adequately for his education or attendance at school;

(viii) a child who has no living parents and who has no person willing to assume responsibility or with a legal responsibility for his maintenance;

(ix) a child who is in the care or custody of a person who refuses or fails

(A) to provide or obtain proper medical or other recognized remedial care or treatment necessary for the health or well-being of the child, or

(B) to permit such care and treatment to be supplied to the child when it is considered essential by a duly qualified medical practitioner;

(x) a child who is brought before the Court with the consent of the parent or guardian or person with de facto control for the purpose of transferring the guardianship of him to the Director;

(xi) a child who is beyond the control of the person caring for him;

(xii) a child who by his behaviour, condition, environment or association, is likely to

injure himself or others; and

(xiii) a child taken into a home or otherwise in the care and custody of a person contrary to subsection (3) or (5) of section 4 of The Adoption of Children Act, 1972;".

3. The said Act is amended by adding immediately before section 3 the following:

Interpretation

"2.1(1) This Act is to be interpreted recognizing the principle that the paramount consideration in a determination under this Act with respect to a child in need of protection is the best interests of that child.

(2) In determining the best interest of the child for the purpose of this Act the following shall be considered:

(a) the right of a child to love, affection and understanding;

(b) the right of a child to an environment to stimulate and encourage his development;

(c) the necessity for appropriate care or treatment or both for mental, emotional and physical health of the child;

(d) the love, affection and ties that exist between the child and each person to whom the child's custody is entrusted, each person to whom access to the child is granted and where appropriate, each sibling of the child;

(e) the views and preferences of the child, where such views and preferences can be reasonably ascertained;

(f) the effect upon the child of any disruption of the child's sense of continuity;

(g) the child's cultural and religious heritage; and

(h) the merits of any plan proposed by the Director under which he would be caring for the child, in comparison with the merits of the child returning to or remaining with his parents."

4. Subsection (5) of section 11 of the said Act is amended by striking out the words "social worker" wherever they occur and substituting the words "person designated by the Director".

5. Paragraph (b) of subsection (1) of section 15 of the said Act is amended by striking out the words "subject to supervision by the Director" and substituting the words "subject to approval and supervision by the Director".

6. Subsection (3) of section 49 of the said Act is repealed and the following substituted:

"(3) Any person who fails to comply with or contravenes this section is guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment."

Consequential amendments

7.(1) Section 8 of the said Act is amended by striking out the word "neglected"

and adding immediately after the words "handicapped children" the words "or children in need of protection".

(2) Paragraph (b) of subsection (2) of section 10 of the said Act is amended by striking out the word and letter "paragraph (p)" and substituting the word and letter "paragraph (a.1)" and by striking out the words "neglected child" and substituting the words "child in need of protection".

(3) Subsection (3) of section 19 and section 47 of the said Act are amended by striking out the words "the welfare of the child" and substituting the words "the best interests of the child".

(4) The said Act is amended by striking out, wherever they occur, the words "neglected child" and substituting the words "child in need of protection".

(5) Where in any other Act of the Legislature there is for the purposes of this Act a reference to a "neglected child" that reference is deemed to be a reference to a "child in need of protection".

Transitional

26.(1) A person who, before the coming into force of this Act, while a young person, committed an offence in respect of which no proceedings were commenced before the coming into force of this Act may be dealt with under this Act as if the offence occurred after the coming into force of this Act.

(2) Where, before the coming into force of this Act, a proceeding in relation to a young person has been commenced under The Welfare of Children Act, the proceeding and all matters consequent thereon may be dealt with in all respects as if this Act had not come into force.

(3) For the purposes of this section, proceedings are commenced by the laying of an information.

Amendments and Repeal

1975 c.12 Amdt.

27.(1) Section 7 of The Adult Corrections Act, 1975 is amended by striking out the words "The Welfare of Children Act" where they twice occur and substituting "The Department of Social Services Act, 1973".

(2) Section 13 of the said Act is repealed.

1972 No.37 Amdt.

28.(1) Paragraph (a.1) of subsection (1) of section 2 of The Child Welfare Act, 1972 is amended by

(a) striking out the word "and" at the end of subparagraph (xii);

(b) adding the word "and" at the end of subparagraph (xiii); and

(c) adding immediately after subparagraph (xiii) the following:

"(xiv) a child actually or apparently under the age of twelve years who performs an action that contravenes a provision of an Act or a

regulation made thereunder or a municipal regulation or by-law or an Act of the Parliament of Canada;".

(2) Paragraph (c) of section 2 of the said Act is repealed and the following substituted:

"(c) "Court", save where the context otherwise allows, means a youth court or a Provincial Court judge;".

(3) Paragraph (g) of section 2 of the said Act is repealed.

(4) Paragraph (l) of section 2 of the said Act is repealed and the following substituted:

"(l) "Judge", save where the context otherwise allows, means a judge of a youth court or a Provincial Court judge;".

(5) Paragraph (m) of section 2 of the said Act is repealed.

(6) Section 2 of the said Act is further amended by

(a) striking out the period at the end of paragraph (u) and substituting a semi-colon and the word "and"; and

(b) adding immediately after paragraph (u) the following:

"(v) "youth court" means a court designated as a youth court under The Young Persons Offences Act.".

(7) Section 54 of the said Act is repealed and the following substituted:

Courts having jurisdiction

"54. Except where otherwise provided in this or any other Act, every

information, suit or other proceeding under this Act may be laid, prosecuted or proceeded with before a youth court or a Provincial Court judge."

1973 No.31 Amdt.

29. Subparagraph (iv) of paragraph (a) of section 7 of The Department of Social Services Act, 1973 is repealed and the following substituted:

"(iv) the administration of all laws relating to the commission of offences by young persons within the jurisdiction of the province,".

RSN 1970 c.122 Rep.

30. The Family Courts Act is repealed.

1974 No.77 Amdt.

31. Paragraph (b) of subsection (1) of section 5 of The Provincial Court Act, 1974 is repealed and the following substituted:

"(b) subject to The Young Persons Offences Act, has all the power and authority now vested by or under an Act of the Legislature in a Provincial Court judge, two justices of the peace sitting together or a youth court or a judge thereof;".

RSN 1970 c.190 Rep.

32. The Welfare of Children Act is repealed.

Commencement

Commencement

33. This Act is deemed to have come into force on April 2, 1984.

Chapter 13

AN ACT TO REMOVE ANOMALIES AND ERRORS IN THE STATUTE LAW

(Assented to June 28, 1985)

Analysis

Section:	Section:
1. Short title	8. The Marine Institute Act
2. The Child Welfare Act, 1972	9. The Public Officials Garnishee Act
3. The City of St. John's Act	10. The Public Tender Act, 1984
4. The Defamation Act	11. The Schools Act
5. The Dental Act, 1983	12. The Volunteer War Service Medal Act
6. The Department of Labour Act, 1984	13. Acts repealed
7. The Judicature Act, 1984	Schedule

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title

1. This Act may be cited as *The Attorney General Statutes Amendment Act, 1985*.

1972 c.37 as amended

2.(1) Paragraph (e) of subsection (9) of section 15 of *The Child Welfare Act, 1972* is amended by striking out the words "the welfare of such child" and by substituting the words "the best interests of such child".

(2) Subsection (1) is deemed to have come into force on July 14, 1981.

RSN 1970 c.298 as amended

3. Section 298 of *The City of St. John's Act is repealed.*

1983 c.63

4. Section 17 of *The Defamation Act* is amended by striking out the words "within three months" and by substituting the words "within four months".

SCHEDULE A

Notwithstanding the interpretation of the reference to the Supreme Court, the Supreme Court of Newfoundland or a Judge of the Supreme Court, as the case may be, pursuant to sections 262, 263 and 264 of The Judicature Act, the following provisions shall be deemed to be references to the Trial Division, the Trial Division of the Supreme Court of Newfoundland or a Judge of the Trial Division, as the case may be, under this Act.

1. The Abandoned Lands Act, section 2.
2. The Accident and Sickness Insurance Act, 1971, section 2(h).
3. The Adoption of Children Act, 1972, sections 11C(1) and 13(1).
4. The Assessment Act, section 36(1).
5. The Assignment of Book Debts Act, sections 8(1)(d), 13 and 14.
6. The Attachment of Wages Act, sections 4, 5 and 6.
7. The Automobile Dealers Act, 1973, sections 28(1) and 36(1).
8. The Automobile Insurance Act, sections 36(1) and (2) and 41(4).
9. The Bankers (Books) Act, section 2(f).
10. The Bills of Sale Act, sections 18(1) and 20(1).
11. The Blind Persons Allowances Act, section 14.
12. The Building Contractors (Licensing) Act, section 24(1).
13. The Child Welfare Act, 1972, sections 19(1), (2), (3) and (4), 47 and 56.

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

ort title

1. This Act may be cited as *The Charter of Rights Amendment Act, 1988.*

PART I

EQUALITY RIGHTS

1972 No.36 as amended

2. (1) Paragraphs (a), (b) and (c) of subsection (3) of section 4 of *The Adoption of Children Act, 1972* are repealed and the following substituted:

"(a) a mother or father of the child; or

(b) a mother, father, sister, brother, aunt or uncle of a mother or father of the child."

(2) Subsection (5) of section 4 of the Act is amended by striking out the phrase "or (c)".

(3) Subsection (2) of section 8 of the Act is repealed.

(4) Subsection (1) of section 21 of the Act is amended by striking out the words "legal descendants but to no other of the".

78 c.57 as amended

3. Section 4 of *The Change of Name Act, 1978* is amended by striking out the word "ordinarily".

72 No.37 as ended

4. (1) Section 16 of *The Child Welfare Act, 1972* is repealed.

(2) Subsection (4) of section 19 of the Act is repealed.

(3) Section 38 of the Act is repealed and the following substituted:

Employment of child

"38. A person who employs a child without the written consent of the child's parents or guardian is guilty of an offence and liable on summary conviction to a fine not exceeding two hundred dollars or, in default of payment to imprisonment for a term not exceeding two months, or to both the fine and the imprisonment.".

(4) Subsection (3) of section 44 of the Act is repealed.

(5) Subsection (1) of section 45 of the Act is amended in paragraph (a) by adding the word "and" after the semicolon, by repealing paragraphs (b) and (c) and by substituting the following:

ICC-1581 ICCI Exhibit P-059 Page 376

"(b) is a mother, father, sister, brother, aunt or uncle of a parent of the child.".

1972 No.33 as amended

5. (1) Paragraph (f) of section 2 of *The Children of Unmarried Parents Act, 1972* is repealed and the following substituted:

"(f) "mother" means

(i) a woman who

(A) has, while single, been delivered of a child,

(B) being single, is pregnant and likely to be delivered of a child,

(C) was single at the time of her conception of a child, whether or not she is single at the time of the birth of the child, or

(D) is single at the date of the child's birth, whether or not she is single at the date of commencement of affiliation proceedings under this Act, or

(ii) a married woman who

(A) is living apart from her husband and has been delivered of a child whose natural father is not her husband, or

(B) is pregnant and likely to be delivered of a child and was living apart from her husband at the time of the conception of the child;".

(2) Section 5 of the Act is repealed and the following substituted:

Parent may apply to Director

"5. The parent of a child, or a person who has the custody of a child or who has undertaken the care and maintenance of a child or who has supplied the parent or a child with necessaries, may apply to the Director for aid and advice in all matters pertaining to the child, and the Director shall then take the lawful action that seems to the Director to be in the interests of the parent or the child.".

(3) Subsection (2) of section 27 of the Act is repealed.

1970 c.106 as amended

6. Paragraph (c) of subsection (1) of section 58 of *The Election Act* is repealed.

ICC-1581 ICCI Exhibit P-059 Page 377

(2) Paragraph (e) of section 2 of the Act is amended by striking out the word "man" and by substituting the word "person".

(3) Section 11 of the Act is amended by striking out the word "firemen" wherever it occurs and by substituting the word "firefighters".

1977 c.102 as amended

15. (1) Paragraph (k) of section 2 of *The Social Assistance Act, 1977* is repealed and the following substituted:

"(k) "parent" includes mother, father, stepmother, stepfather and an adoptive mother or adoptive father;".

(2) Paragraph (a) of section 6 of the Act is amended by inserting immediately after the word "adults" a comma and the word "children".

1982 c.49 as amended

16. Paragraph (b) of section 23 of *The Uniformed Services Pensions Act* is amended by striking out the words and commas "physical, or, subject to applicable law, mental incapacity" and by substituting the words "an incapacity".

PART II

THE RIGHT TO BE PRESUMED INNOCENT UNTIL PROVEN GUILTY

1972 No.37 as amended

17. (1) Subsection (9) of section 39 of *The Child Welfare Act, 1972* is repealed.

(2) Section 40 of the Act is repealed.

1975 No.67 as amended

18. Subsections (1) and (2) of section 13 of *The Day Care and Homemaker Services Act, 1975* are repealed and the following substituted:

Proceedings for cancellation

"13.(1) Subject to subsection (4) of section 11, where an objection is made to the Board against renewal of a licence or where the Board proposes to cancel or suspend or not to renew a licence, the Board shall, by notice in writing, advise the licensee of a hearing to determine if suspension, cancellation or non-renewal is appropriate and the licensee may be represented at the hearing either personally or by legal counsel.

(2) The notice shall state the time and place of the hearing and shall be sent by registered mail by the Board to the licensee at the licensee's last known address at least seven clear days before the date of the hearing.".

PART III

POWERS OF ENTRY, INSPECTION AND SEIZURE

1972 No.37 as amended

19. Section 20 of *The Child Welfare Act* is repealed and the following substituted:

Possession of harmful drugs

"20.(1) In exigent circumstances and where there are reasonable and probable grounds for believing that a child is in possession of intoxicating liquor or harmful drugs

(a) a constable or other peace officer;

(b) a social worker;

(c) a school teacher;

(d) the Director; or

(e) a person acting under the authority or direction of the Director

may take that child to the home of the child, or to a receiving home, or another place in which children are cared for under this Act, for the purpose of having the clothing of the child searched by a suitable person and, if anything referred to in this section is found upon that search, it shall be disposed of as the Director may order.

(2) In this section exigent circumstances include circumstances in which the delay necessary to obtain the warrant would result in danger to human life or safety or the loss or destruction of evidence.

(3) A judge who is satisfied by information upon oath or affirmation that there are reasonable and probable grounds for believing that a child is in possession of cigarettes, cigarette papers, tobacco, intoxicating liquor, harmful drugs, an obscene book or other obscene printed, type-written matter or an obscene picture, photograph, model or other object, may issue a warrant authorizing a person referred to in subsection (1) to

(a) take that child to the home of the child;

(b) a receiving home; or

(c) another place in which children are cared for under this Act

for the purpose of having the clothing of the child searched by a suitable person and, if anything referred to in this section is found upon that search, it shall be disposed of as the Director may order.".

1975 No.67 as amended

20. Section 18 of *The Day Care and Homemaker Services Act, 1975* is amended by adding immediately after subsection (3) the following:

"(4) Notwithstanding subsection (1), a member of the Board, an inspector or authorized representative of the Board may exercise the power of search referred to in that subsection without a warrant issued under subsection (2) if the conditions for obtaining the warrant exist but by reason of exigent circumstances it would not be practical to obtain the warrant.

(5) For the purposes of subsection (4), exigent circumstances include circumstances in which the delay necessary to obtain the warrant would result in danger to human life or safety or the loss or destruction of evidence.".

1981 c.10 as amended

21. Section 33 of *The Department of Environment Act* is repealed and the following substituted:

Powers of inspectors

"33. An inspector or other officer appointed under this Act, or the regulations may at all reasonable times, so long as it is reasonably necessary to determine compliance with this Act, enter into and go upon any land or body of water for the purpose of carrying out his or her duties, powers and functions, including inspecting and testing air, soil or a body of water.".

RSN 1970 c.132 as amended

22. (1) Subsection (1) of section 7 of *The Fish Inspection Act* is repealed and the following substituted:

Powers of inspectors

"7.(1) An inspector may at all reasonable times, so long as it is reasonably necessary to determine compliance with this Act and the regulations,

(a) enter an establishment, or a vehicle used for the carriage or storage of fish, and may open a container that he or she has reason to believe contains fish;

(b) require to be produced, for inspection or for the purpose of obtaining copies or extracts, books, shipping bills, bills of lading, or other documents or papers relating to the processing, transporting and marketing of fish; and

(c) take samples for inspection.".

ICC-1581 ICCI Exhibit P-059 Page 380

"(2.1) The entrances and facilities of each polling station in a polling division shall be accessible to voters in the polling division who are physically disabled.".

RSN 1970 c.280 as amended

26. Section 6 of *The Old Age Assistance Act* is repealed.

1977 c.102 as amended

27. Section 21 of *The Social Assistance Act, 1977* is repealed.

PART VII

MISCELLANEOUS

1972 No.37 as amended

28. Section 34 of *The Child Welfare Act, 1972* is repealed and the following substituted:

Offence

"34. A person who wilfully commits or omits an act producing, promoting or contributing to a child being or becoming a child in need of protection, is guilty of an offence and liable on summary conviction to a fine not exceeding two hundred dollars or, in default of payment, to imprisonment for a term not exceeding two months, or to both the fine and the imprisonment.".

1970 c.40 as amended

29. (1) Sections 275 and 276 of *The City of St. John's Act* are repealed.

(2) Subsection (6) of section 294 of the Act is repealed and the following substituted:

"(6) If a person liable to pay poll tax fails to pay, the City Clerk may enforce payment by the means provided by this Act for the enforcement or collection of a tax payable to the City."

1970 c.106 as amended

30. (1) Paragraph (b) of section 3 of *The Election Act* is amended by deleting the words "or other British subject".

(2) Paragraph (b) of section 3A of the Act is amended by deleting the words "or other British subject".

(3) This section does not come into force until July 1, 1989.

RSN c.276 as amended

31. (1) Section 11 of *The Nuisances and Municipal Regulations Act* is repealed.

(2) Section 26 of the Act is repealed.

CHAPTER 45

AN ACT TO AMEND THE CHILD WELFARE ACT, 1972

(Assented to July 8, 1988)

Analysis

Section:	Section:
1. Ss.11 & 12 R&S. 11 Apprehension and detention 11.1 Parents or guardian of child to be notified 12 Medical attention 12.1 Notice	2. S.13 Amdt. Temporary detention 3. S.15 Amdt. Orders may be made 4. S.56 R&S Appeal

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

1972 No. 37 as amended

Apprehension and detention

1. Sections 11 and 12 of *The Child Welfare Act, 1972* are repealed and the following is substituted:

"11.(1) Where he or she has reasonable or probable grounds for believing that a child is a child in need of protection

(a) a constable or other peace officer;

(b) a social worker;

(c) the Director; or

(d) any person duly authorized by the Director

may apprehend that child without warrant.

(2) Where it appears to a Judge, on information laid before him or her on oath or affirmation, that there are reasonable or probable grounds for believing that there is a child in need of protection at any

ICC-1581 ICCI Exhibit P-059 Page 383

place under his or her jurisdiction, the Judge may issue a warrant authorizing any person referred to in subsection (1) to

(a) enter, by force if necessary, any building or other place specified in the warrant and search for the child; and

(b) apprehend the child if, in his or her opinion, the child appears to be a child in need of protection,

and it is not necessary to describe a child by name in an information or a warrant laid or issued under this subsection.

(3) Where a child has been apprehended under subsection (1) or (2), the person making the apprehension shall immediately notify the guardian and any person in whose care the child may have been at the time of apprehension that the child has been apprehended.

(4) A child apprehended under subsection (1) or (2) at any time prior to an order under section 15 may be

(a) examined by a duly qualified medical practitioner;

(b) detained in a receiving home;

(c) detained in a hospital if considered advisable by the Director or a person designated by the Director;

(d) with the consent of the Director returned to his or her guardian or other person in whose care the child is found at the time of apprehension; and

(e) with the consent of the Director placed in the charge of a relative or other person as referred to at section 18,

however, subject to paragraph (b) of subsection (6) at all times the guardian and any person in whose care the child may have been at the time of the apprehension shall immediately have notice of the detention of the child.

(5) Where a child is detained in a hospital under subsection (4), the medical superintendent or senior medical officer of the hospital shall be advised of that detention and thereafter for the purposes of this section the hospital shall be deemed a receiving home.

(6) For the purposes of this section

ICC-1581 ICCI Exhibit P-059 Page 384

(a) notice of the apprehension or detention of a child may be oral or written and shall include a statement of the reasons for the apprehension or detention and the name, business address and telephone number of the person who has apprehended or detained the child; and

(b) the validity of proceedings is not affected if the person who has apprehended or detained a child or the Director is unable, after reasonable effort, to give notice in accordance with subsections (3) and (4).

Parents or guardian of child to be notified

11.1 (1) A person who has apprehended a child under section 11, the Director, a social worker or any person duly authorized in writing by the Director shall, within five days after the date of apprehension, notify the parents or guardian, if any, or if known, of the child, stating the time and place for judicially investigating the facts of the case, which time shall not be more than fifteen days after the date of apprehension of the child, unless otherwise ordered by the Judge.

(2) A person who has apprehended a child under section 11 shall make a written report to the Director, setting out the circumstances of the case and the time and place for judicially investigating the facts.

(3) The Judge may compel the attendance of witnesses in an investigation under this section.

(4) The Judge, in an investigation under this section, shall investigate the facts of the case and ascertain whether the child is a child in need of protection, his or her age, name and residence and the religion of the child and of his or her parents or guardian.

(5) If on an investigation under this section the Judge finds that a child is not a child in need of protection, the Judge shall order that the child be returned to his or her parents, guardian or other person in whose care the child may be.

(6) If on an investigation under this section the Judge finds that the child is a child in need of protection, the Judge may so declare, and in that event the Judge may make an order under section 15.

(7) An order made under section 15 shall recite the facts so far as ascertained in an investigation under this section and the Judge shall deliver a certified copy of the order to the Director.

ICC-1581 ICCI Exhibit P-059 Page 385

Medical attention

12.(1) Subject to subsection (2), where a child has been

(a) detained under paragraph (b) or (c) of subsection (4) of section 11;

(b) committed to the care of the Director or placed in the charge of a relative or some other person under paragraph (e) of subsection (4) of section 11; or

(c) taken into the care and custody of the Director under section 46,

the Director or a person designated by the Director may, if a duly qualified medical practitioner recommends the provision of such care, authorize the provision of such medical, surgical and psychiatric care as the Director or the person designated by the Director considers necessary, without the consent of the guardian of the child or of any other person and without an order of any court in the province including a Court as defined by section 2, and no liability attaches to the Director or to a person designated by the Director or a duly qualified medical practitioner or to a hospital by reason only that a child is provided with medical, surgical or psychiatric care pursuant to this subsection.

(2) Where a child is apprehended because the guardian refuses to permit essential medical, surgical or remedial treatment that is recommended by a duly qualified medical practitioner, and where the Director considers it to be in the best interest of the child, the Director or a person designated by the Director shall apply to a Judge for an order and the Judge may by order authorize the treatment.

(3) For the purposes of this section the term "Judge" means a Judge of the Provincial Court, the Trial Division or the Unified Family Court.

(4) For the purposes of this section and without limitation of the generality of the expressions "medical treatment" or "surgical treatment", the provision of any blood transfusion or transfusions or injection or injections is included in the meaning of each such expression.

(5) The guardian of the child shall be notified of the time and place at which an application under subsection (2) is to be heard not less than one day before the time fixed for the hearing.

ICC-1581 ICCI Exhibit P-059 Page 386

(6) Where an application is made under this section, all evidence shall be given under oath or affirmation.

(7) Where an application is made under this section and where a Judge considers it to be in the best interest of the child, that Judge may

(a) hear the application at any time or place;

(b) receive evidence by telephone or other means of telecommunication; and

(c) administer an oath or affirmation by telephone or other means of telecommunication.

(8) Where a Judge is satisfied that the treatment is in the best interest of the child, that Judge shall by order authorize the treatment and shall

(a) complete and sign the order in duplicate indicating within the order the time, date and place at which it was made;

(b) immediately deliver one copy of the order to the applicant;

(c) as soon as is practicable file the order with the clerk of the court over which the Judge presides; and

(d) record the names of the persons giving evidence, the facts ascertained, the manner and location in which the evidence was received and shall file this record as soon as practicable with the clerk of the court over which the Judge presides.

(9) Where a child is treated pursuant to an order under this section, no liability attaches to the person treating the child by reason only that the guardian of the child did not consent to the treatment.

Notice

12.1 For the purposes of Part II of this Act, where a Judge is satisfied that the time required for notice to a person might endanger the health or safety of the child, the Judge may reduce the time required for notice to that person or may dispense with notice to that person.".

2. Section 13 of the Act is amended by deleting the figure "12" and substituting the figure "11.1".

ICC-1581 ICCI Exhibit P-059 Page 387

3. Subsection (1) of section 15 of the Act is amended by deleting the words and figures "(7) of section 12" and substituting the words and figures "(7) of section 11.1".

4. Section 56 of the Act is repealed and the following is substituted:

Appeal

"56. An appeal lies from a decision or order of the Minister or the Director or from an order, judgement or conviction of a Judge under this Act to

(a) the Trial Division if the decision, order, judgment or conviction under appeal was made by the Minister, the Director or a Provincial Court judge; or

(b) the Court of Appeal if the decision, order, judgment or conviction under appeal was made by a judge of the Trial Division or of Unified Family Court,

and the provisions of *The Judicature Act, 1986, The Small Claims Act* or *The Summary Proceedings Act*, as the case may be, and any applicable rules of court, shall govern the proceedings on such appeal."

Procedure

78. (1) Matters under this Act which are heard in the Trial Division or the Unified Family Court may be governed by the Divorce Rules of the Supreme Court of Newfoundland, with the necessary changes.

(2) The procedure in the Provincial Court shall be governed by *The Summary Proceedings Act* and where that Act is silent, the Rules of the Supreme Court, 1986 shall govern, where applicable.

(3) The provisions of the *Criminal Code* respecting bail, bail hearings and delay in release shall apply to a proceeding before the Trial Division or the Unified Family Court where applicable.

Extension of time

79. The court may extend time prescribed by this Act where the court is satisfied that

(a) there are *prima facie* grounds for relief;

(b) relief is unavailable because of delay that has been incurred in good faith; and

(c) no substantial prejudice or hardship will result to a person affected by reason of the delay.

Income Tax Act (Canada)

80. For the purposes of the *Income Tax Act* (Canada) a spouse includes a person who is required to make periodic payments in respect of support under a written agreement or a support order.

Regulations

81. The Lieutenant-Governor in Council may make regulations respecting a matter referred to as prescribed by the regulations.

CONSEQUENTIAL AMENDMENTS

1972 No. 37 as amended

82. (1) Subsection (2) of section 15 of *The Child Welfare Act, 1972* is repealed and the following substituted:

"(2) Where a child is committed temporarily or permanently to the care and custody of the Director, the court may order that the obligation of the parents to provide support to the child shall continue and Part III of *The Family Law Act* shall apply to permit the Director to apply for an order for support of the child.

(2.1) The order under subsection (2) shall be for the benefit of the Crown on the terms and conditions and for the period that the court considers appropriate.".

(2) Section 46 of the Act is amended by adding the following immediately after subsection (2):

ICC-1581 ICCI Exhibit P-059 Page 389

"(2.1) Where the Director enters into an agreement for support of a child taken into the Director's care and custody under subsection (1) that agreement may be enforced as a domestic contract under section 42 of *The Family Law Act*.".

(3) Subsections (4) and (5) of section 46 of the Act are repealed and the following substituted:

"(4) Where the Director has, under subsection (1) taken a child into his or her care and custody, the Director may apply to the court, on behalf of the child, for an order for support under Part III of *The Family Law Act* and the court shall consider the child to be a dependant of his or her parents for the purposes of the application.

(5) An order under subsection (4) shall be for the benefit of the Crown on the terms and conditions that the court considers appropriate in the circumstances.".

1973 No. 81 as amended

83. Subsection (5) of section 6 of *The Neglected Adults Welfare Act, 1973* is repealed and the following substituted:

"(5) Where an adult is, by order under subsection (1), committed to the care and custody of

(a) a person under paragraph (b) of subsection (4); or

(b) the Director under paragraph (c) of subsection (4),

the court may, by order declare the neglected adult to be a dependant and the provisions of Part III of *The Family Law Act* apply to permit either the person under paragraph (a) or the Director to apply for an order for support of the neglected adult.

(5.1) The order under subsection (5) shall be for the benefit of the Crown or the dependant or person under paragraph (b) on the terms and conditions and for the period that the court considers appropriate.".

ACTS REPEALED

Repeal of Acts

84. The following Acts are repealed

(a) *The Married Women's Property Act;*

(b) *The Matrimonial Property Act;* and

(c) *The Maintenance Act.*

(b) to the Trial Division if the order under appeal was made by a Provincial Court judge.

(2) There is no appeal of an order made under paragraph (b) of subsection (1) except by leave of the Court of Appeal.

Order effective pending appeal

81. An order under this Act is effective notwithstanding that an appeal is taken from the order, unless the court that made the order or the court to which the appeal is taken orders otherwise.

Rule of construction

82. (1) For the purposes of construing an instrument, Act or regulation, unless the contrary intention appears, a reference to a guardian with respect to the person of a child shall be construed to refer to custody of the child and a reference to a guardian with respect to property of a child shall be construed to refer to guardianship of the property of the child.

(2) Subsection (1) applies to an instrument, an Act of the Legislature or a regulation, order or by-law made under an Act of the Legislature enacted or made before, on or after the day this section comes into force.

CONSEQUENTIAL AMENDMENTS AND REPEAL

1972 No. 36 Amdt.

83. Sections 21, 22 and 23 of *The Adoption of Children Act, 1972* are repealed and the following substituted:

Status of children

"21. The status of a child that has been adopted shall be as set out in Part I of *The Children's Law Act*.".

1978 c. 57 Amdt.

84. (1) Subsections (1) and (2) of section 10 of *The Change of Name Act, 1978* are repealed and the following substituted:

Unmarried parents and children

"10.(1) Where the parents of a child have never married the parent with lawful custody of a child may apply to change

(a) the given name of that child;

(b) the surname of that child

(i) to the surname of that parent at the time of the application, or

(ii) where the parent is applying to change his or her own surname, to that proposed surname.".

(2) Subsections (3), (4) and (5) of section 10 of the Act are amended by striking out the words "an illegitimate" wherever they occur and substituting the word "a".

1972 No. 37 Amdt.

85. (1) Paragraph (a.1) of section 2 of *The Child Welfare Act, 1972* is amended by striking out the word "and" at the end of subparagraph (xiii),

by adding the word "and" at the end of subparagraph (xiv) and by adding immediately after subparagraph (xiv) the following:

"(xv) a child who is the subject of an enforcement proceeding respecting custody or access under *The Children's Law Act*, or the subject of a proceeding under section 250.1 or section 250.2 of the *Criminal Code*;".

(2) Section 15 of the Act is amended by inserting immediately after subsection (1) the following:

"(1.1) Where a hearing under this Act is proceeding at the same time as custody of a child is being determined the Director may apply to have the two matters heard together, whether the proceeding is being heard by the Provincial Court, the Trial Division or the Unified Family Court.".

RSN 1970 c. 126 Amdt.

86. Section 8 of *The Fatal Accidents Act* is amended by striking out the words and comma "an illegitimate child,".

RSN 1970 c. 183 Amdt.

87. (1) Section 2 of *The Intestate Succession Act* is amended by renumbering it as subsection (1).

(2) Paragraph (b) of subsection (1) of section 2 of the Act is repealed and the following substituted:

"(b) "issue" means all lineal descendants of a person through all generations.".

(3) Section 2 of the Act is amended by adding immediately after subsection (1) the following:

"(2) If the relationship of parent and child must be established at any generation to determine succession by, through or from a person under this Act, that relationship shall be established, insofar as it is applicable, under either

(a) *The Children's Law Act;* or

(b) *The Adoption of Children Act, 1972.*

(3) Notwithstanding paragraph (b) of subsection (2), the adoption of a child by the spouse of a parent does not terminate the relationship of parent and child between the child and that parent for purposes of succession under this Act.".

(4) Sections 15, 16 and 18 of the Act are repealed.

PART I
ANCIENT REMEDIES ABOLITION

1988 c.60

2. *The Family Law Act* is amended by adding immediately after section 76 the following:

"Ancient Remedies Abolition

Criminal conversation

76.1 No proceeding shall be brought for criminal conversation or for damages resulting from criminal conversation or from adultery.

Enticement, harbouring

76.2 No proceeding shall be brought by a married person for the enticement or harbouring of the spouse of that person or for damages resulting from enticement or harbouring.

Restitution of conjugal rights

76.3 No proceeding shall be brought by a married person for the restitution of conjugal rights."

PART II
VARIOUS AMENDMENTS

The Children's Law Act

1988 c.61

3. (1) Subsections (1) and (2) of section 6 of *The Children's Law Act* are amended by striking out the word "woman" where it twice occurs and by substituting the words "female person".

(2) Subsections (1), (2), (4), (5) and (6) of section 7 of the Act are amended by striking out the word "man" where it occurs and by substituting the words "male person".

(3) Subsection (4) of section 8 of the Act is repealed and the following substituted:

"(4) Where the court gives a party leave to obtain a blood or other genetic test under this section, the costs of that test shall be borne by the party requesting the test.

(5) Notwithstanding subsection (4), the court may order either party or both parties to pay a portion or all of the costs of the blood or other genetic test under this section.".

(4) Subsection (9) of section 26 of the Act is amended by deleting the words and figures "*The Adoption Act, 1972*" and by substituting the words and figures "*The Adoption of Children Act, 1972*".

(5) Section 27 of the Act is amended by striking out the word and figure "subsection (3)" and by substituting the word and figure "subsection (4)".

(6) Subsection (3) of section 36 of the Act is amended by striking out the words and commas "shall, if possible," and by substituting the word "may".

(7) Subsection (12) of section 36 of the Act is amended by striking out the words "on the staff of the Court" and by substituting the words "engaged or employed by the Court or otherwise by the Crown".

(8) The Act is amended by adding immediately after section 43 the following:

"43.1 Where a child is the subject of an enforcement proceeding respecting custody or access under section 53 or the subject of a proceeding under section 282 or 283 of the Criminal Code, a social worker employed with the Department of Social Services may take custody of the child for the purpose of facilitating his or her return to the person who has lawful custody of the child.".

(9) Section 54 of the Act is amended by striking out the words "or the Unified Family Court".

(10) Subsection (7) of section 67 of the Act is amended by striking out the words "this Part for custody of the child or guardianship of the property of the child" and by substituting the words "this Act for the custody of the child or this Part for guardianship of the property of the child".

(11) Subsection (2) of section 70 of the Act is amended by striking out the words "The court" and by substituting the words "A judge".

(12) Subsection (3) of section 70 of the Act is repealed and the following substituted:

"(3) The interview shall be recorded unless otherwise agreed to by the parties and the judge.".

(13) Subsection (1) of section 74 of the Act is amended by adding immediately after the words "Supreme Court of Newfoundland" the words "or the Rules of the Unified Family Court".

(14) Section 85 of the Act is repealed and the following substituted:

1972 No.37 Amdt.

"85. Section 15 of *The Child Welfare Act, 1972* is amended by inserting immediately after subsection (1) the following:

"(1.1) Where a hearing under this Act is proceeding at the same time as custody of a child is being determined the Director may apply to have the two matters heard together, whether the proceeding is being heard by the Provincial Court, the Trial Division or the Unified Family Court.".

(15) Section 89 of the Act is amended by adding immediately after paragraph (a) the following:

"(a.1) *The Estates of Infants Act*, ".

The Family Law Act

1988 c.60

4. (1) Subsection (5) of section 8 of *The Family Law Act* is amended by adding immediately after the words "in this Part" the words "and Part II".

(2) Subsection (2) of section 37 of the Act is repealed and the following substituted:

"(2) The obligation under subsection (1) does not extend to a child over sixteen years of age who has withdrawn from parental care.".

(3) Paragraph (j) of subsection (1) of section 40 of the Act is amended by striking out the words "a spouse whose life is insured"

1972 No.37 as amended

6. Subsection (4) of section 11.1 of *The Child Welfare Act, 1972* is amended by deleting the words "and the religion of the child and of his or her parents or guardian.".

1985 c.15 as amended

7. (1) Subsection (1) of paragraph 298 of *The City of Corner Brook Act, 1985* is repealed and the following substituted:

"298.(1) The Board of Assessors may award costs in respect of a hearing before them under this Act, but the costs shall be taxed by a taxing officer of the Supreme Court in accordance with the Scale of Costs in the Rules of the Supreme Court, 1986."

(2) Paragraph (b) of subsection (2) of section 339 of the Act is repealed.

(3) Subsection (1) is deemed to have come into force on September 2, 1986.

1988 c.35 as amended

8. (1) Subsection (1) of section 296 of *The City of Mount Pearl Act* is repealed and the following substituted:

"296.(1) The Board of Assessors may award costs in respect of a hearing before them under this Act, but the costs shall be taxed by a taxing officer of the Supreme Court in accordance with the Scale of Costs in the Rules of the Supreme Court, 1986."

(2) Paragraph (b) of subsection (2) of section 337 of the Act is repealed.

(3) Subsection (16) of section 443 of the Act is amended by striking out the number "1987" and by substituting the number "1981".

(4) This section is deemed to have come into force on July 21, 1988.

1973 No.38 as amended

9. (1) Paragraph (a) of subsection (1) of section 21.2 of *The Department of Municipal Affairs Act* is amended by striking out the words "or British subject".

(2) Section 23 of the Act is amended by adding immediately after subsection (6) the following:

CHAPTER 33

AN ACT TO AMEND THE CHILD WELFARE ACT, 1972

(Assented to December 7, 1990)

Analysis

Section:	Section:
1. S. 4 R&S Appearance in Court	2. Ss. 21 to 33 Rep. Mentally defective children

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

1972 No.37 as amended

1. Section 4 of *The Child Welfare Act, 1972* is repealed and the following substituted:

Appearance in Court

"4. The Director, the Assistant Director of Child Welfare or a social worker of the Department may appear in Court in respect of a matter arising out of a provision of this Act and he or she may conduct a prosecution instituted as a result of an alleged violation of this Act.".

2. Sections 21 to 33 inclusive of the Act are repealed.

CHAPTER 190

An Act Respecting Juveniles

Short title.

1. This Act may be cited as The Juveniles Act.

PART I

Juvenile Offenders.

Interpretation.

2. In this Part, unless the context otherwise requires, the expression

"juvenile delinquent" means any child who violates any provision of the criminal law (except homicide) or any by-law or ordinance of any municipality, or who is represented as being beyond parental control, or who is guilty of sexual immorality or any similar form of vice, or who, notwithstanding that he has been enrolled at a school according to law, wilfully refuses to attend, or who is liable by reason of any other act to be committed to a training school under the provisions of this Act.

Juvenile court

3. The Lieutenant-Governor in Council may establish and constitute in Newfoundland a court or courts for the purpose of dealing with juvenile delinquents under the provisions of this Act.

Judge of the juvenile court.

4. The Lieutenant-Governor in Council may appoint the judge of any juvenile court and may define the territorial limits of the jurisdiction of such judge.

Deputy judge.

5. The Lieutenant-Governor in Council may appoint the deputy judge of the court who shall have all the powers and authority of the judge of a juvenile court in case of the absence or illness or other disability of such judge.

Powers of judge of juvenile court.

6. The judge of a juvenile court in the exercise of his jurisdiction as such shall have all the powers of a magistrate.

Delinquency.

7. The commission by a child of any of the acts enumerated in Section 2 of this Act shall constitute an offence to be known as a delinquency and shall be dealt with as hereinafter provided.

Court's jurisdiction.

8. Save as provided in Section 10 of this Act, a juvenile court shall have exclusive jurisdiction within the provisions of Section 9 in cases of delinquency including cases where after the committing of the delinquency the child has passed the age limit of seventeen years: Provided that a juvenile court shall have no jurisdiction to try a child charged with murder or manslaughter.

All cases to go to the juvenile court.

9.—(1) When a child is arrested

(a) within the territorial limits of the jurisdiction of a juvenile court; or

(b) where the offence in respect of which the child was arrested was committed within such limits; or

(c) where the child's usual place of abode is within such limits,

with or without a warrant such child shall, instead of being taken before a magistrate, be taken before a juvenile court; and if the child is taken before a magistrate upon a summons or under a warrant or for any other reason it shall be the duty of the magistrate to transfer the case to the juvenile court or of the officer having the child in charge to take the child before the court and in any such case the juvenile court shall hear and dispose of the case in the same manner as if such child had been brought before it upon information originally laid therein.

(2) Where a child is brought before a magistrate charged with any offence, such magistrate shall, upon the motion of the Director of Child Welfare appointed under The Child Welfare Act, commit such child for trial to a juvenile court.

Procedure when offence is indictable.

10.—(1) (a) Where a child is charged with an offence which in the case of an adult would be punishable by imprisonment, and the child is actually or apparently of

or over the age of fifteen years, such child may be punished by fine or imprisonment: Provided that a child convicted on summary trial shall not be sentenced to a term of imprisonment exceeding three months;

(b) where a child is charged before a juvenile court judge and such judge deems it in the interest of the child and of the public to have the child dealt with under the provisions of paragraph (a) of this subsection, he may order that the child be committed to trial before a magistrate;

(c) where a child is committed to trial before a magistrate under the provisions of this subsection, the provisions of The Summary Jurisdiction Act (except the provisions as to punishment) shall apply to the trial of such child.

(2) A court may, in its discretion, at any time before any proceedings have been initiated against the child in the ordinary criminal courts rescind an order so made.

Notices to parents.

11.—(1) Due notices of the hearing of any charge of delinquency shall be served on the parent or parents or guardian of the child or if there be neither parent nor guardian or if the residence of the parent or parents or guardian be unknown then on some near relative whose whereabouts is known and any person so served shall have the right to be present at the hearing.

Judge directs who shall be served.

(2) The judge may give directions as to the persons to be served under this section and such directions shall be conclusive as to the sufficiency of any notices given in accordance therewith.

(3) The judge may, if he deems it in the best interests of the child so to do, issue a summons to the parents or either of them or to the guardian to attend any hearing referred to in subsection (1).

Police officer to serve process.

(4) It shall be the duty of every police officer to serve all processes issued out of any juvenile court and all orders made by the judge thereof in carrying out the provisions of this Act.

ICC-1581 ICCI Exhibit P-059 Page 408

Powers and duties of clerk.

12. The clerk of a juvenile court shall have power *ex officio* to administer oaths and also in the absence of the judge and deputy judge to adjourn any hearing for a definite period not to exceed ten days.

Trials to be private.

13.—(1) The trials of children shall take place without publicity and separately and apart from the trials of other accused persons.

(2) Such trial may be held in the private office of the judge or in some other private room.

Exclusion of persons at discretion of judge.

(3) When a child, or a parent or other person charged with an offence in respect of a child under this Act, is being tried or examined, the judge shall exclude or cause to be excluded from the room or place where such person is being tried or examined all persons other than the counsel and witnesses in the case, the Director, officers of the law or of any child welfare association or children's aid society or child welfare committee and the immediate friends or relatives or the parents of the child and such persons as the judge in his discretion may permit to be present.

Publication of report prohibited without leave of court.

(4) No report of the delinquency committed, or said to have been committed, by a child, or of the trial or of the disposition of the charge against a child, or of the charge against an adult brought before a court under this Act, in which the name of the child or of his parent or guardian or of any school or institution which the child is alleged to have been attending or of which he is alleged to have been an inmate is disclosed, or in which the identity of the child is otherwise indicated, shall without the special leave of the court be published in any newspaper or other publication or be published over the air by any broadcasting station.

Detention home.

14.—(1) The Lieutenant-Governor in Council may establish in connection with any juvenile court a detention home, or homes, for the care and detention of juvenile delinquents pending the disposition of the cases of such children by the juvenile court, and such detention home or homes shall be under the control and direction of the Director.

ICC-1581 ICCI Exhibit P-059 Page 409

Where there is no detention home.

(2) Where a child has been arrested without a warrant in a place where there is no detention home used exclusively for children, such child shall not be incarcerated unless in the opinion of the magistrate such course is necessary to insure the attendance of the child in court.

Promise to attend may be accepted.

(3) In order to avoid, if possible, such incarceration, the verbal or written promise of the person served with notice of the proceedings as aforesaid, or of any other proper person, to be responsible for the presence of such child when required, may be accepted; and in case such child fails to appear, at such time or times as the court requires, the person or persons assuming responsibility as aforesaid, shall, unless in the opinion of the court there is reasonable cause for such failure to appear, be deemed guilty of an offence.

Child not to be put with adult prisoners.

(4) A child held in any place of confinement pending trial shall not be held in a place where adult prisoners are kept: Provided that where a child is being dealt with under the provisions of Section 10 of this Act, the court before which he is to be tried may, in its discretion, order that he be held in custody in any gaol or other place used for the detention of prisoners pending final disposition of his case.

Court may accept bail.

15. Pending the hearing of a charge of delinquency the court may accept bail for the appearance of the child charged at the trial as in the case of other accused persons.

Court may adjourn or postpone hearing.

16. The court may postpone or adjourn the hearing of a charge of delinquency for such period or periods as the court may deem advisable, or may postpone or adjourn the hearing *sine die*.

Proceedings may be informal.

17.—(1) Proceedings under this Act with respect to a child, including the trial and disposition of the case, may be as informal as the circumstances will permit, consistently with a due regard for a proper administration of justice.

Not affected by irregularities

(2) No adjudication or other action of a juvenile court with respect to a child shall be quashed or set aside because of any informality or irregularity where it appears that the disposition of the case was in the best interests of the child.

Seal not required.

18. It shall not be necessary to its validity that any seal should be attached or affixed to any information, summons, warrant, conviction, order or other process or document filed, issued or entered in any proceeding had or taken under this Act.

Child's oath may be dispensed with.

19.—(1) When in a proceeding before a court a child of tender years who is called as a witness does not, in the opinion of the judge, understand the nature of an oath, the evidence of such child may be received, though not given under oath, if in the opinion of the judge such child is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth.

Corroborative evidence.

(2) No person shall be convicted upon the evidence of a child of tender years not under oath unless such evidence is corroborated in some material respect.

Disposition.

20.—(1) In the case of a child adjudged to be a juvenile delinquent the court may, in its discretion, take either one or more of the several courses of action hereinafter in this section set out, as it may in its judgment deem proper in the circumstances of the case,

(a) suspend final disposition;

(b) adjourn the hearing or disposition of the case from time to time for any definite or indefinite period;

(c) impose a fine not exceeding twenty-five dollars, which may be paid in periodical amounts or otherwise;

(d) commit the child to the care or custody of a welfare officer or of any other suitable person;

(e) allow the child to remain in his home, subject to the visitation of a welfare officer, such child to report to the court or to the welfare officer as often as may be required;

(f) cause the child to be placed in a suitable family home as a foster home, subject to the friendly supervision of a welfare officer and the further order of the court;

ICC-1581 ICCI Exhibit P-059 Page 411

(g) commit the child temporarily or permanently to the care and custody of the Director who, if he deems it desirable, may place the child in a training school;

(h) impose upon the delinquent such further or other conditions as may be deemed advisable;

(i) award reasonable compensation in a sum not exceeding five hundred dollars to a party injured in his person or by loss of goods, with the consent or on the motion of such party.

Parents liable to contribute, etc.

(2) In every such case it shall be within the power of the court to make an order upon the parent or parents of the child to contribute to its support such sum as the court may determine, and to require the parents or guardians of such child to take such measures respecting the welfare of such child and meet such conditions imposed by the court as are consistent with this Act.

Idem.

(3) Notwithstanding any other provision of this Act or any other course of action taken or order made under this Act, where a child has been adjudged to be a juvenile delinquent the court may, at any time after the adjudication and on the application of the Director or a welfare officer, issue a summons to the parents of the child to appear before it and the court may hold a hearing into the financial circumstances of the parents and make an order referred to in subsection (2).

Return of juvenile delinquent to court.

(4) Where a child has been adjudged to be a juvenile delinquent and the court has taken one of the courses of action set out in subsection (1), if the child fails to observe any conditions imposed upon him under that subsection the court may at any time before the child reaches the age of seventeen years, by notice, summons, or warrant, cause the child to be brought before the court and the court may take further action under subsection (1) or may make an order under Section 10.

Imprisonment shall not be imposed.

21. The punishment of imprisonment shall not be imposed on any child convicted of an offence otherwise than on conviction under the provisions of Section 10 of this Act.

Parent or guardian may be ordered to pay fine, damages or costs.

22.—(1) Where a child is adjudged to have been guilty of an offence and the court is of the opinion that the case would be best met by the imposition of a fine, damages or costs, whether with or without restitution or any other action, the court may order that the fine, damages or costs imposed or awarded be paid by the parent or guardian of the child instead of by the child.

Limit of amount.

(2) Where a fine is imposed and ordered to be paid by the parent or guardian, the limit of amount imposed by subsection (1) of Section 20 shall not apply, but shall in no case exceed the amount fixed for a similar offence under any provision of the criminal law.

Recovery of amount.

(3) Where, under the provisions of this section or of Section 20, a sum of money is ordered to be paid, the court may adjudge, either by the order respecting the payment of such sum or by an order made subsequently, that the same shall be recoverable by distress and sale of the goods and chattels of the party and in default of such distress by imprisonment, and the amount shall be so recoverable or shall be recoverable in the same manner as a fine imposed under any provision of the criminal law is recoverable.

Parent or guardian to be heard.

(4) No order shall be made under this section without giving the parent or guardian an opportunity of being heard; but a parent or guardian who has been duly served with notice of the hearing pursuant to Section 11 of this Act shall be deemed to have had such opportunity, notwithstanding the fact that he has failed to attend the hearing.

Appeal.

(5) A parent or guardian shall have the same right of appeal from an order made under the provisions of this section as if the order had been made on the conviction of the parent or guardian.

Additional action.

(6) Any action taken under this section may be additional to any action taken under Section 20.

Children not allowed to be in court.

23.—(1) 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 it is the person charged with the alleged offence, or unless

ICC-1581 ICCI Exhibit P-059 Page 413

his presence is required, as a witness or otherwise, for the purposes of justice.

Exception.

(2) This section shall not apply to messengers, clerks and other persons required to attend at any court for the purposes connected with their employment.

Adults liable who contribute to delinquency; penalty.

24.—(1) Any person, whether the parent or guardian of the child or not, who, knowingly, or wilfully

(a) aids, causes, abets or connives at the commission by a child of a delinquency; or

(b) does any act producing, promoting, or contributing to a child's being or becoming a juvenile delinquent or likely to make any child a juvenile delinquent,

shall be liable, apart from any other penalty that may be provided by law, on summary conviction before a court to a fine not exceeding two hundred dollars or to imprisonment for a period not exceeding six months or to both fine and imprisonment.

Liability of parents or guardians; penalty.

(2) Any person who, being the parent or guardian of the child and being able to do so, knowingly neglects to do that which would directly tend to prevent said child being or becoming a juvenile delinquent or to remove the conditions which render or are likely to render said child a juvenile delinquent shall be liable on summary conviction before a court to a fine not exceeding two hundred dollars or to imprisonment for a period not exceeding six months or to both fine and imprisonment.

Adjournment.

(3) The court may postpone or adjourn the hearing of a charge under this section for such periods as the court may deem advisable or may postpone or adjourn the hearing *sine die* and may impose conditions upon any person found guilty under this section and suspend sentence subject to such conditions, and on proof at any time that such conditions have been violated may pass sentence on such person.

No delinquency an invalid defence.

(4) It shall not be a valid defence to a prosecution under this section that notwithstanding the conduct of the accused the child did not in fact become a juvenile delinquent.

Penalty for inducing etc., child to leave home, etc., where he was placed under provisions.

25. Any person who induces or attempts to induce any child to leave any detention home, training school, foster home or any other institution or place where such child has been placed under the provisions of this Act or who removes or attempts to remove such child therefrom, without lawful authority, or who, when a child has unlawfully left the custody of an institution or foster home knowingly harbours or conceals such child without notice of the child's whereabouts to the institution or to the Director shall be guilty of an offence and shall be liable on summary conviction before a court to a penalty not exceeding one hundred dollars or to imprisonment for a period not exceeding one year, or to both fine and imprisonment.

Contempt of court.

26.—(1) A juvenile court shall have such and like powers and authority to preserve order in court during the sittings thereof and by the like ways and means as now by law are or may be exercised in like cases and for the like purposes by any court in Newfoundland and by the judges thereof, during the sittings thereof.

Enforcing of process.

(2) The judge of a juvenile court, whenever any resistance is offered to the execution of any summons, warrant of execution or other process issued by him, may enforce the due execution of the same by the means provided by the law for enforcing the execution of the process of other courts in like cases.

PART II.

CONCERNING JUVENILES AND TRAINING SCHOOLS.

Interpretation.

27. In this Part

(a) "authority" means the Youth Guidance Authority constituted under this Part;

(b) "committal order" includes any order made by lawful authority for the detention of a person in a training school;

(c) "court" means a Family Court or a magistrate's court;

(d) "Director" means the Director of Child Welfare appointed under The Child Welfare Act;

(e) "Director of Corrections" means the Director of Corrections appointed under Part I of The Corrections Act;

(f) "judge" means a judge of a court;

(g) "juvenile" includes every child apparently or actually under the age of seventeen years;

(h) "Minister" means the Minister of Social Services and Rehabilitation;

(i) "parent" includes a guardian and every person who is liable by law to maintain a child;

(j) "peace officer" includes any superintendent or other employee of a training school and any officer or member of The Constabulary Force of Newfoundland or of the Royal Canadian Mounted Police;

(k) "probation officer" means a juvenile probation officer appointed or designated under this Part;

(l) "superintendent" means the chief executive officer of a training school; and

(m) "training school" means a training school established under this Act.

Purpose of this Part.

28. The purpose of this Part is to ensure that the care, custody and discipline of a juvenile shall approximate as nearly as may be that which should be given by his parents, and that as far as practicable every juvenile requiring discipline shall be treated not as a criminal but as a misdirected and misguided child and one needing help, guidance, training and encouragement.

Youth Guidance Authority.

29.—(1) The Lieutenant-Governor in Council shall appoint a Youth Guidance Authority for the province consisting of the Director, the Director of Corrections, the superintendent of the Boys' Home and Training School, the superintendent of the Girls' Home and Training School, a psychiatrist registered under The Newfoundland Medical Board Act, and three other persons.

Duties.

(2) The authority shall, in addition to the duties hereinafter prescribed, perform such other duties consistent with this Act as may from time to time be designated by the Minister.

Chairman.

(3) The Director shall be chairman of the authority and in his absence another member of the authority elected by the members of the authority shall act as chairman.

Quorum.

(4) A majority of the members of the authority shall constitute a quorum for the transaction of business, and the majority opinion of the members present shall be a valid decision.

Supervision of voluntary inmates of training schools

30. Subject to the provisions of this Act, the authority shall examine and supervise the treatment of every juvenile admitted to a training school on a voluntary basis as though he had been lawfully committed to the training school.

Transfer of inmates of training school.

31.—(1) The Minister of Justice may, upon the request of the authority, direct the removal of any juvenile lawfully committed to a training school to a correctional institution for adults if he appears to require the training and treatment given in the adult institution rather than that given in the training school.

Examination of juvenile.

(2) Before making any request to the Minister of Justice under subsection (1), the authority shall cause the juvenile, in respect of whom the request is proposed to be made, to be examined by a psychiatrist registered and practising in Newfoundland, and shall obtain a report of such examination from the psychiatrist who made it and forward the report to the Minister of Justice when making the request.

Review

(3) The authority shall review the case of every juvenile so transferred at least once every three months and shall make such recommendation as appears appropriate for his care.

Release from training school.

32.—(1) Subject to the provisions of any Act of the Parliament of Canada and of this Act, the authority may direct the release of a juvenile from a training school on probation.

Terms and conditions of release.

(2) In the case of release under subsection (1), the authority shall prescribe the terms and conditions of the probation, and the Director is responsible for supervision of the juvenile while on probation.

Authority over probationer and parolee.

33.—(1) The Director may place before the authority for consideration the case of any person who is under its jurisdiction by probation and who

(a) has violated any of the terms and conditions of his probation;

(b) has failed to make a satisfactory adjustment on probation; or

(c) is believed to be adversely influenced by an unsuitable environment, whether in his home, school, place of work or other place frequented by him.

Idem.

(2) Upon examining such person, the authority may commit him to a training school or may continue or modify the terms and conditions of his probation.

Discharge.

34. The authority shall discharge from its jurisdiction and supervision any juvenile who has been on probation for a period of not less than six months as soon as in its opinion there is reasonable probability that he can be given full liberty without detriment to himself or to the community.

Commitment to training school.

35.—(1) Subject to any Act of the Parliament of Canada and to subsection (2), every juvenile committed to a training school shall be committed for an indefinite period and he shall thereupon be detained in a training school until he is released on probation.

Where juvenile committed to care and custody of Director for a fixed period.

(2) A juvenile who has been committed to the care and custody of the Director for a fixed period shall not be detained in a training school after the expiration of such period.

Probation officers.

36.—(1) The Minister may designate members of the staff of the Department of Social Services and Rehabilitation as probation officers with power to act in that capacity at any place within the province.

Voluntary Probation officers.

(2) The Director may, with the consent of any person, in writing appoint the person as a probation officer for the purpose of so acting in connection with a specified juvenile, and any person

so appointed shall be known as a voluntary probation officer and shall act without remuneration.

Responsible to Director.

(3) Probation officers are responsible to the Director for the standard of performance of their work under this Part.

Powers and duties.

(4) Every probation officer has the powers of a peace officer in the performance of his duties under this Part.

Probation.

37.—(1) In case a juvenile is reported to the Minister to have committed a delinquency but is not brought before the court, the Minister shall, at the request of the parents of the juvenile, assign and provide the services of a probation officer to visit the juvenile and his home indefinitely to supervise and assist the juvenile, his parents and others pertinently affecting him, in any way which appears likely to correct or avoid delinquent behaviour in the juvenile.

Report to Minister.

(2) The probation officer assigned under subsection (1) shall report to the Minister his observations and opinions regarding the adjustment of the juvenile.

Supervision.

(3) During a period of supervision under this section the juvenile shall be subject to such regulations and conditions as may be prescribed by the Minister.

Discharge from probation.

38. The Minister shall unconditionally discharge from his supervision any juvenile described in subsection (1) of Section 37 who in his opinion no longer requires such supervision after being subject thereto for at least six months.

Expenses on behalf of juvenile.

39. The Minister may make provision for the maintenance of any juvenile placed on probation and for the payment of any expenses incurred by the Department of Social Services and Rehabilitation on behalf of the juvenile previous to the disposition of his case.

Establishment of training schools.

40.—(1) The Minister may establish training schools for the confinement, study and treatment of such juveniles as may be lawfully committed thereto for guidance and training.

ICC-1581 ICCI Exhibit P-059 Page 419

Training school is detention home, institution and receiving home under The Child Welfare Act.

(2) Every training school established under this section is declared to be a detention home, an institution and a receiving home within the meaning of The Child Welfare Act and the Director may, subject to that Act, place any juvenile committed to his care and custody under that Act, in a training school established under this section for juveniles of the same sex as that juvenile.

Regulations for management of training school.

(3) The Minister may make rules and regulations for the management, internal economy and discipline of every training school operated under this Part and may prescribe the qualifications and duties of all officers and employees and the general and specific treatment of all persons confined in the training school.

Maintenance.

41. The cost of maintaining a training school shall be paid out of moneys appropriated by the Legislature for the purpose, but nothing herein contained shall prevent contributions towards such cost being made under or pursuant to any Act of the Parliament of Canada.

Staff.

42. A superintendent and such other officers and employees as may be required for the efficient administration of a training school shall be appointed or employed in the manner authorized by law.

Superintendent.

43. The superintendent is the chief executive officer of a training school under the supervision of the Director and shall

(a) direct and co-ordinate the programme of the training school; and

(b) control the internal management and administration of the training school as they relate to physical operations, matters of discipline and the treatment of all persons confined therein.

Authority to convey.

44. When a juvenile is committed to a training school, a copy of the committal order duly certified by the judge shall be sufficient authority for any peace officer to convey the juvenile to the training school and to deliver him to the superintendent.

Authority to detain.

45.—(1) The superintendent shall receive and detain every juvenile lawfully committed to the training school or removed thereto pursuant to the provisions of any Act of the Parliament of Canada or of the Legislature, until he is otherwise dealt with and he shall give to the peace officer or other person who delivers such juvenile an acknowledgment in writing of the delivery.

Notice to parents.

(2) Upon receiving a juvenile into the training school, the superintendent shall send to the juvenile's parents, guardians or other persons with whom the juvenile has been living a notice that the juvenile has been committed to the training school.

Special cause for detention.

46.—(1) Where a juvenile who is a transient is awaiting a hearing under this Act or The Child Welfare Act or in any other case where special circumstances appear to warrant such action, the Director may order that the juvenile be removed to and detained in separate quarters at a training school or other approved place pending the hearing and disposition of his case, but in that event every detention extended beyond eight days shall be reported in writing by the Director to the authority.

Transportation of juvenile on oral instructions of Director.

(2) Any peace officer, on receiving oral instructions from the Director affecting a juvenile, shall apprehend and transport the juvenile to the place of detention specified.

Confirmation of oral instructions.

(3) The Director shall immediately confirm such oral instructions by a written order.

Director to be guardian of every child admitted to training school.

47.—(1) The Director shall be the guardian of every child admitted to a training school under a commitment, in the same manner and to the same extent as in the case of a guardian appointed by statute or by any court or by any will or instrument, and, subject to this Act, all rights and powers over the child of the parent or any other person whatsoever, except the Director, shall, upon admission of the child to the training school, cease and determine.

Superintendent responsible for care and training of children in training school.

(2) Subject to this section, the superintendent shall be responsible for the care and training of every child admitted to a training school while the child is in the training school.

Recommendation for probation.

48.—(1) The superintendent of a training school shall recommend to the authority any juvenile committed to the school who in the opinion of the superintendent would profit by a period of probation.

Examination after recommendation.

(2) Upon such recommendation, the authority shall examine the pertinent circumstances concerning the juvenile with a view to determining whether he should be released on probation, having in mind the best interests of the juvenile and the well-being of the community.

Review.

(3) Notwithstanding anything contained in this section, the authority shall review, at least once yearly, the case of every juvenile committed to a training school and shall place on probation every juvenile who appears to the authority to be able to profit by such treatment.

Ill person not to be released.

49. No juvenile shall be discharged from a training school when suffering from a contagious or infectious disease or from an acute or dangerous illness, unless arrangements for his care have been made and are approved by the authority.

Employees constituted peace officers.

50.—(1) The officers and employees of a training school are hereby constituted peace officers for the training school and the property pertaining thereto and are empowered to proceed against or arrest summarily all persons within the training school and its precincts who are therein suspected of having committed any offence against the laws of Canada or Newfoundland or the regulations of or governing the training school and to arrest any person who refuses to leave the training school premises when requested to do so and take that person before any court of competent jurisdiction and cause proper complaint to be made against him.

Offence.

(2) Any person who within a training school or its precincts conducts himself in a manner which is detrimental to the discipline of the training school or to the behaviour of any juvenile therein or who fails to comply with or otherwise contravenes any of the provisions of the regulations of or governing the training school or who refuses to leave the training school premises when requested to do so by an officer or employee of the training school is guilty of an offence and may be proceeded against or

summarily arrested by the superintendent or by any employee and is liable on summary conviction to a fine of not more than one hundred dollars.

Special request for examination.

51.—(1) If a juvenile appears to be incorrigible or habitually engaged in socially unacceptable behaviour, his parents, guardians or a welfare officer of the Department of Social Services and Rehabilitation may make application in writing to the Director on a form provided for the purpose requesting an examination of the juvenile and guidance in treating the problem.

Examination.

(2) Upon receiving such request, the Director shall undertake such examination as he deems expedient.

Report.

(3) Upon completing his examination, the Director shall furnish to the person who requested the examination a statement in writing setting forth his opinion concerning the alleged problem together with any recommendations which he may see fit to make.

Application for voluntary admission.

52. Where the Director recommends a period of examination and training in a training school, and in such cases only, the parents or guardians may make voluntary application in writing to the authority requesting that the juvenile be admitted to a training school for training, and the authority shall approve or reject such application.

Admission of voluntary subjects.

53.—(1) The superintendent shall receive as a subject for treatment and training any juvenile on whose behalf an application for voluntary admission to a training school has been duly approved by the authority under Section 52.

Subject to discipline.

(2) A juvenile so received shall be subject to the officers and staff of the training school and to the discipline and regulations of or governing the training school.

Period of detention.

(3) A juvenile so received shall not be detained more than five days after his parents or guardians have given the superintendent a notice in writing of their desire to remove the child from a training school.

(4) The superintendent, with the consent of the authority, may discharge the juvenile from a training school five days after giving his parents or guardians notice in writing of the superintendent's intention to discharge him and, in case of such discharge, the parents or guardians are thereupon responsible for the child as though he had never been admitted to a training school. Discharge.

54. Where a juvenile is admitted to a training school upon voluntary application, the Minister may require payment by such person or by a person responsible for him, in respect of the services rendered, but no payment shall be required where, in the opinion of the Minister, the payment would constitute a hardship. Payment by or in respect of voluntary subjects.

55. Subject to this Act, every officer and employee working under the authority of this Act, regardless of the classification of his employment, has power to exercise custodial authority over and shall be a lawful guardian of persons committed to the custody of officers or to training schools authorized by this Act. Employees' custodial powers.

56. Confinement in a training school may include treatment appropriate for the help, guidance, training and encouragement of the person so confined. Treatment.

57. The Minister may, in his discretion, provide an allowance for any person confined in a training school and, upon his release, may provide him with transportation to his home or the home of his parents or guardians, a suitable outfit of clothing and a sum of money to assist him in re-establishing himself in his community. Assistance.

58. The Minister may make such rules and regulations which he deems necessary or desirable for carrying into effect the purposes and provisions of this Act according to their true intent and meaning and for supplying any deficiency therein. Regulations.

ICC-1581 ICCI Exhibit P-059 Page 426

of this Act in which the reference to Minister occurs;".

Concerning the exercise of powers, functions and duties by certain officers.

11. Where, consequent on the reorganization of the Government and the public service of the province being effected in the calendar year 1973, the title of any officer in the public service is altered or an officer is appointed to perform certain powers, functions and duties, if in

(a) any Act or regulation; or

(b) any order made under any Act or regulation or in any Order in Council or in any document whatsoever,

whether enacted or made before or after the coming into force of this section reference is made to an officer, such reference shall be deemed to be a reference to the officer carrying out the specific power, function or duty concerned, whatever his title, and all Acts, regulations, orders, Orders in Council and documents are amended to give effect to the provisions of this section.

Concerning The Welfare of Children Act (sometime known as The Juveniles Act).

12. Notwithstanding anything contained in The Revised Statutes of Newfoundland, 1970,

(a) the long title of Chapter 190 of The Revised Statutes of Newfoundland, 1970, namely "An Act Respecting Juveniles", is deleted and the following substituted therefor:

"AN ACT RESPECTING THE WELFARE OF CHILDREN";

(b) Section 1 of the said Act is repealed and the following substituted therefor:

Short title.

"1. This Act may be cited as The Welfare of Children Act.";

(c) the said Act is further amended by inserting immediately after Section 2 as Section 2A the following:

ICC-1581 ICCI Exhibit P-059 Page 427

Administration.

"2A. The Minister of Social Services and the Minister of Rehabilitation and Recreation are jointly charged with the administration of this Part, provided, however, that, if any conflict of jurisdiction or interest occurs with relation to any provision of this Part, the Lieutenant-Governor in Council may designate one or other of the said Ministers to administer the said provision to the exclusion of the other Minister.";

(d) Section 27 of the said Act is amended by deleting paragraph (h);

(e) the said Act is further amended by inserting immediately after Section 27 as Section 27A the following:

Administration.

"27A. The Minister of Social Services and the Minister of Rehabilitation and Recreation are jointly charged with the administration of this Part, provided, however, that, if any conflict of jurisdiction or interest occurs with relation to any provision of this Part, the Lieutenant-Governor in Council may designate one or other of the said Ministers to administer the said provision to the exclusion of the other Minister.";

(f) subsection (2) of Section 29 of the said Act is amended by deleting the words "designated by the Minister" and substituting therefor the words "designated in writing jointly by the two ministers referred to in Section 27A";

(g) subsection (1) of Section 36 of the said Act is amended by deleting the words "The Minister may designate members of the staff of the Department of Social Services and Rehabilitation" and substituting therefor the words "The Minister of Social Services may designate members of the staff of the Department of Social Services";

(h) Section 37 of the said Act is amended by adding immediately after subsection (3) as subsection (4) the following:

ICC-1581 ICCI Exhibit P-059 Page 428

"(4) In this section and in Sections 38 and 39 "Minister" means the Minister of Social Services."; Interpretation.

(i) Section 39 of the said Act is amended by deleting the words "the Department of Social Services and Rehabiliation" and substituting therefor the words "the province";

(j) Section 40 of the said Act is amended by adding immediately after subsection (3) as subsection (4) the following:

"(4) In this section "Minister" means the Minister of Rehabilitation and Recreation."; Interpretation.

(k) Section 43 of the said Act is amended by deleting the words "the Director" and substituting therefor the words "the Minister of Rehabilitation and Recreation";

(l) Section 51 of the said Act is amended by deleting the words "and Rehabilitation";

(m) Section 54 of the said Act is amended by deleting the words "the Minister" wherever they occur and substituting therefor, in each case, the words "the Minister of Rehabilitation and Recreation";

(n) Section 57 of the said Act is amended by deleting the words "the Minister" and substituting therefor the words "the Minister of Rehabilitation and Recreation"; and

(o) Section 58 of the said Act is amended by deleting the words "The Minister may make" and substituting therefor the words "The Ministers referred to in Section 27A may jointly make",

and

(p) wherever in The Revised Statutes of Newfoundland, 1970 reference is made to The Juveniles Act that

ICC-1581 ICCI Exhibit P-059 Page 429

reference is deleted and replaced by a reference to The Welfare of Children Act.

Concerning certain taxing Acts.

13.—(1) The Mineral Lands Taxation Act is amended by deleting the words "Mines, Agriculture and Resources" wherever they occur and substituting therefor, in every case, the word "Finance".

Idem.

(2) The Minerals and Options Tax Act is amended by

(a) deleting paragraph (b) of Section 2 and substituting therefor the following:

"(b) "Minister" means the Minister of Finance."; and

(b) deleting Section 7 and substituting therefor the following:

Registration and notice of options.

"7. Every option for the purchase, lease or licence of any mining claim or quarry shall be immediately registered in the Department of Mines and Energy and a written notice of such registration shall be given to the Minister."

Idem.

(3) The Mining Tax Act is amended by deleting the words "Mines, Agriculture and Resources" wherever they occur and substituting therefor, in every case, the word "Finance".

Concerning The Waste Material (Disposal) Act.

14. The Waste Material (Disposal) Act, Chapter 393 of The Revised Statutes of Newfoundland, 1970, is amended by deleting paragraph (d) of Section 2 and substituting therefor the following:

"(d) "Minister" means the Minister of Provincial Affairs and Environment;".

Concerning The Regulation of Mines Act.

15. The Regulation of Mines Act is amended by deleting from Section 2

(a) paragraph (d) thereof and substituting therefor the following:

information, suit or other proceeding under this Act may be laid, prosecuted or proceeded with before a youth court or a Provincial Court judge."

1973 No.31 Amdt.

29. Subparagraph (iv) of paragraph (a) of section 7 of The Department of Social Services Act, 1973 is repealed and the following substituted:

"(iv) the administration of all laws relating to the commission of offences by young persons within the jurisdiction of the province,".

RSN 1970 c.122 Rep.

30. The Family Courts Act is repealed.

1974 No.77 Amdt.

31. Paragraph (b) of subsection (1) of section 5 of The Provincial Court Act, 1974 is repealed and the following substituted:

"(b) subject to The Young Persons Offences Act, has all the power and authority now vested by or under an Act of the Legislature in a Provincial Court judge, two justices of the peace sitting together or a youth court or a judge thereof;".

RSN 1970 c.190 Rep.

32. The Welfare of Children Act is repealed.

Commencement

Commencement

33. This Act is deemed to have come into force on April 2, 1984.

KF 540 C55 1989

Dept. Of Justice
Child Welfare Legislation in
Newfoundland and Labrador:
1944-1989