CHAPTER 65.

An Act to amend the Bastardy Laws. [10th August 1872.]

7 & 8 Vict. c. 101.

WHEREAS an Act was passed in the seventh and eighth years of the reign of Her Majesty, chapter one hundred and one, intituled "An Act for the further amend-"ment of the laws relating to the poor in England:"

And whereas it is expedient to amend the said recited Act with respect to proceedings in bastardy:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as "The Bastardy Laws Amendment Act, 1872."

Repeal of enactments as in schedule.

2. The enactments specified in the first schedule to this Act are hereby repealed, except as to anything heretofore duly done thereunder, and except so far as may be necessary for the purpose of supporting and continuing any proceeding taken before the passing of this Act.

Putative father to be summoned to petty sessions on application of mother of bastard child.

3. Any single woman who may be with child or who may be delivered of a bastard child after the passing of this Act may either before the birth or at any time within twelve months from the birth of such child, or at any time thereafter, upon proof that the man alleged to be the father of such child has within the twelve months next after the birth of such child paid money for its maintenance, or at any time within the twelve months next after the return to England of the man alleged to be the father of such child, upon proof that he ceased to reside in England within the twelve months next after the birth of such child, make application to any one justice of the peace acting for the petty sessional division of the county, or for the city, borough, or place in which she may reside, for a summons to be served on the man alleged by her to be the father of the child, and if such application be made before the birth of the child the woman shall make a deposition upon oath stating who is the father of such child, and such justice of the peace shall thereupon issue his summons to the person alleged to be the father of such child to appear at a petty session to be holden after the expiration of six days at least for the petty sessional division, city, borough, or other place in which such justice usually acts.

Justices in petty session may make an order on the putative father for maintenance, education, &c. of bastard child, and enforce the same by distress and commitment.

4. After the birth of such bastard child, on the appearance of the person so summoned, or on proof that the summons was duly served on such person, or left at his last place of abode, six days at least before the petty session, the justices in such petty session shall hear the evidence of such woman and such other evidence as she may produce, and shall also hear any evidence tendered by or on behalf of the person alleged to be the father, and if the evidence of the mother be corroborated in some material particular by other evidence to the satisfaction of the said justices, they may adjudge the man to be the putative father of such bastard child; and they may also, if they see fit, having regard to all the circumstances of the case, proceed to make an order on the putative father for the payment to the mother of the bastard child, or to any person who may be appointed to have the custody of such child, under the provisions of the said recited Act, of a sum of money weekly, not exceeding five shillings a week, for the maintenance and education of the child, and of the expenses incidental to the birth of such child, and of the funeral expenses of the child, provided it has died before the making of such order, and of such costs as may have been incurred in the obtaining of such order; and if the application be made before the birth of the child, or within two calendar months after the birth of the child, such weekly sum may, if the said justices think fit, be calculated from the birth of the child; and if at any time after the expiration of one calendar month from the making of such order as aforesaid it be made to appear to any one justice, upon oath or affirmation, that any sum to be paid in pursuance of such order has not been paid, such justice may, by warrant under his hand and seal, cause such putative father to be brought

before any two justices, and in case such putative father neglect or refuse to make payment of the sums due from him under such order, or since any commitment for disobedience to such order as herein-after provided, together with the costs attending such warrant, apprehension, and bringing up of such putative father, such two justices may, by warrant under their hands and seals, direct the sum so appearing to be due, together with such costs, to be recovered by distress and sale of the goods and chattels of such putative father, and may order such putative father to be detained and kept in safe custody until return can be conveniently made to such warrant of distress, unless he give sufficient security, by way of recognizance or otherwise, to the satisfaction of such justices, for his appearance before two justices on the day which may be appointed for the return of such warrant of distress, such day not being more than seven days from the time of taking any such security; but if upon the return of such warrant, or if by the admission of such putative father, it appear that no sufficient distress can be had, then any such two justices may, if they see fit, by warrant under their hands and seals, cause such putative father to be committed to the common gaol or house of correction of the county, city, borough, or place where they have jurisdiction, there to remain, without bail or mainprize, for any term not exceeding three calendar months unless such sum and costs, and all reasonable charges attending the said distress, together with the costs and charges attending the commitment and conveying to gaol or to the house of correction, and of the persons employed to convey him thither, be sooner paid and satisfied.

Time of cessation of order.

5. No order for the maintenance and education, or for contribution towards the relief of any such child made in pursuance of this Act shall, except for the purpose of recovering money previously due under such order, be of any force or validity after the child in respect of whom it was made has attained the age of thirteen years, or after the death of such child; provided that the justices may in the order direct that the payments to be made under it in respect of the child shall continue until the child attains the age of sixteen years, in which case such order shall be in force until that period.

Proof of service of summons in certain cases.

6. In cases where the putative father of any bastard child resides out of the petty sessional district where the mother applies for a summons or order of maintenance, it shall be lawful to prove by affidavit in the form referred to in the second schedule to this Act, or to the like effect, that such summons or order has been duly served.

Payments for bastard children.

7. When and so often as any bastard child for whose maintenance an order has been made by justices on the application of the mother shall become chargeable to any parish or union, any two justices having jurisdiction in the parish or union in petty sessions may, if they shall see fit, by order under their hands and seals, from time to time appoint some relieving or other officer of the parish or union to which such bastard child shall be so chargeable to receive on account of such parish or union such proportion of the payments then due or becoming due under the said order as may accrue during the period for which such child is chargeable, and such appointment shall remain in force for the period of one whole year whenever the bastard child shall be or have become chargeable as aforesaid, and may afterwards from time to time be renewed by endorsement under the hand of any one justice for the like period; and any payment so ordered to be made shall be recoverable by the relieving officer or other officer appointed to receive it in the manner provided for the recovery of payments under an order obtained by the mother.

Guardians may recover cost of relief of bastard child in certain cases.

8. When a bastard child becomes chargeable to a union or parish, the guardians may apply to two justices having jurisdiction in the union or parish, in petty sessions, and thereupon such justices may summon the man alleged to be the father of the child to appear before any two justices having the like jurisdiction, to show cause why an order should not be made upon him to contribute towards the relief of the child, and upon his appearance, or in the event of his not appearing, upon proof of due service of the summons upon him, such justices may, if satisfied that he is the father of the child, upon such evidence as is by this Act required in the case of a summons issued upon the application of the mother, make an order upon such putative father to pay to the guardians or one of their officers such sum, weekly or otherwise, towards the relief of the child during such time as the child shall continue or afterwards be chargeable, as shall appear to them

to be proper; and such order shall, if the payments required by it to be made be in arrear, be enforced in the manner prescribed by the Act of the eleventh and twelfth Victoria, chapter forty-three, for the enforcing of orders of justices requiring the payment of a sum of money: Provided as follows:

1. That no payments shall be recoverable under such order except in respect of the time during which the child is actually in receipt of relief:
2. That an order under this section shall not be made, and, if made, shall cease, except for the recovery of arrears when the mother of the child has obtained an order under this Act:
3. That nothing in this section shall be deemed to relieve the mother of a bastard child from her liability to maintain such child:
4. That any person upon whom an order is made under this section shall have the same right of appeal against such order as in the case of an order obtained on the application of the mother:
5. That if after an order has been made under this section the mother should apply for an order under this Act, the order made under this section shall be primâ facie evidence that the man upon whom the order is made is the father of the child.

Appeals.

9. The court of quarter sessions, on appeal to them against any order made pursuant to the provisions of this Act, may, if they think fit, reduce the amount directed to be paid for the maintenance and education or on account of the relief of the child named in such order, and they shall thereupon alter the order accordingly.

Act incorporated with recited Act.

10. This Act shall be deemed to be incorporated with the said recited Act, and shall be construed as if the said recited Act (except such parts thereof as have been repealed or amended by this Act) and this Act were one Act.

Extent of Act.

11. This Act shall not extend to Scotland or Ireland.

SCHEDULES referred to in the foregoing Act.

FIRST SCHEDULE.

Date and Chapter of Act.	Title of Act.	Extent of Repeal.
7 & 8 Vict. c. 101. - -	An Act for the further amendment of the laws relating to the poor in England.	Sections 2 and 3; section 5 from "Provided always," to end of section; and section 7, to "Provided always."
31 & 32 Vict. c. 122. -	An Act to make further amendments in the laws for the relief of the poor in England and Wales.	Section 41.

SECOND SCHEDULE.

Affidavit of Service.

I, *A.B.*, one of the officers of the constabulary of the county of make oath and say, that I did, on the day of 18 , duly serve the defendant with a summons [*or* order], a true copy whereof is herewith annexed, marked A, by delivering the same personally to the defendant [*or* by leaving the same with at the place of abode of the defendant].

[I endorse the copy summons (*or* order) thus . This paper, marked A, is the paper referred to in the annexed affidavit.]

Sworn at , in the county of , this day of 18 , before me,

J.B.,
Justice of the peace for the said county.