

Laws of Her Majesty's Province of Newfoundland, passed in the year 1867. J. C. Withers,
Queen's Printer, 1867.

30 Victoria – Chapter 10

An Act for the Protection of Married Women in certain cases. (Passed 26th April, 1867.)

Whereas it is expedient to protect the Property of Married Women in certain cases.

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

I. A Wife deserted by her Husband, wherever resident in Newfoundland, may, at any time after such desertion, apply to a Judge of the Supreme Court for an Order to protect any Money or Property she may have acquired or may acquire, by her own lawful industry, and any Property which she may have become possessed of, or may become possessed of, after such desertion, against her Husband and his Creditors, or any Person claiming under him.

II. Such Judge, if satisfied of the fact of the desertion, and that the same was without reasonable cause, and that the Wife is maintaining herself by her own Industry or Property, may make and give to the Wife an Order protecting her Earnings and Property, acquired since the commencement of such desertion, from her Husband, and all Creditors and Persons claiming under him; and such Earnings and Property shall belong to the Wife as if she were a feme sole. Provided always, that every such Order, after the making thereof, be entered with the Registrar of Deeds within whose jurisdiction the Wife is resident.

III. It shall be lawful for the Husband, and any Creditor, or other Person claiming under him, to apply to a Judge of the Supreme Court for a discharge of such Order, who, on sufficient cause shewn, may grant such discharge.

IV. If the Husband, or any Creditor of or Person claiming under the Husband, shall Attach, Seize, or continue to hold, any Property of the Wife after notice of any such Order, he shall be liable, at the suit of the Wife, which she is hereby empowered to bring, to restore the specific Property, and also, a sum equal to double the value of the Property so Attached, Seized or held after such notice.

V. If any such Order of Protection be made, the Wife shall, during the continuance thereof, be deemed to have been, during such desertion of her, in the like position in all respects, with regard to Property and Contracts, and suing and being sued, as she would be if she were a feme sole.

VI. The provisions contained in this Act respecting the Property of a Wife who has obtained an Order for Protection, shall be deemed to extend to Property to which such Wife has become, or shall become entitled as Executrix, Administratrix, or Trustee, since the commencement of the desertion; and the death of the Testator or Intestate, shall be deemed to be the time when such Wife became entitled as Executrix or Administratrix.

VII. In any case in which a Wife shall, under this Act, have obtained an Order to protect her Earnings or Property, such order shall, until reversed or discharged, so far as necessary for the protection of any Person or Corporation who shall deal with the Wife, be deemed valid and effectual.

VIII. No discharge of such Order shall prejudice or affect any rights or remedies which any Person would have had in case the same had not been so discharged, in respect of any Debts, Contracts, or Acts of the Wife, incurred, entered into, or done, between the times of the making of such Order and of the discharge thereof.

IX. Property of or to which the Wife is possessed, or entitled, for an Estate in remainder or in reversion, or any annual or other income arising out of Property devised or bequeathed to or settled upon her at the date of the desertion, shall be deemed to be included in the protection given by the Order.

X. Every Order which shall be obtained by a Wife under this Act, for the protection of her Earnings or Property, shall state the time at which the desertion, in consequence whereof the Order is made, commenced; and the Order shall, as regards all personal dealing with such Wife in reliance thereon, be conclusive as to the time when such desertion commenced.

XI. All Persons and Corporations who shall, in reliance on any such Order as aforesaid, make any payment to, or permit any transfer or act to be made or done by the Wife who has obtained the same, shall, notwithstanding such Order may then have been discharged, be protected and indemnified in the same way in all respects as if, at the time of such payment, transfer or other act, such order were valid, and still subsisting without variation, in full force and effect, and the separation of the Wife from her Husband had not ceased or been discontinued, unless at the time of such payment, transfer, or other act, such Person or Corporation had notice of the discharge of such Order.