

T A S M A N I A.



1873.

ANNO TRICESIMO-SEPTIMO

VICTORIÆ REGINÆ,

No. 14.



AN ACT to make provision for the Maintenance and Support of deserted Wives and Children. A.D. 1873.

[31 October, 1873.]

WHEREAS it is desirable and necessary to amend the Law relating to the maintenance and support of deserted Wives and Children in this Colony: PREAMBLE.

Be it therefore enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1 The provisions of this Act shall be applicable—

Application of Act.

(1.) To any child, whether legitimate or not, if under the age of Sixteen years.

(2.) As well in respect of any wife as of any woman with whom any man is proved to have cohabited for a period of Twelve months previous to the commission of the act of desertion complained of; and any such woman shall, for the purposes of this Act, be deemed to be the wife of any such man.

2 In all cases where a complaint is made to a Justice of the Peace that any wife has been left by her husband, or that any child has been left by its father or mother, without means of support, it shall be lawful for such Justice to issue his Summons, directed to such husband or parent, to appear before any Two Justices to show cause why such wife

Where a wife or child is left without means of support, husband, &c. may be summoned to show cause why he should not support them.

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or child should not be supported by such husband or parent; and in case it is made to appear to the satisfaction of such Justice, upon the oath of the said wife or of some credible person, that there is reason to believe that such husband or parent will not attend in obedience to such Summons, then it shall be lawful for such Justice, instead of issuing such Summons, to issue in the first instance his Warrant for the apprehension of the person against whom the complaint is made, to answer to the same and to be further dealt with according to law.

Where husband, &c. about to leave Colony warrant may issue in the first instance.

3 Upon the oath of some credible person that such person has good reason to believe, upon grounds to be stated in his deposition, and that he does believe, that any husband or father or mother is about to leave the Colony without making due provision for the maintenance of his wife or child, it shall be lawful for any Justice, without the issue of any Summons, to issue his Warrant for the apprehension of such husband or parent to be dealt with as hereinafter provided.

Two Justices may hear and determine complaint.

4 It shall be lawful for any Two Justices to hear and determine every such complaint in a summary way, and such Justices may, by an Order in writing under their hands, direct the Defendant to pay either weekly or monthly at their discretion, to such person and in such manner for the use of such wife or child as they think fit, such sum or allowance as they consider proper; and in every case of desertion of a child, where it appears to the Justices that the mother of such child is able to contribute to its support, it shall be lawful for them to direct that she shall so contribute, as well as the father, in such proportions respectively and in such manner as such Justices think fit; and if in any case it appears that the mother only is of such ability, or that the father is dead, or not known, or cannot be found, it shall be lawful for the Justices to make an Order in respect of her alone; and any Order made under this Section may be in the form in the Schedule or to the like effect.

Liability of mother.

Husband not liable in case of adultery by wife.

Nothing herein contained shall render any husband liable for his wife's maintenance where he has put her away or separated himself from her for adultery, and her guilt is established upon hearing such complaint as aforesaid to the reasonable satisfaction of the Justices.

Proof of paternity.

No man shall be deemed or taken to be the father of any illegitimate child upon the oath of the mother only.

Complaint may be heard although Summons not served, or Warrant not executed.

5 If from any cause any Summons issued as aforesaid has not been served upon the Defendant, or if any Warrant issued for the apprehension of the Defendant has not been executed, then if it is made to appear to the satisfaction of any two Justices of the Peace by the oath of some credible person that every effort has been made to serve such Summons, or to execute such Warrant, it shall be lawful for such Justices to hear and determine any complaint made under this Act, and to make such order as they see fit in manner hereinbefore provided.

Security for compliance with Order.

6 When an Order is made for the maintenance of any wife or child under this Act, it shall be lawful for the Justices, if they think fit, immediately upon pronouncing their decision, to require the defendant to enter into a Recognizance with a Surety or Sureties for the due compliance with such Order; and in default of his immediately entering into such Recognizance with such Surety or Sureties as the Justices require, it shall be lawful for them to commit such defendant to some Gaol, there to be imprisoned, with or without hard labour as they see fit, until such Recognizance has been entered into.

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No person committed to a Gaol as aforesaid shall be detained under such commitment for more than Six months from the time of such commitment. A.D. 1873.

7 Whenever any Order is made for the maintenance of any wife or child under this Act, it shall be lawful for the Justices making such Order, if they see fit, instead of or in addition to any remedy provided by this Act or otherwise for enforcing compliance with such Order, by an instrument in writing under their hands, to authorise and direct some person to demand and receive any annuity or other income payable to the Defendant, or any money or moneys received or receivable, or held by any person or persons in trust, to be paid periodically, or by instalments, or otherwise, to or for such Defendant, or any salary or wages due or payable to him, or such portion of such annuity or income, or other money or moneys, salary or wages, as such Justices think fit, and to appropriate the same in and towards the payment of the amount ordered to be paid for the maintenance of such wife or child, in such manner as they may from time to time direct; and every payment made in pursuance of any such Order shall be as valid as if made to such Defendant or by his authority or direction, and shall protect and indemnify every person acting in pursuance of such Order. Justices may authorise persons to receive annuity, &c. of defendant to pay amount ordered.

8 If it is made to appear to the satisfaction of any Two Justices by proof upon oath, without the previous issue either of a Summons or Warrant, that any husband or father or mother has left the Colony without making due provision for the maintenance of his wife or child, then it shall be lawful for such Justices, by an Order under their hands, to authorise and direct some person forthwith to seize and sell such husband's or parent's goods and chattels, and to demand and receive his rents, annuity, or other income, or any money or moneys received or receivable, or held by any person or persons in trust, to be paid periodically, or by instalments or otherwise to or for such husband or parent, or such portion of the same respectively as the Justices think fit, and to appropriate the proceeds of such seizure and sale, or such rents or other moneys, towards the maintenance of such wife or child, in such manner as they may from time to time direct; and every payment made in pursuance of any such Order shall be as valid as if made to the Defendant, or to some person for him, and shall protect and indemnify every person acting in pursuance of such Order. Where Defendant has left the Colony without making provision for wife's support, his goods, &c. may be seized.

9 When under the last two preceding Sections the Justices authorise and direct some person to seize and sell the Defendant's goods and chattels, or to demand and receive any rents, annuity or other income, or any moneys payable to or for the Defendant as such Justices direct, then upon proof of the possession by any person of any goods or chattels, or of any moneys or income belonging to the Defendant, it shall be lawful for such Justices, by an Order in writing under their hands, to direct the person in whose possession the same then are to surrender such goods and chattels, or to pay such moneys or any part thereof, to the person authorised and directed by such Justices to receive the same, for the purpose of defraying the amount ordered to be paid for the maintenance of such wife or child. Persons in possession of goods or moneys may be ordered to give them up.

10 No Order made for the maintenance of any child under this Act shall be of any force or effect after such child attains the age of Sixteen years, or marries, if a female, whichever event first happens; nor shall any such Order continue in force or be of any effect after the mother of Order in respect of a child void in certain cases. [4 & 5 W. 4, c. 76, s. 71.]

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any such child is married to any other man, and such man shall be bound to maintain such child as a part of his family until such child attains the age of Sixteen or marries.

Defendant may apply to have Order revoked or varied.

11 Any Order made as aforesaid may be revoked or varied at any time by the Justices who made the same upon the application of the Defendant, or any creditor of the same, after Seven clear days notice in writing of the intention to make such application has been given to such Justices, the complainant, and all parties to be affected thereby, which Notice shall set forth the time and place of making such Application, and the grounds upon which he seeks to have such Order revoked or varied.

If one of the Justices who made such Order is dead or unable to act from any sufficient cause, then it shall be lawful for some other Justice to act in the place of the Justice so dead or unable to act; and if both of the Justices who made such Order are dead or unable to act, then it shall be lawful for any other two Justices sitting in Petty Sessions to hear such application, and to revoke or vary such Order as they see fit.

Proceedings for securing the payment and application of maintenance.

12 It shall be lawful for the Justices by whom any Order as aforesaid has been made, or for any other Two Justices from time to time in a summary way (with or without any application for that purpose), to make such Orders in writing as they think necessary for better securing the payment and regulating the receipt of the allowance directed to be made for such wife's or child's support, or for investing and applying the proceeds of the goods or rents, annuity or other income, if any, directed to be sold or collected, or for ensuring the due appropriation of such allowance to the *bonâ fide* purposes of maintenance.

Mode of enforcing compliance with orders.

13 It shall be lawful for any Two Justices, in a summary way, to inquire into the disobedience or alleged disobedience of, or non-compliance with, any Order made under this Act, and to enforce compliance or punish the non-compliance with such Order by issuing a Warrant of Distress to levy the amount by such Order directed to be paid, and in default of sufficient distress to commit the defendant to some Gaol for any period not exceeding Six months with hard labour.

Wilfully deserting wife or children a misdemeanor.

14 If any person being of sufficient means shall, without lawful or reasonable cause or excuse, desert his wife or child, he shall be guilty of a misdemeanor, and shall, upon conviction thereof, be liable to imprisonment with hard labour for any period not exceeding One year.

This provision shall be applicable to the mother of any child where the father is dead, or not known, or cannot be found.

If child placed in Queen's Asylum, maintenance to be paid to Superintendent.

15 If any child for whose maintenance an Order is made under this Act is at any time thereafter placed in "The Queen's Asylum for Destitute Children," or in any Industrial or Training School, then and in every such case the amount ordered to be paid for such child's maintenance shall be paid to the Superintendent of the said Asylum or the Governors or Managers of such School, as the case may be, in the same manner in all respects as if such Superintendent, Governors, or Managers had been named in such Order instead of the person therein named; and all proceedings may be had and taken for enforcing payment to such Superintendent, Governors, or Managers of the sum ordered to be paid as fully and effectually as if the Superintendent of the said Asylum for the time being, or the said Governors or Managers, had been named in such Order.

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16 Subject to the provisions of this Act, the provisions of *The Magistrates Summary Procedure Act* shall apply to all proceedings under this Act; and any person aggrieved by any Order made under this Act may appeal therefrom in the manner directed by *The Appeals Regulation Act*.

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Procedure.
19 Vict. No. 8.Appeal.
19 Vict. No. 10.

17 It shall be lawful for any Two Justices, with the consent of either parent, if he or she can be found, or without such consent if they or either of them cannot be found, or are of vicious or abandoned character, or habitual drunkards, to apprentice for any period not less than Five years, nor more than Seven years, any child for whose maintenance any Order has been made under this Act, either to some trade or calling, or as an agricultural labourer, or domestic servant, (such child having attained the age of fourteen years, and consenting to be so bound, but not otherwise); and every Indenture of apprenticeship may be in the form in the Schedule (2), or to the like effect, and shall be executed by the Justices and by the person to whom such child is to be bound, and such binding shall be as valid and effectual as if such child were of full age, and had bound himself.

Children in
respect of whom
Orders made
under this Act
may be appren-
ticed.

Previously to executing such Indenture, the Justices shall inform themselves as fully as they can of the child's age, and there shall be inserted in the Indenture of apprenticeship a statement of the age of such child; and in every proceeding, civil or criminal, the statements in any such Indenture that the same is made by Justices under this Act, or that such child is of a certain age therein specified, shall respectively be deemed and taken to be true until the contrary is proved.

Proviso as to
inserting child's
age in Indenture.

18 In the event of the death of the person to whom any child is so bound, the Executors or Administrators of such person may, by and with the consent in writing, in the form in the Schedule (3) or to the like effect, of any Justice, assign the apprentice to any fit and proper person for the residue of the term mentioned in the Indenture of apprenticeship; and any Two Justices in case of such death, or upon the application of the person to whom such child is bound, may assign the apprentice to any other fit and proper person, and such assignment may be in the form in the Schedule (4) or to the like effect, or may absolutely revoke any such Indenture in any case upon proof of ill-usage of, or misconduct by, the apprentice, and may, if they see fit, put out such apprentice anew.

Assignment and
re-assignment of
apprentice.

In every such case of assignment the person to whom any apprentice is so assigned, his executors and administrators, shall be bound by all the covenants in the Indenture of apprenticeship in the same manner as if he had originally been a party to it, in lieu of the person to whom the apprentice was originally bound.

19 The Act of the Parliament of *Tasmania* of the 27th *Victoria*, No. 14, is hereby repealed: but this repeal shall not affect anything duly done, any liability accrued, or any punishment incurred or to be incurred in respect of any offence committed before the commencement of this Act; nor shall this repeal interfere with the institution of any legal proceeding or any other remedy for enforcing any such liability or punishment as aforesaid, which may be proceeded upon, and any proceeding begun before the commencement of this Act may be prosecuted and continued, as if this Act had not been passed.

Repeal of
27 Vict. No. 14.

20 This Act may be cited as "The Deserted Wives and Children Maintenance Act, 1873."

Short title.

Deserted Wives and Children Maintenance.

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SCHEDULE.

(1.)

TASMANIA }
TO WIT. }

POLICE OFFICE,

WHEREAS complaint has been made unto Esquire,
 one of Her Majesty's Justices of the Peace, that
 being the wife [or child] of _____
 said _____ at _____ in Tasmania, without the means
 of support: And whereas, in pursuance of "The Deserted Wives and Children Main-
 tenance Act, 1873," we _____ and _____
 being Two of Her Majesty's Justices of the Peace, having now duly examined and
 inquired into the matter and circumstances of the said complaint, do accordingly
 hereby order and adjudge him [or her] the said _____
 [or him the said _____ and her the said _____] to pay unto the
 said _____ [or into the hands of _____ at _____ in
 Tasmania] weekly [or monthly] on every _____ for her use [or for the
 use of the said child] the sum of _____ [or him the said
 the sum of _____, and her the said _____ the sum of _____]
 the first of such weekly [or monthly] payments to be made on

Given under our hands at _____ in Tasmania
 aforesaid, this _____ day of 18 ____ .

J.P.
J.P.

(2.)

THIS INDENTURE made the _____ day of _____ 18 ____ , between A.B. of _____ and C.D. of _____
 being Two of Her Majesty's Justices of the Peace duly authorised under and
 by virtue of the provisions of "The Deserted Wives and Children Maintenance Act,
 1873," to apprentice children in respect of whose maintenance an order shall be made
 under the provisions of the said Act, of the one part, and E.F. of [Hobart Town,
 shoemaker] of the other part, WITNESSETH that the said A.B. and C.D. hereby bind
 G.H. in respect of whose maintenance an order was made under the hands of _____
 under the provisions of the said Act, the said G.H. being a child of the age
 of _____ years, as apprentice to the said E.F., to learn the trade or business of a [shoe-
 maker], and with him to dwell, remain, and serve from the date of these presents till
 the _____ day of _____, 18 ____ , during all which time the said G.H. as such apprentice
 shall faithfully serve his said master and obey all his lawful commands, and shall not
 frequent public-houses or gaming-houses, nor absent himself from the service of his
 said master by day or night, without his leave, but in all things as a faithful apprentice
 shall behave himself towards his said master, and all his during the said term [here
 add any further stipulations as to the duties of the apprentice]: AND the said E.F.
 in consideration of the faithful service so to be performed by the said G.H. hereby
 covenants and agrees with the said A.B. and C.D., that during the continuance of the
 said term he the said E.F. the said G.H. in the trade or business of a [shoemaker] will
 teach and instruct in the best manner in which he the said E.F. can; and will provide
 and allow the said G.H. good and sufficient meat, drink, lodging, apparel, medical
 attendance, and all other things necessary for the said G.H., and also permit the
 said G.H. to attend the place of worship of the denomination to which he belongs
 once each Sunday, if practicable [here add any other terms on the part of the person
 to whom the Child is bound]; and that he the said E.F. shall not, nor will, during
 the said term, make over this Indenture, or the Apprentice bound hereby, without the
 consent and approbation by Law required in that behalf.

As witness our hands and seals.

Signatures of Justices. { A.B. (Seal.)
 { C.D. (Seal.)
 Signature of Master. E.F. (Seal.)

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(3.)

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I *A.B.*, of _____, being one of Her Majesty's Justices of the Peace duly authorised under and by virtue of the provisions of "The Deserted Wives and Children Maintenance Act, 1873," hereby consent to, and approve of, the within-named *G.H.* being removed from the service of *E.F.* to that of *I.K.* upon the terms contained in the within-written Indenture.

Dated this _____ day of _____ 18 .

A.B.

(4.)

WE, *A.B.* of _____ and *C.D.* of _____, being Two of Her Majesty's Justices of the Peace duly authorised under and by virtue of the provisions of "The Deserted Wives and Children Maintenance Act, 1873," do hereby assign *G.H.*, the within-named Apprentice, to *I.K.*

Dated this _____ day of _____ 18 .

A.B.
C.D.

THE HISTORY OF THE

The history of the world is a long and winding road, filled with countless events and people. From the beginning of time to the present day, the world has changed in many ways. The first humans were simple hunters and gatherers, but over time, they learned to farm and build cities. The world has seen many great empires rise and fall, and many different cultures have developed. Today, we live in a world that is more connected than ever before, thanks to technology and global communication. The future is bright, and there are many exciting things to look forward to.

The world is a beautiful and diverse place, and it is our responsibility to take care of it. We must work together to solve the problems we face, such as climate change and poverty. We must also respect the rights of all people and promote peace and justice. The world is our home, and it is up to us to make it a better place for everyone.