



ANNO NONO

GEORGII V REGIS.

A.D. 1918.

No. 1356.

An Act to amend the Matrimonial Causes Act, 1867.

[*Reserved, November 27th, 1918.*
Royal Assent Proclaimed, May 29th, 1919.]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited alone as the "Matrimonial Causes Act Amendment Act, 1918." Short titles.
- (2) The Matrimonial Causes Act, 1867 (hereinafter called "the principal Act"), and this Act may be cited together as the "Matrimonial Causes Acts, 1867 and 1918." No. 3 of 1867.
2. This Act is incorporated with the principal Act, and that Act and this Act shall be read as one Act. Incorporation with principal Act.
3. It shall be lawful for any Judge of the Supreme Court alone to hear and determine all matters arising in the said Court in its Matrimonial Causes Jurisdiction, which may now be heard and determined by the said Court, and to exercise all powers and authorities which may now be exercised by the said Court. Single Judge may exercise powers now vested in Supreme Court.
Cf. 23 & 24 Vic., c. 144, s. 1.
4. A Judge may, when he deems it expedient, direct that any such matter as aforesaid shall be heard and determined by the Full Court. Judge may direct hearing by Full Court.
Cf. *ibid.* s. 2 (part).
5. Either party dissatisfied with any decision of a Judge sitting alone may, within fourteen days after the pronouncing thereof, appeal to the Full Court. Appeal to Full Court.
Cf. *ibid.*, s. 2 (part).

6. Sections

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Decree for nullity to be *nisi* in first instance.

Cf. 36 Vic., c. 31, s. 1.

6. Sections 35, 36, and 37 of the principal Act shall extend to decrees and suits for nullity of marriage in like manner as they apply to decrees and suits for divorce, and shall be construed as if they were herein enacted with the substitution of the words "a decree for nullity of marriage" for the words "decree for dissolution of marriage" or "divorce," as the case may require.

Costs of intervention.
Cf. 41 Vic., c. 19, s. 2.

7. Where the Crown Proctor or any other person intervenes, or shows cause against a decree *nisi* in any suit or proceeding for divorce or nullity of marriage being made absolute, the Court may make such order as to the costs of the Crown Proctor, or of any other person who intervenes or shows cause as aforesaid, or of any party or parties thereto, occasioned by such intervention or showing cause as aforesaid, as seems just; and the Crown Proctor, any other person as aforesaid, and such party or parties shall be entitled to recover such costs in like manner as in other cases.

Extension of power as to settlements.
Cf. *ibid.*, s. 3.

8. The powers vested in the Court by section 47 and section 48 of the principal Act may be exercised, notwithstanding that there are no children of the marriage.

Periodical payments in lieu of attachment.
Cf. 47 & 48 Vic., c. 68, s. 2.

9. From and after the passing of this Act a decree for restitution of conjugal rights shall not be enforced by attachment, but where the application is by the wife the Court may, at the time of making such decree, or at any time afterwards, order that, in the event of such decree not being complied with within any time in that behalf limited by the Court, the respondent shall make to the petitioner such periodical payments as the Court deems just, and such order may be enforced in the same manner as an order for alimony in a suit for judicial separation. The Court may, if it thinks fit, order that the husband shall, to the satisfaction of the Court, secure to the wife such periodical payments, and for that purpose may refer it to the Master of the Court to settle and approve of a proper deed or instrument to be executed by all necessary parties.

Settlement of wife's property.
Cf. *ibid.*, s. 3.

10. Where the application for restitution of conjugal rights is by the husband, if it is made to appear to the Court that the wife is entitled to any property, either in possession or reversion, or is in receipt of any profits of trade or earnings, the Court may, if it thinks fit, order a settlement to be made to the satisfaction of the Court of such property, or any part thereof, for the benefit of the petitioner and the children of the marriage, or either or any of them, or may order such part as the Court thinks reasonable of such profits of trade or earnings to be periodically paid by the respondent to the petitioner for his own benefit, or to the petitioner or any other person for the benefit of the petitioner and the children of the marriage, or either or any of them.

Power to vary orders.
Cf. *ibid.*, s. 4.

11. The Court may from time to time vary or modify any order made under section 9 or 10 hereof for the periodical payment of money,

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money, either by altering the times for payment or by increasing or diminishing the amount, or may temporarily suspend the same as to the whole or any part of the money so ordered to be paid, and again revive the same order wholly or in part, as the Court thinks just.

12. If the respondent fails to comply with a decree of the Court for restitution of conjugal rights, such respondent shall thereupon be deemed to have been guilty of desertion without reasonable cause, and a suit for judicial separation may be forthwith instituted, and a sentence of judicial separation may be pronounced, although the period of two years has not elapsed since the failure to comply with the decree for restitution of conjugal rights.

Non-compliance with decree deemed to be desertion.

Cf. *ibid.*, s. 5.

13. The Court may at any time before final decree on any application for restitution of conjugal rights, or after final decree if the respondent fails to comply therewith, upon application for that purpose, make from time to time all such orders and provisions with respect to the custody, maintenance, and education of the children of the petitioner and respondent as might have been made by interim orders during the pendency of a trial for judicial separation between the same parties.

Custody, &c., of children.

Cf. *ibid.*, s. 6.

14. (1) Section 28 of the principal Act is hereby repealed.

(2) Section 36 of the principal Act is hereby amended by striking out the words "to be appointed in any such suit" after the words "Crown Proctor".

Repeal of s. 28 of principal Act and consequential amendments.

(3) Section 37 of the principal Act is hereby amended by striking out the word "said" before the words "Crown Proctor" and the words "appointed to act in any suit as aforesaid" after the words "Crown Proctor".

15. The Crown Solicitor for the time being is hereby appointed, and without any further or other appointment shall be, the Crown Proctor, and shall, in respect of all suits for dissolution of marriage or for nullity of marriage, perform the duties, and have and exercise the powers and authorities which by the principal Act, or any Act amending that Act, or by the rules and regulations for the time being in force under any of the said Acts, are or may be imposed and conferred upon the Crown Proctor.

Crown Solicitor to be Crown Proctor without further appointment.
Cf. N.S.W. 14, 1899, s. 3Q.

16. Sections 24 and 25 of the principal Act are hereby repealed and the following provision is hereby enacted and substituted in lieu of section 24:—

New provision substituted for secs. 24 and 25 of principal Act.

24. (1) It shall be lawful for any married person to present a petition to the said Court praying that his or her marriage with the respondent may be dissolved on the ground that the respondent has, since the celebration thereof, been guilty of adultery.

Grounds for divorce.

(2) It

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(2) It shall be lawful for any wife to present a petition to the said Court praying that her marriage may be dissolved on the ground that since the celebration thereof her husband has been guilty of rape or of sodomy or bestiality.

(3) Every such petition shall state, as distinctly as the nature of the case permits, the facts on which the claim to have such marriage dissolved is founded.

I hereby reserve this Bill for the signification of His Majesty the King's pleasure thereon.

H. L. GALWAY, Governor.