

1914

c 152 Deserted Wives' Maintenance Act

Ontario

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CHAPTER 152.

An Act respecting the Maintenance of Wives
deserted by their Husbands.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. This Act may be cited as *The Deserted Wives' Maintenance Act*. 1 Geo. V. c. 34, s. 1. Short title.

2.—(1) A married woman deserted by her husband may summon him before a police magistrate or two justices of the peace, who, upon proof of service of the summons and whether or not the husband appears, if satisfied that the husband, being able wholly or in part to maintain his wife or his wife and family, has wilfully refused or neglected so to do, and has deserted his wife, may order that the husband shall pay to his wife such weekly sum, not exceeding \$10, with or without costs, as the magistrate or justices may consider proper, having regard to his means and to any means the wife may have, for her support and the support of the family. When order for maintenance may be made.

(2) A married woman shall be deemed to have been deserted within the meaning of this section when she is living apart from her husband because of his acts of cruelty, or of his refusal or neglect without sufficient cause to supply her with food and other necessaries when able to do so. 1 Geo. V. c. 34, s. 2. Extension of remedy to certain cases.

3.—(1) In case of non-payment of any sum so ordered, together with costs, for twenty-one days after the order has been made, or such less time as the order provides, and when and so often as the payment so ordered is in arrear such married woman may procure from the magistrate or justices making the order a summons returnable on the tenth day after the service thereof. Proceedings in case of non-payment.

(2) The summons may be served on the husband either personally or in such other manner as the magistrate or justices may in writing direct, and shall require the husband to attend at the time and place mentioned therein to show cause why the order should not be enforced as hereinafter provided. Service of summons.

(3) The applicant and all witnesses whom the magistrate or justices think proper may be examined on oath touching the enquiries to be made on the return of the summons. Witnesses.

Enforcement
of order.

(4) If the husband does not attend as required by the summons, or show a sufficient reason for not attending, or does not satisfy the magistrate or justices that he is unable to pay the sum ordered to be paid, the magistrate or justices may enforce the order by the like proceedings, including imprisonment, as, under *The Ontario Summary Convictions Act*, are applicable in the case of a fine or penalty imposed by a justice of the peace. 1 Geo. V. c. 34, s. 3.

Power to
vary order.

4. The magistrate or justices by whom the order for payment was made, or any other magistrate or justices sitting in his or their stead at his or their request, shall have power, from time to time, to vary the order on the application of either the husband or the wife, upon proof that the means of the husband or wife have been altered in amount since the making of the original order, or any subsequent order varying it. 1 Geo. V. c. 34, s. 4.

Cases of
adultery.

5.—(1) No order shall be made in favour of a wife who is proved to have committed adultery, unless the adultery has been condoned; and any order may be rescinded by the magistrate or justices by whom it was made, or by a magistrate or justices sitting in his or their stead at his or their request, upon proof that the wife since the making thereof has been guilty of adultery if it has not been condoned.

Effect of
finding as to
adultery.

(2) A finding by the magistrate or justices that adultery has been proved shall not be evidence of the adultery except for the purpose of proceedings under this Act. 1 Geo. V. c. 34, s. 5.

Hearing of
complaint.

6. Cases arising under this Act may, in the discretion of the magistrate or justices, be heard in private. 1 Geo. V. c. 34, s. 6.

Application
for and ser-
vice of
summons.

7. A summons under this Act shall be applied for, granted, and served in the same manner as a summons in a case of assault, or in such other manner as the magistrate or justices direct; and the magistrate or justices, or other magistrate or justices sitting in his or their stead at his or their request, may at any time rehear the application at the instance of the husband after notice to the wife, and may confirm, rescind or vary any order made thereon as he or they may deem just. 1 Geo. V. c. 34, s. 7.

Signing
summons.

8. Where any matter is to be heard by two justices the summons may be signed by one of them. 1 Geo. V. c. 34, s. 8.

Forms.

9. Orders and summonses may be according to the forms in the Schedule to this Act. 1 Geo. V. c. 34, s. 9.

Provision as
to costs and
appeal.

10. The costs of proceedings under this Act shall be the same as are provided for by *The Ontario Summary Convic-*

tions Act, and the provisions of that Act, as to appeals, and the proceedings therein and incidental thereto, shall apply to any order made under the provisions of this Act except that where the husband is the appellant he shall pay all costs. 1 Geo. V. c. 34, s. 10. Rev. Stat. c. 90

SCHEDULE.

SUMMONS.

County (or District) } To A. B., of
of }

Whereas application has this day been made by your wife, C. B., to the undersigned Police Magistrate (or Justice of the Peace as the case may be) for a summons under *The Deserted Wives' Maintenance Act*, for that you have wilfully refused or neglected to maintain your said wife (or your wife and family as the case may be), and have deserted your said wife. These are, therefore, to command you to appear before the undersigned, or such Police Magistrate or Justices as may then and there be present in my (or our) stead at _____ day after the service hereof, at the hour of _____ in the _____ noon, to shew cause why an order should not be made against you, to pay to your said wife for her support (or for the support of her and your family, as the case may be) such weekly sum not exceeding \$10 as may be considered to be in accordance with your means and with the means of your said wife.

Given under _____ hand and seal _____ day of 19 1.
J. S. [L.S.]

ORDER.

County (or District) }
of }

Upon reading the summons dated the _____ day of _____ 19 _____, issued by _____ Police Magistrate for the _____ (or Justices of the Peace for _____) upon the application of C. B., wife of A. B., under the provisions of *The Deserted Wives' Maintenance Act*, and upon hearing all the parties (or as the case may be) and the evidence adduced, and it appearing that the said C. B. is entitled to the benefit of the said Act; I (or we) the undersigned, do hereby order that the said A. B. do pay hereafter to his said wife, or her agent authorized in writing, at _____ the sum of \$ _____ per week for her support (or for the support of her and the family of the said A. B.), the first weekly payment to be made on the _____ day of _____ 19 _____, together with the costs of these proceedings, which amount to \$ _____ which shall be paid on or before the _____ day of _____ 19 _____.

Given under _____ hand and seal this _____ day of 19 _____
J. S. [L.S.]

SUMMONS AFTER DEFAULT.

County (or District) } To A. B., of
of }

Whereas under and by virtue of the provisions of *The Deserted Wives' Maintenance Act*, by order dated the _____ day of _____ 19____, made by _____, Police Magistrate for _____ (or by _____ and _____ two Justices of the Peace for _____) you were ordered to pay to your wife C. B. \$ _____ per week, together with costs, amounting to \$ _____; and whereas it is alleged by the said C. B. that you have made default in payment of said sum and costs, and that there is now due and owing, by virtue of the said order, \$ _____, You are therefore hereby summoned to appear before me (or us) or such other Police Magistrate (or Justice of the Peace), acting in my (or our) stead as may then and there be present at _____ at the hour of _____ o'clock in the _____ noon, on the tenth day after service hereof, to show cause why proceedings for enforcing the said order should not be had against you under the said Act.

Given under _____ hand and seal this _____ day of _____ 19____
J. S. [L.S.]

1 Geo. V. c. 34, Schedule.