

## CHAP. VIII.

*AN ACT to make the remedy in cases of Seduction more effectual, and to render the Fathers of illegitimate Children liable for their support.*

[Passed 4th March, 1837.]

Preamble.

**W**HEREAS in some cases the Law fails in affording redress to Parents whose Daughters have been Seduced: *And whereas*, the Law makes no provision in this Province for compelling the Fathers of illegitimate Children to contribute to to their support: *Be it therefore enacted* by the King's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled 'An Act for making more effectual provision for the Government of the Province of Quebec in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That the Father, or in case of his death, the Mother of any unmarried female who may be Seduced after the passing of this Act, and for whose Seduction such Father or Mother could sustain an action, in case such unmarried female were at the time dwelling under his or her protection; shall be entitled to maintain an action for Seduction, notwithstanding such unmarried female was, at the time of her Seduction, serving or residing with any other person, upon hire or otherwise, any former Law or Statute to the contrary notwithstanding.

Action, when maintainable.

Proof of service not necessary.

**II.** *And be it further enacted by the authority aforesaid*, That upon the trial of any action for Seduction brought by the Father or Mother, it shall not be necessary to give proof of any act or acts of service performed by the person Seduced, but the same shall be in all cases presumed, and no proof shall be received to the contrary: *Provided always nevertheless*, that in case the Father or Mother of such female who shall be Seduced shall, before the Seduction, have abandoned her, and refused to provide for or retain her as an inmate, then any other person, who before the passing of this Act might have maintained an action for such Seduction, shall be entitled to such action in the same manner as the Father or Mother would otherwise have been.

Who may maintain the Action in the father's or mother's absence.

**III.** *And be it further enacted by the authority aforesaid*, That notwithstanding anything contained in this Act, any person, other than the Father

or Mother, who by reason of the relation of Master, or otherwise, would have been entitled, if this Act had not been passed, to maintain an action for the Seduction of an unmarried female, shall be entitled to maintain such action notwithstanding this Act, if the Father or Mother who might sue according to this Act, shall not be resident in this Province at the time of the birth of the Child, which shall take place in consequence of such Seduction, or being resident within the Province, shall not bring any action for the Seduction within six months from the birth of such Child.

IV. And in order that some check may be imposed upon the unfeeling conduct of persons who refuse to make provision for the support of their illegitimate Children—*Be it therefore enacted by the authority aforesaid,* That any person who shall furnish food, clothing, lodging, or other necessaries, to any Child who shall be born after the passing of this Act not in lawful wedlock, shall be entitled to maintain an action for the value thereof, against the Father of such illegitimate Child; *Provided,* such illegitimate Child shall have been a Minor at the time of such necessaries found, and shall not have been then residing with his or her reputed Father, and maintained by him as a member of his family: *And provided* The father of an illegitimate child liable to be sued for necessaries. *also,* that where the person suing for the value of such necessaries shall be the Mother of such Child, or any person to whom the Mother has become accountable for such necessaries, then the fact of the Defendant being the Father of such Child, must be proved by other testimony than that of the Mother: *And provided also,* that no action shall be sustained under this Act, unless it shall be shewn upon the trial thereof, that while the Mother of such Child was pregnant, or within six months after the birth of her Child, she did voluntarily make an affidavit in writing, before some one of His Majesty's Justices of the Peace for the District in which she shall be residing, declaring that the person who may be afterwards charged in such action, is really the Father of such Child, and unless she has deposited such affidavit, within the time aforesaid, in the office of the Clerk of the Peace of the District, there to remain filed: which affidavit shall nevertheless not be evidence of the fact of the Defendant being the Father of such Child, but such fact must be proved by legal evidence, independently of such affidavit. Evidence in such cases.

V. *And be it further enacted by the authority aforesaid,* That this Act shall not be construed to take away or abridge any right of action, or any remedy which without this Act might have been had and maintained against the Father of an illegitimate Child; but the same may be pursued in the same manner as if this Act had not been passed. Former remedies not to be affected by this Act.