CHAPTER 27.

An Act to amend the Law for the Prevention of Cruelty to Children. [20th July 1894.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Limit of age raised in case of boys to 16 years. 52 & 53 Vict. c. 44.

1. Sections one, five, and six of the Prevention of Cruelty to and Protection of Children Act, 1889 (herein-after called the principal Act), shall apply in the case of boys under the age of sixteen years in the same manner as they apply in the case of boys under the age of fourteen years, and sixteen years shall in those sections, with reference to the age of a boy, be accordingly substituted for fourteen years.

Application of principal Act in case of assault or death of a child.

2.—(1.) The principal Act shall be amended by the addition throughout that Act of the word "assaults" before the word "ill-treats," and "assaulted" before "ill-treated," and "assault" before "ill-treatment."

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

Explanation of principal Act as to neglect.

3. The principal Act shall apply in the case of a parent who being without means to maintain a child fails to provide for its maintenance under the Acts relating to the relief of the poor, in like manner as if he had otherwise neglected the child.

Power as to habitual drunkards. 42 & 43 Vict. c. 19. 51 & 52 Vict. c. 19.

4. Where it appears to the court by or before which any person is convicted of an offence under section one of the principal Act that that person is a parent of the child in respect of whom the offence was committed, or is living with the parent of the child, and is an habitual drunkard within the meaning of the Inebriates Acts, 1879 and 1888, the court, in lieu of sentencing such person to imprisonment, may, if it thinks fit, make an order for his detention for any period named in the order not exceeding twelve months in a retreat under the said Acts, the licensee of which is willing to receive him, and the said order shall have the like effect, and copies thereof shall be sent to the local authority and Secretary of State in like manner, as if it were an application duly made by such person and duly attested by two justices under the said Acts; and the court may order an officer of the court or constable to remove such person to the retreat, and on his reception the said Acts shall have effect as if he had been admitted in pursuance of an application so made and attested as aforesaid: Provided that—

(*a*) an order for the detention of a person in a retreat shall not be made under this section unless that person, having had such notice as the court deems sufficient of the intention to allege habitual drunkenness, consents to the order being made; and

(*b*) if the wife or husband of such person, being present at the hearing of the charge, objects to the order being made, the court shall, before making the order, take into consideration any representation made to it by the wife or husband; and

(*c*) before making the order the court shall, to such extent as it may deem reasonably sufficient, be satisfied that provision will be made for defraying the expenses of such person during detention in a retreat.

Amendments as to punishments.

5.—(1.) Six months shall be substituted for three months in section one of the principal Act as the term of imprisonment to which a person shall be liable as provided in that section on conviction by a court of summary jurisdiction.

(2.) The court in any case in which they have power to increase a fine on any person under section two of the principal Act shall have power to sentence that person to penal servitude for any term not exceeding five years, but any sentence so given shall be in substitution for and not in addition to any penalty which may be awarded under section one or section two of the said Act.

(3.) Section two of the principal Act shall be amended by the substitution of the word "indicted" for the words "convicted on indictment;" and the words in that section from "such interest as aforesaid" to the end of the section are hereby repealed.

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

Extension and amendment of s. 3 of principal Act.

6.—(1.) If any person having the custody, charge, or care of a child allows that child to be in any street, premises, or place for any purpose which in reference to the street, premises, or place is forbidden in respect of that child by or in pursuance of section three of the principal Act as amended by this Act, that person shall be liable to the like penalties as if he had caused that child so to be in such street, premises, or place.

(2.) Section three of the principal Act shall be amended by inserting the words "premises or place" after "street" in paragraph (*a*), by substituting the words "nine p.m. and six a.m." for "ten p.m. and five a.m." in paragraph (*b*), and by substituting the word "eleven" for the word "ten" in paragraph (*c*).

(3.) If any person causes or procures any child, or, having the custody, charge, or care of any child, allows that child to be in any place for the purpose of being trained as an acrobat, contortionist, or circus performer, or of being trained for any exhibition or performance which in its nature is dangerous, that person shall, unless he has a licence under section three of the principal Act, or is the parent or legal guardian of the child and himself trains the child, be liable to the same penalties as are provided by that section for the offences therein mentioned, and a licence under that section may be separately granted for the purposes of this enactment.

(4.) Where any person applies for a licence under section three of the principal Act he shall, at least seven days before making

the application, give notice thereof to the chief officer of police for the district in which the licence is to take effect, and that officer may appear or instruct some person to appear before the authority hearing the application, and show cause why the licence should not be granted, and the authority to whom the application is made shall not grant the same unless they are satisfied that notice has been properly given under this section.

(5.) Where a licence is granted under section three of the principal Act to any person, that person shall, not less than ten days after the granting of the licence, cause a copy thereof to be sent to the inspector of factories and workshops acting for the district in which the licence is to take effect, and if he fails to cause such copy to be sent shall be liable on summary conviction to a fine not exceeding five pounds.

(6.) Section three of the principal Act shall not apply in the case of any occasional sale or entertainment the net proceeds of which are wholly applied for the benefit of any school or to any charitable object, if such sale or entertainment is held elsewhere than in premises which are licensed for the sale of any intoxicating liquor but not licensed according to law for public entertainments, or if, in the case of a sale or entertainment held in any such premises as aforesaid, a special exemption from the provisions of the said section has been granted in writing under the hands of two justices of the peace.

Amendment of s. 4 of principal Act.

7.—(1.) Any constable may take into custody without warrant any person who has committed or who he has reason to believe has committed any offence under section one of the principal Act, if he has reasonable ground for believing that such person will abscond, or if the name and address of that person is unknown to and cannot be ascertained by the constable, and the provisions of section four of the principal Act as to the release on bail of persons arrested without a warrant under that section shall apply to persons arrested without a warrant under this section.

(2.) Any constable may take any child, in respect of whom there is reason to believe that an offence under section one of the principal Act has been committed, to a place of safety, and a child so taken to a place of safety, and also any child who seeks refuge in a place of safety, may be there detained until the child can be brought before a court of summary jurisdiction.

(3.) Where it appears to a court of summary jurisdiction or any justice that an offence under section one of the principal Act has been committed in the case of any child that is brought before such court or justice, and that the health or safety of the child will be endangered unless an order is made under this section, the court or justice may, without prejudice to any power under the principal Act, make such order as circumstances require for the care and detention of the child until a reasonable time has elapsed for a charge to be made against some person for having committed the offence, and if a charge is made against any person within that time until the charge has been determined by the committal for trial or conviction

or discharge of that person, and an order under this section may be carried out notwithstanding that any person claims the custody of the child.

(4.) Where the place of safety to which a constable shall take a child is a workhouse, the master shall receive such child into the workhouse if there is suitable accommodation therein for the same, and shall detain such child until the case is determined, and any expenses incurred in respect of such child shall be deemed to be expenses incurred in the relief of the poor.

(5.) Boards of guardians, and, in Scotland, parochial boards, shall provide for the reception of children brought to a workhouse in pursuance of the principal Act or this Act.

Amendment of s. 5 of principal Act.

8.—(1.) An order under section five of the principal Act for the committal of a child to the custody of a relation or other person named by the court as therein provided may be made either in manner provided by that section or by the court before whom a person has been convicted, committed for trial, or bound over to keep the peace as mentioned in that section, and that court, if it thinks fit, may make the order at the time when such person is so dealt with, and without requiring new proceedings to be instituted for the purpose of the order.

(2.) Any such order, and also any subsequent order renewing, varying, or revoking the same, 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 custody of a child in pursuance of an order shall be proved in such manner as the court may think sufficient to bind him.

(3.) The said section shall have effect where a parent of the child has been convicted of or committed for trial for the offence, in like manner as where such parent is under committal for trial for having been, or has proved to have been, party or privy to the offence.

(4.) An order on the parent of a child to contribute to its maintenance may be made under sub-section two of the said section either at the time when the order for its committal to the custody of any person is made, or subsequently; and if a person fails to pay any sum payable by him in pursuance of an order under that sub-section, he may be dealt with in like manner as if the sum were due from him in pursuance of an order under the Bastardy Law Amendment Act, 1872, or in Scotland were a sum decerned for aliment, or in Ireland were a sum ordered to be paid by him under the Summary Jurisdiction (Ireland) Acts.

35 & 36 Vict. c. 65.

(5.) The limit on the amount of the weekly sum which the parent of a child may be required, under sub-section two of the said section, to contribute to its maintenance shall be one pound a week instead of the limit fixed by the Industrial Schools Acts.

(6.) The provisions of section five of the principal Act shall apply, in the case of a person who gives such undertaking as seems to the court sufficient that the child shall be brought up in accordance with its own religious persuasion, in the same manner as they apply

in the case of a person who is of the same religious persuasion as the child, but only so long as the undertaking is observed.

Restriction on power to emigrate child.

9. A Secretary of State, in any case where it appears to him to be for the benefit of a child who has been committed to the custody of any person under section five of the principal Act, may empower such person to procure the emigration of the child, but, except with such authority, no person to whose custody a child is so committed shall procure its emigration.

Interchange of powers under Industrial Schools Acts and principal Act.

10.—(1.) Where a child is brought before a petty sessional court under circumstances authorising the court to deal with the child under the Industrial Schools Acts, the court, if it thinks fit, in lieu of ordering the child to be sent to an industrial school, may make an order under section five of the principal Act for the committal of the child to the care of a relation or person named by the court as therein provided.

(2.) Where a court orders a child to be sent to an industrial school, the order may, at the discretion of the court, be made to take effect either immediately or at any later time specified therein, regard being had to the age or health of the child; and, if the order is not made to take effect immediately, or if at the time specified for the order to take effect the child is deemed unfit to be sent to an industrial school, the court may commit the child to the custody of a relation or person named by the court, as provided by section five of the principal Act until the time so specified or the time when the order actually takes effect.

Amendment of s. 6 of principal Act.

11.—(1.) It shall not be necessary in any information or warrant under section six of the principal Act to name the child.

(2.) A warrant issued under section six of the principal Act may authorise any person named in the warrant to remove a child, with or without search, to a place of safety, and detain it there until it can be brought before a court of summary jurisdiction, and the provisions of that section shall apply in the case of any such warrant as they apply in the case of a warrant to search for a child and take it to and detain it in a place of safety.

Extension of provisions of principal Act to other offences. 24 & 25 Vict. c. 100. 42 & 43 Vict. c. 34.

12. Sections four to nine, inclusive, of the principal Act, and the provisions of this Act shall apply in the case of any offence against a child under sections twenty-seven, forty-three, fifty-two, fifty-five, and fifty-six of the Offences against the Person Act, 1861, or in the case of any offence under the Children's Dangerous Performances Act, 1879, or in the case of any other offence involving bodily injury to a child, in the same manner as they apply in the case of an offence against section one of the principal Act, and a reference to the said offences shall be included in any reference in those sections and provisions to an offence under the principal Act or section one thereof.

Mode of charging offences and limitation of time.

13.—(1.) Where a person is charged with committing an offence under the principal Act or 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 informations.

(2.) The same information or summons may also charge the offences of assault, ill-treatment, neglect, abandonment, or exposure, together or separately, 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 the principal Act or 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.) Where an offence under the principal Act or 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 to take deposition of child in writing.

14.—(1.) Where a justice is satisfied by the evidence of a registered medical practitioner that the attendance before a court of any child in respect of whom an offence under section one of the principal Act is alleged to have been committed would involve serious danger to its life or health, the justice may take in writing the deposition of such child on oath, 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 justice taking any such deposition shall transmit the same 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 clerk of the peace of the county or borough in which the deposition has been taken;

and the clerk of the peace to whom any such deposition is transmitted shall preserve, file, and record the same.

Admission of deposition of child in evidence.

15.—(1.) Where on the trial of any person on indictment for any offence under section one of the principal Act the court is satisfied by the evidence of a registered medical practitioner that the attendance before the court of any child in respect of whom the offence is alleged to have been committed would involve serious danger to its life or health, any deposition of the child taken under the Indictable Offences Act, 1848, or the Indictable Offences (Ireland) Act, 1849, or the Petty Sessions (Ireland) Act, 1851, or this Act, shall be admissible in evidence either for or against the accused person without further proof thereof—

11 & 12 Vict. c. 42.
12 & 13 Vict. c. 69.
14 & 15 Vict. c. 93.

(*a*) if it purports to be signed by the justice by or before whom it purports to be taken; and

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

(2.) Section eight of the principal Act shall be amended by inserting after the words "Petty Sessions (Ireland) Act, 1851," the words "or of section fourteen of the Prevention of Cruelty to Children (Amendment) Act, 1894," and by inserting at the end of the section after the word "offenders" the words "or in Ireland, by section four of the Summary Jurisdiction over Children (Ireland) Act, 1884, in the case of children." 47 & 48 Vict. c. 19.

Power to proceed with case in absence of child.

16. Where in any proceedings with relation to an offence under section one of the principal Act the court is satisfied by the evidence of a registered medical practitioner that the attendance before the court of any child in respect of whom the offence is alleged to have been committed would involve serious danger to its life or health, and is further satisfied that the evidence of the child is not essential to the just hearing of the case, the case may be proceeded with and determined in the absence of the child.

Provision as to step-parent, &c.

17. The provisions of the principal Act and this Act relating to the parent of a child shall apply to the step-parent of the child and to any person cohabiting with the parent of the child.

Definition of "custody, charge, or care."

18.—(1.) For the purposes of this Act, and of the principal Act as amended by this Act,—

Any person who is the parent of a child shall be presumed to have the custody of the child; and

Any person to whose charge a child is committed by its parent shall be presumed to have charge of the child; and

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

(2.) The words "charge or care" shall be substituted for "control or charge" in section one, and for "or control" in section five, of the principal Act; and the word "custody" shall be substituted for "charge" in the said section five wherever the latter word is used in connexion with an order under that section or with any such undertaking by a relation of a child or other person as therein mentioned.

Definitions.

19. Unless the context otherwise requires—

The expression "child" in this Act shall mean a boy or girl under the age of sixteen; and

The expression "injury to its health" in the principal Act shall be presumed to include injury to or loss of sight, or hearing, or limb, or organ of the body, and any mental derangement.

The expression "place of safety" shall both in the principal Act and in this Act include any workhouse or police station,

or any hospital surgery, or place of the like kind; and in the definition of place of safety in section seventeen of the principal Act the words "by byelaw" shall be repealed.

The expression "committed for trial" shall mean, as regards Ireland, committed to prison or admitted to bail in manner provided in the Summary Jurisdiction (Ireland) Acts.

The expression "Industrial Schools Acts" shall mean—

29 & 30 Vict. c. 118.
(*a*) as regards England and Scotland, the Industrial Schools Act, 1866, and the Acts amending the same; and

31 & 32 Vict. c. 25.
(*b*) as regards Ireland, the Industrial Schools Act (Ireland), 1868, and any Act amending the same.

The expression "chief officer of police" shall mean—

in England—

in the city of London and the liberties thereof, the commissioner of city police;

in the metropolitan police district, the commissioner of police of the metropolis;

elsewhere in England, the chief constable, or head constable or other officer, by whatever named called, having the chief local command of the police in the police district in reference to which such expression occurs:

in Scotland—

the chief constable, or head constable, superintendent or inspector, or other officer, by whatever name called, having the chief local command of the police in the police district in reference to which such expression occurs:

in Ireland—

in the police district of Dublin metropolis, the chief commissioner of the police for the said district; and

in any other police district the county inspector of the Royal Irish Constabulary.

Application to Ireland.

20. In the application of this Act to Ireland the Chief Secretary shall be substituted for a Secretary of State.

Application to Scotland.

21. In the application of this Act to Scotland the Secretary for Scotland shall be substituted for a Secretary of State, "manslaughter" shall mean culpable homicide, and "defendant" shall include panel, respondent, or person charged.

Short title and construction. 52 & 53 Vict. c. 44.

22.—(1.) This Act may be cited as the Prevention of Cruelty to Children (Amendment) Act, 1894, and shall be construed as one with the Prevention of Cruelty to and Protection of Children Act, 1889, and that Act and this Act may be cited together as the Prevention of Cruelty to Children Acts, 1889 and 1894.

(2.) This Act shall come into operation at the expiration of one month from the passing thereof.