

Laws of Her Majesty's Province of Newfoundland, passed in the year 1865. J. C. Withers,
Queen's Printer, 1865.

28 Victoria – Chapter 6

An Act to make provision for Wives and Children Deserted by their Husbands and Parents, and for Aged Persons Deserted by their Children. (Passed 7th April, 1865.)

Whereas by reason of the frequent Desertion and Abandonment, in a state of destitution, of Wives by their Husbands, of Children by their Parents, and of Aged Persons by their Children, much expense is annually occasioned to the public, and much suffering sometimes experienced by those who are thus abandoned.

Be it therefore enacted by the Governor, Legislative Council and Assembly, in Legislative Session convened, as follows:

I. Whenever a complaint on oath shall be made by a Commissioner of the Poor, or any other person, before any Stipendiary Justice of the Peace, that any Husband has left destitute, abandoned, or deserted, or is about to leave destitute, abandon or desert his Wife; that any Parent has left destitute, abandoned or deserted, or is about to leave destitute, abandon or desert his or her Infant Child; or that any Child has left destitute, abandoned or deserted, or is about to leave destitute, abandon or desert his or her aged or infirm Parent; the person so left destitute, abandoned or deserted, or about to be left destitute, abandoned or deserted, being destitute of the means of support, and likely to become a burden on the Colony, and the party so leaving destitute, abandoning or deserting, or about to leave destitute, abandon or desert, having the means or ability to maintain such Wife, Child, or Parent aforesaid, it shall be lawful for such Justice, by summons or by warrant, to cause the party so charged to be brought before him, and thereupon, if upon inquiry such complaint shall be sustained, it shall be lawful for such Justice to require the party charged as aforesaid, to give sufficient security by Bond to the Stipendiary Commissioner of the Poor at St. John's, and his successors in office, for the support and maintenance of the person in relation to whom the charge is made, and in default of such order being forthwith obeyed, to sentence the party charged to imprisonment, with or without hard labor, for any period not exceeding thirty days: Provided that if after committal the party charged shall give such security, he or she shall be forthwith discharged: Provided also, that every subsequent month's abandonment or desertion as aforesaid, shall be deemed a repetition of the first offence.

II. In any case where, upon any such complaint as aforesaid, it shall be made to appear upon such inquiry, and whether the party charged shall have been brought before such Justice or not, that the party charged has any property within the jurisdiction of the said Justice, or that he is in the receipt of any salary, allowance, pension or wages, it shall be lawful for such Justice, if such order aforesaid be disobeyed, or cannot be made, by reason of the party charged not being brought before such Justice, to make an order directing the appropriation of so much of such property as may be necessary, or the payment of a reasonable proportion of such salary, allowance, pension or wages, towards the maintenance and support, from time to time, of the party the subject of such order; and such order shall be binding and obligatory upon all person whomsoever, having notice thereof; and every

employer or other person having the payment of such salary allowance, pension or wages, aforesaid, shall conform to and obey the same, and in default of Conformity and obedience thereto, may be compelled to pay the amount from time to time payable thereunder, with costs, in an action of debt to be brought and determined, in a summary manner, in the name of the Stipendiary Poor Commissioner at Saint John's, before any Stipendiary Justice of the Peace.

III. It shall be lawful for such Justice, for the purpose of such inquiry as aforesaid, to compel the appearance, by summons, and, if necessary, by warrant, of any third person, and to examine such person, upon oath, as to any such property, allowance, pension, or wages, aforesaid.

IV. The term "Parent" in the preceding sections, shall include a Grand Parent, and the term "Child," a Grand Child.

V. Whenever a complaint, on oath, shall be made before any Justice of the Peace, by any woman charging any person with having gotten her with child, which child is likely to be born a bastard, and become chargeable to the Colony; and whenever a complaint on oath, shall be made by any person charging any other person with being the father of an illegitimate Child, chargeable, or likely to become chargeable, to the Colony; it shall be lawful for such Justice to issue his warrant, and cause the party charged to be brought before him; and if upon inquiry, such charge shall be sustained, and it shall not appear that the Mother of the Child was a common prostitute, it shall be lawful for such Justice to make an order affiliating such Child upon the party charged, and requiring sufficient security, by Bond to the Stipendiary Commissioner of the Poor at St. John's, and his successors in office, to be given for the support and maintenance of such Child until it shall have arrived at the age of ten years, or shall die, or be satisfactorily provided for; and in case such order shall not be forthwith obeyed, it shall be lawful for such Justice to sentence the party charged to imprisonment in the common gaol, with hard labor, for any period not exceeding six months: Provided that if, after committal, the party charged shall give such security, he shall be forthwith discharged: Provided that where the Justice shall deem it reasonable, in the case of a Child not already born, final order upon the charge may be postponed until after the birth of the Child, the party charged giving sufficient security to abide any order to be made against him.

VI. The provisions and proceedings mentioned and contained in the second and third Sections of this Act, in relation to cases of desertion and abandonment under the first Section, shall be applicable and may be put in force and carried out in all cases coming within the operation of the last preceding Section.

VII. It shall be competent for any person upon whom an order of affiliation shall have been made as aforesaid, to relieve himself from all obligation thereunder by the payment to such Justice, for the Receiver General of the Colony, of the sum of One Hundred and Fifty Dollars.

VIII. Every Mother of an Illegitimate Child who, having the ability to labor, or any means of supporting it, shall neglect or refuse to support and maintain such child, or shall abandon, desert, or leave it in any place, shall, upon conviction, in a summary manner, before any Justice of the Peace, be subject and liable, and may be sentenced, to imprisonment, with or without hard labor, in the common gaol, for

any period not exceeding six months; and it shall be lawful for such Justice, upon complaint on oath being made before him of the commission, by any woman, of such offence, to issue his warrant for her apprehension, in order to a conviction for the same.

IX. The continued neglect or refusal to support and maintain such Child by its Mother, for any subsequent month after a first conviction for such offence, shall be held and deemed to be a new offence, and shall be dealt with and punished in the manner hereinbefore provided with respect to such first offence.

X. Any person charged by any woman or other person with being the Father of an Illegitimate Child, and being convicted thereof by a Justice, may, upon giving satisfactory security to abide the final determination of the case and to pay the costs thereof, if finally convicted, appeal from the order of affiliation to the Court of General Quarter Sessions for the District, before whom the matter in issue shall be determined by the Jury in attendance for the trial of other matters: Provided also, that if, upon such trial, it be satisfactorily proven that the Mother of the Child was a common prostitute, and the Jury shall find such fact, such finding shall be equivalent to a finding of not guilty on the main charge.

XI. If any Mother of an Illegitimate Child shall falsely and fraudulently charge any person with being the Father thereof, such Mother, upon conviction of such offence in a summary manner before any Stipendiary Justice of the Peace, shall be sentenced to imprisonment in the common gaol, with hard labor, for any period not exceeding six months.

XII. Upon complaint upon oath being made before any Stipendiary Justice that any Husband or Father, having property, is, by habits of drunkenness, dissipating his property, so as to expose his Wife or Children to the danger of destitution, it shall be lawful for such Justice to summon such Husband or Father before him, and to inquire into the matter of such complaint, and if, upon inquiry, the same shall appear to be well founded, it shall be lawful for such Justice to make an order requiring such Husband or Father to give satisfactory security to the Stipendiary Commissioner of the Poor at St. John's, and his successors in office, for the maintenance of his family, and in default of such order being obeyed, to commit the offender to prison until he shall conform to such order, or be discharged by due course of Law. And it shall further be lawful for the said Justice, where such security as aforesaid shall not be given, if he shall think fit, in lieu of committing such offender to prison as aforesaid, to order that so much of the property of such offender as may be necessary, be taken and applied to the maintenance of his said family; and such last mentioned order shall be carried into effect under the direction of the Stipendiary Poor Commissioner, and shall be a justification in Law for his proceedings thereunder; and the provisions of the second and third sections of this Act shall be applicable to the object of this Section.

XIII. Every order made as aforesaid by such Stipendiary Justice, affecting landed property, shall be registered in the Registry of Deeds for the District where such land shall be situated; and from the time of such order being deposited for Registration, shall have the effect of a conveyance of such land by the owner thereof, for the purposes of such order: Provided always that any Stipendiary Justice of the District aforesaid shall have power to rescind any order made as aforesaid, upon receiving such other

security as to him may appear sufficient, and also in cases in which it may not be deemed necessary longer to continue the operation of such order.

XIV. All Deeds, Assignments and Conveyances, of any lands or other property, made, done or executed with the intent and purpose of defeating any attachment made in pursuance of this Act shall be, and the same are hereby, declared void, except in the case of a bona fide purchaser or grantee, for a valuable consideration, who shall not have been aware of, or a party to, such intent and purpose.

XV. It shall and may be lawful for the Stipendiary Commissioner of the Poor to control the management of Illegitimate Children supported by the Colony, and to apprentice them, when of competent age, or otherwise to provide for them.

XVI. Any Master of a Vessel or other person who shall bring into and land in any place in Newfoundland, any person who, at the time of such landing, shall, from sickness, age, infirmity, or want of means of support, become chargeable to the Government, shall be subject to a penalty of One Hundred Dollars to be recovered, in a summary manner, with costs, before a Stipendiary Justice of the Peace, in an action to be brought in the name of and by the Stipendiary Commissioner of the Poor, and paid over to the Receiver General for the use of the Colony; and no conviction under this Act shall be removeable by Certiorari or otherwise.

XVII. From and after the passing of this Act, an Act passed in the fourth year of the reign of his late Majesty, King William the Fourth, entitled "An Act to provide for the maintenance of Bastard Children," and also an Act passed in the fourth year of the Reign of His late Majesty King William the Fourth, entitled "An Act to afford relief to Wives and Children deserted by their Husbands and Parents and also an Act passed in the Twenty-first year of the Reign of Her present Majesty, entitled "An Act to afford relief to Wives and Children deserted by their Husbands and Parents," shall be and the same are hereby repealed.