

Legislative Council.

47^o VICTORIÆ, 1884.

A BILL

To amend the Matrimonial Causes Act.

[MR. DALLEY ;—27 February, 1884.]

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows :—

- 5 1. This Act may be cited as the "Matrimonial Causes Act Short title.
Amendment Act of 1884" and in its construction the expression
"Principal Act" means the Matrimonial Causes Act—the expression
"Divorce Judge" means the Judge appointed to exercise jurisdiction
under the said Principal Act as amended by the Acts forty-third
10 Victoria number thirty-five forty-fourth Victoria number thirty-one
and this Act—the expression "Matrimonial Causes Acts" means the
Principal Act amended as aforesaid—the word "Court" means the
"Supreme Court" having jurisdiction under the Matrimonial Causes
Acts and the expression "Australasian Colonies" includes all British
15 Colonies within the Continent of Australia and their dependencies
together with Tasmania New Zealand and the Colony of Fiji.

Extension of sec. 4
of Principal Act.

2. The provisions of section four of the Principal Act shall extend to and be applicable in any case in which the Divorce Judge shall be of opinion that it would be inexpedient for him to exercise jurisdiction under the Matrimonial Causes Acts.

Jury issues how to
be tried.

3. Whenever in any cause the truth of an issue is to be determined by a jury the Divorce Judge or in case of his absence from Sydney or illness any other Judge of the Supreme Court shall issue his precept directing the Sheriff to summon forty-eight special jurors and when there shall be more than one co-respondent on the record so many additional special jurors as shall allow each co-respondent to strike off six names from the jury list as hereinafter provided. 5 10

Calling the jury.

4. At the trial of any issue by a jury the clerk or other ministerial officer of the Court shall put together in a box provided for that purpose the pieces of card furnished by the Sheriff containing the names places of abode and additions of the jurors returned in the jury panel and upon any such issue being called on to be tried such clerk or officer shall in open Court draw out the said cards one after another until such a number of jurors shall appear as shall allow of a jury of twelve being struck from such number after each party to the record has struck off six names. 15 20

List of jurors how to
be dealt with.

5. A list of the names of such number of jurors so determined as aforesaid shall be delivered by the Sheriff or his deputy to the petitioner or his or her attorney or counsel by whom six of the names contained in such list may be struck therefrom and the list so reduced shall then be delivered to the respondent or his or her attorney or counsel by whom an equal number of names may be struck therefrom and the list so reduced shall be handed to the co-respondent or his attorney or counsel by whom an equal number of names may be struck therefrom or if there be more than one co-respondent then the list shall be handed to each in turn or his attorney or counsel by whom a like number of names may be struck off and the jurors whose names shall then remain upon the list or the first twelve jurors whose names shall then be thereon (as the case may require) shall be the jurors for the trial of the issue and shall be sworn and impanelled accordingly and every party to any such proceeding shall be entitled to the same rights as to challenge and otherwise as if he were a party on the record on an issue at *nisi prius*. 25 30 35

When verdict of
three-fourths of
jury may be taken.

6. After any jury shall have been locked up for six hours but are still unable to agree to a verdict a verdict of three-fourths may be taken by consent but if such consent be not given and the jury is unable to agree to an unanimous verdict at or before the expiration of twelve hours they shall be then discharged. 40

Application of
general law and
practice to jury.

7. Except as hereinbefore provided the law and practice governing all questions respecting the jury shall be the same as now in force at *nisi prius* sittings of the Supreme Court. 45

Power to order
monthly or weekly
payments to wife
from husband on
dissolution of
marriage.

29 Vic. c. 32 s. 1.

8. Whenever upon a decree for dissolution of a marriage against a husband it shall appear to the Court that such husband has no property on which the payment of any gross or annual sum can be secured but that he would be able to make a monthly or weekly payment to the wife during their joint lives it shall be lawful for the Court to make an order on the husband for payment to the wife during their joint lives of such monthly or weekly sums for her maintenance or support as the Court may think reasonable Provided always that if the husband shall afterwards from any cause become unable to make such payments it shall be lawful for the Court to discharge or modify the order or temporarily suspend the same as to the whole or any part of the money so ordered to be paid and again to revive the same order wholly or in part as to the Court may seem fit. 50 55

9. In any suit instituted for dissolution of marriage if the respondent shall oppose the relief sought on the ground in case of such a suit instituted by a husband of his adultery cruelty or desertion or in case of such a suit instituted by a wife on the ground of her adultery the Court may in such suit give to the respondent on his or her application the same relief to which he or she would have been entitled in case he or she had filed a petition seeking such relief.

Relief to respondent in suit for dissolution. 29 Vic. c. 32 s. 2.

10. The provisions contained in the twenty-eighth section of the Principal Act shall for the avoidance of decrees obtained by collusion 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 a divorce" or "divorce" as the case may require.

Extension of provisions of Principal Act in respect of collusion to suits for nullity of marriage. 3; Vic. c. 31 s. 1.

11. Where the Crown Solicitor shall intervene or show cause against a decree *nisi* in any suit or proceeding for divorce or for nullity of marriage the Court may make such order as to the costs of the Crown Solicitor who shall intervene or show cause as aforesaid or of all and every party or parties thereto occasioned by such intervention or showing cause as aforesaid as may seem just and the Crown Solicitor and such party or parties shall be entitled to recover such costs in like manner as in other cases provided that the Attorney-General may if he shall think fit order any costs which the Crown Solicitor shall by any order of the Court made under this section pay to the said party or parties to be deemed to be part of the expenses of his office.

Costs where Crown Solicitor intervenes. 41 Vic. c. 19 s. 2.

12. After the passing of this Act it shall be lawful for any husband or wife to present a petition to the Court praying that his or her marriage may be dissolved on the ground that since the celebration thereof

Extension of grounds for decreeing dissolution of marriage.

(I.) The petitioner's husband or if the husband is the petitioner his wife has without reasonable grounds deserted the petitioner for a period of five years or upwards from the date of filing the petition or that

(II.) The petitioner's husband or if the husband is the petitioner his wife has (a) attempted to murder the petitioner or (b) has wounded with intent to murder the petitioner or (c) has wounded with intent to inflict grievous bodily harm on the petitioner or (d) has inflicted grievous bodily harm on the petitioner or (e) has administered or attempted to administer poison or other destructive thing to the petitioner or has caused poison or other destructive thing to be administered to the petitioner with intent in any such case to murder the petitioner and whether bodily injury be effected or not on the petitioner (in all such cases in which bodily injury is not necessarily implied)

And every such petition shall state as distinctly as the nature of the case permits the facts on which the claim to have the marriage dissolved is founded. If the Court is satisfied on the evidence that the case of the petitioner has been proved and shall not find that the petitioner has in any way connived at or condoned the desertion or other offence alleged or that there has been collusion between the parties then the Court shall pronounce a decree declaring the marriage to be dissolved. Provided that it shall be proved to the satisfaction of the Court that when the marriage is sought to be dissolved on the ground of desertion the petitioner has been a resident within some one of the Australasian Colonies for a period of at least three years immediately before the filing of the petition and that in no case under this section shall the Court be bound to pronounce such decree if it shall

shall find that the petitioner has during the marriage been guilty of adultery or has unreasonably delayed to present or prosecute the petition or has been guilty of such wilful neglect or misconduct as to have conduced to the desertion or other offence alleged in the petition.

Validation of certain decrees.

13. No decree declaring any marriage to be dissolved made before the passing of this Act after the trial of an issue before any jury and no verdict given by such jury shall be invalidated reversed or otherwise prejudicially affected by reason only of such jury having been struck from a Jury List insufficient in number to permit any co-respondent to strike off the number of names which each party in a civil issue is permitted to strike off under the provisions of the Act eleventh Victoria number twenty Provided that nothing in this section shall affect any judgment or decision of the Supreme Court pronounced before the passing of this Act.

Sydney: Thomas Richards, Government Printer.—1884.

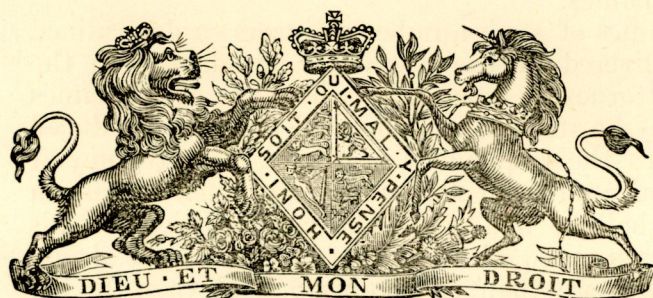
[3d.]

This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

*Legislative Council Chamber,
Sydney, 6th March, 1884.*

*For the Clerk of the Parliaments,
ADOLPHUS P. CLAPIN,
Clerk Assistant.*

New South Wales.



ANNO QUADRAGESIMO SEPTIMO

VICTORIÆ REGINÆ.

No. .

An Act to amend the Matrimonial Causes Act.

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

- 5 1. This Act may be cited as the "Matrimonial Causes Act Short title.
Amendment Act of 1884" and in its construction the expression
"Principal Act" means the Matrimonial Causes Act—the expression
"Divorce Judge" means the Judge appointed to exercise jurisdiction
under the said Principal Act as amended by the Acts forty-third
10 Victoria number thirty-five forty-fourth Victoria number thirty-one
and this Act—the expression "Matrimonial Causes Acts" means the
Principal Act amended as aforesaid—the word "Court" means the
"Supreme Court" having jurisdiction under the Matrimonial Causes
Acts.
- 15 2. The provisions of section four of the Principal Act shall Extension of sec. 4
of Principal Act.
extend to and be applicable in any case in which the Divorce Judge
shall be of opinion that it would be inexpedient for him to exercise
jurisdiction under the Matrimonial Causes Acts.

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3.

Matrimonial Causes Act Amendment.

3. Whenever in any cause the truth of an issue is to be determined by a jury the Divorce Judge or in case of his absence from Sydney or illness any other Judge of the Supreme Court shall issue his precept directing the Sheriff to summon forty-eight special jurors and when there shall be more than one co-respondent on the record so many additional special jurors as shall allow each co-respondent to strike off six names from the jury list as hereinafter provided.

Jury issues how to be tried.

4. At the trial of any issue by a jury the clerk or other ministerial officer of the Court shall put together in a box provided for that purpose the pieces of card furnished by the Sheriff containing the names places of abode and additions of the jurors returned in the jury panel and upon any such issue being called on to be tried such clerk or officer shall in open Court draw out the said cards one after another until such a number of jurors shall appear as shall allow of a jury of twelve being struck from such number after each party to the record has struck off six names.

Calling the jury.

5. A list of the names of such number of jurors so determined as aforesaid shall be delivered by the Sheriff or his deputy to the petitioner or his or her attorney or counsel by whom six of the names contained in such list may be struck therefrom and the list so reduced shall then be delivered to the respondent or his or her attorney or counsel by whom an equal number of names may be struck therefrom and the list so reduced shall be handed to the co-respondent or his attorney or counsel by whom an equal number of names may be struck therefrom or if there be more than one co-respondent then the list shall be handed to each in turn or his attorney or counsel by whom a like number of names may be struck off and the jurors whose names shall then remain upon the list or the first twelve jurors whose names shall then be thereon (as the case may require) shall be the jurors for the trial of the issue and shall be sworn and impanelled accordingly and every party to any such proceeding shall be entitled to the same rights as to challenge and otherwise as if he were a party on the record on an issue at *nisi prius*.

List of jurors how to be dealt with.

6. After any jury shall have been in deliberation for six hours but are still unable to agree to a verdict a verdict of three-fourths may be taken by consent but if such consent be not given and the jury are unable to agree to an unanimous verdict at or before the expiration of twelve hours they shall be then discharged.

When verdict of three-fourths of jury may be taken.

7. Except as hereinbefore provided the law and practice governing all questions respecting the jury shall be the same as now in force at *nisi prius* sittings of the Supreme Court.

Application of general law and practice to jury.

8. Whenever upon a decree for dissolution of a marriage against a husband it shall appear to the Court that such husband has no property on which the payment of any gross or annual sum can be secured but that he would be able to make a monthly or weekly payment to the wife during their joint lives it shall be lawful for the Court to make an order on the husband for payment to the wife during their joint lives of such monthly or weekly sums for her maintenance or support as the Court may think reasonable Provided always that if the husband shall afterwards from any cause become unable to make such payments it shall be lawful for the Court to discharge or modify the order or temporarily suspend the same as to the whole or any part of the money so ordered to be paid and again to revive the same order wholly or in part as to the Court may seem fit Provided also that if the wife shall marry again the Court may upon proof of that fact discharge the said order or if there be infant children in her custody may vary the same.

Power to order monthly or weekly payments to wife from husband on dissolution of marriage.

9. In any suit instituted for dissolution of marriage if the respondent shall oppose the relief sought on the ground in case of such

Relief to respondent in suit for dissolution.

Matrimonial Causes Act Amendment.

a suit instituted by a husband of his adultery cruelty or desertion or in case of such a suit instituted by a wife on the ground of her adultery the Court may in such suit give to the respondent on his or her application the same relief to which he or she would have been entitled
5 in case he or she had filed a petition seeking such relief.

10 10. The provisions contained in the twenty-eighth section of the Principal Act shall for the avoidance of decrees obtained by collusion 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
10 they were herein enacted with the substitution of the words "a decree for nullity of marriage" for the words "decree for a divorce" or "divorce" as the case may require.

Extension of provisions of Principal Act in respect of collusion to suits for nullity of marriage.

15 11. Where the Crown Solicitor shall intervene or show cause against a decree *nisi* in any suit or proceeding for divorce or for nullity
15 of marriage the Court may make such order as to the costs of the Crown Solicitor who shall intervene or show cause as aforesaid or of all and every party or parties thereto occasioned by such intervention or showing cause as aforesaid as may seem just and the Crown Solicitor and such party or parties shall be entitled to recover such
20 costs in like manner as in other cases provided that the Attorney-General may if he shall think fit order any costs which the Crown Solicitor shall by any order of the Court made under this section pay to the said party or parties to be deemed to be part of the expenses of his office.

Costs where Crown Solicitor intervenes.

25 12. No decree declaring any marriage to be dissolved made before the passing of this Act after the trial of an issue before any jury and no verdict given by such jury shall be invalidated reversed or otherwise prejudicially affected by reason only of such jury having been struck from a Jury List insufficient in number to permit any co-
30 respondent to strike off the number of names which each party in a civil issue is permitted to strike off under the provisions of the Act eleventh Victoria number twenty Provided that nothing in this section shall affect any judgment or decision of the Supreme Court pronounced before the passing of this Act.

Validation of certain decrees.

1. In the Act of the 15th of the 3rd Victoria, chapter 2, which is now in force, the following words are contained in section 1, to wit: "The judges of the Court of Queen's Bench shall be appointed by Her Majesty in Council."

2. And in section 2 of the said Act, the following words are contained, to wit: "The judges of the Court of Common Pleas shall be appointed by Her Majesty in Council."

3. And in section 3 of the said Act, the following words are contained, to wit: "The judges of the Court of Exchequer shall be appointed by Her Majesty in Council."

4. And in section 4 of the said Act, the following words are contained, to wit: "The judges of the Court of Sessions shall be appointed by Her Majesty in Council."

5. And in section 5 of the said Act, the following words are contained, to wit: "The judges of the Court of Criminal Sessions shall be appointed by Her Majesty in Council."

MATRIMONIAL CAUSES ACT AMENDMENT BILL.

SCHEDULE of the Amendments referred to in Message of 14 May, 1884.

STEPHEN W. JONES,
Clerk of the Legislative Assembly.

- Page 2, clause 3. *Add* at end of clause “**And every Attorney and Solicitor of the
“ Supreme Court may appear and be heard in all matters and proceed-
“ ings before the Divorce Judge in Court or in Chambers without
“ being required to employ Counsel’**”
- „ clause 6, line 41. *After* “shall” *insert* “**at or after the expiration of that
“ time”**”
- „ clause 6, line 41. *After* “be” *omit* “then”
- Page 3. *Omit* clause 9.
- „ clause ~~11~~ 10, line 25. *After* “parties” *omit* “to be deemed”
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MATHEWSON'S CASE BY THE ATTORNEY GENERAL

THE ATTORNEY GENERAL'S OFFICE

STATIONER'S WORK

VICTOR B. BRITZ

of the Attorney General and Solicitor of the
Court may appear and be heard in all matters and proceed-
ings before the District Judge in Court or in Chambers without
the necessity of a writ of Habeas Corpus.

BEFORE THE DISTRICT COURT OF THE DISTRICT OF COLUMBIA
IN AND FOR THE DISTRICT OF COLUMBIA

IN MATTER OF THE ESTATE OF
MATHEWSON
DECEASED

This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

Legislative Council Chamber,
Sydney, 6th March, 1884. }

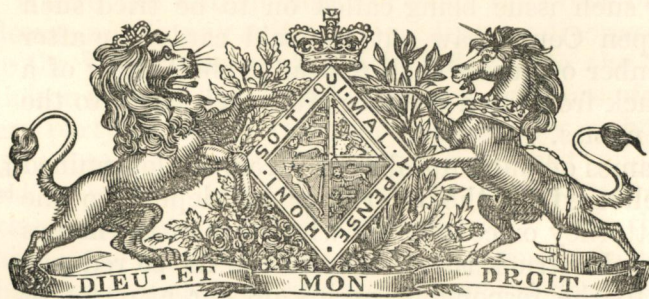
For the Clerk of the Parliaments,
ADOLPHUS P. CLAPIN,
Clerk Assistant.

The LEGISLATIVE ASSEMBLY has this day agreed to this Bill with Amendments.

Legislative Assembly Chamber,
Sydney, 14 May, 1884. }

STEPHEN W. JONES,
Clerk of Legislative Assembly.

New South Wales.



ANNO QUADRAGESIMO SEPTIMO

VICTORIÆ REGINÆ.

No. .

An Act to amend the Matrimonial Causes Act.

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

- 5 1. This Act may be cited as the "Matrimonial Causes Act Amendment Act of 1884" and in its construction the expression "Principal Act" means the Matrimonial Causes Act—the expression "Divorce Judge" means the Judge appointed to exercise jurisdiction under the said Principal Act as amended by the Acts forty-third
- 10 Victoria number thirty-five forty-fourth Victoria number thirty-one and this Act—the expression "Matrimonial Causes Acts" means the Principal Act amended as aforesaid—the word "Court" means the "Supreme Court" having jurisdiction under the Matrimonial Causes Acts.
- 15 2. The provisions of section four of the Principal Act shall extend to and be applicable in any case in which the Divorce Judge shall be of opinion that it would be inexpedient for him to exercise jurisdiction under the Matrimonial Causes Acts.

Short title and definition of terms.

Extension of sec. 4 of Principal Act.

c 51—

3.

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.

Matrimonial Causes Act Amendment.

3. Whenever in any cause the truth of an issue is to be determined by a jury the Divorce Judge or in case of his absence from Sydney or illness any other Judge of the Supreme Court shall issue his precept directing the Sheriff to summon forty-eight special jurors and when there shall be more than one co-respondent on the record so many additional special jurors as shall allow each co-respondent to strike off six names from the jury list as hereinafter provided **And every Attorney and Solicitor of the Supreme Court may appear and be heard in all matters and proceedings before the Divorce Judge in Court or in Chambers without being required to employ Counsel.**

Jury issues how to be tried.

4. At the trial of any issue by a jury the clerk or other ministerial officer of the Court shall put together in a box provided for that purpose the pieces of card furnished by the Sheriff containing the names places of abode and additions of the jurors returned in the jury panel and upon any such issue being called on to be tried such clerk or officer shall in open Court draw out the said cards one after another until such a number of jurors shall appear as shall allow of a jury of twelve being struck from such number after each party to the record has struck off six names.

Calling the jury.

5. A list of the names of such number of jurors so determined as aforesaid shall be delivered by the Sheriff or his deputy to the petitioner or his or her attorney or counsel by whom six of the names contained in such list may be struck therefrom and the list so reduced shall then be delivered to the respondent or his or her attorney or counsel by whom an equal number of names may be struck therefrom and the list so reduced shall be handed to the co-respondent or his attorney or counsel by whom an equal number of names may be struck therefrom or if there be more than one co-respondent then the list shall be handed to each in turn or his attorney or counsel by whom a like number of names may be struck off and the jurors whose names shall then remain upon the list or the first twelve jurors whose names shall then be thereon (as the case may require) shall be the jurors for the trial of the issue and shall be sworn and impannelled accordingly and every party to any such proceeding shall be entitled to the same rights as to challenge and otherwise as if he were a party on the record on an issue at *nisi prius*.

List of jurors how to be dealt with.

6. After any jury shall have been in deliberation for six hours but are still unable to agree to a verdict a verdict of three-fourths may be taken by consent but if such consent be not given and the jury are unable to agree to an unanimous verdict at or before the expiration of twelve hours they shall at or after the expiration of that time be then discharged.

When verdict of three-fourths of jury may be taken.

7. Except as hereinbefore provided the law and practice governing all questions respecting the jury shall be the same as now in force at *nisi prius* sittings of the Supreme Court.

Application of general law and practice to jury.

8. Whenever upon a decree for dissolution of a marriage against a husband it shall appear to the Court that such husband has no property on which the payment of any gross or annual sum can be secured but that he would be able to make a monthly or weekly payment to the wife during their joint lives it shall be lawful for the Court to make an order on the husband for payment to the wife during their joint lives of such monthly or weekly sums for her maintenance or support as the Court may think reasonable Provided always that if the husband shall afterwards from any cause become unable to make such payments it shall be lawful for the Court to discharge or modify the order or temporarily suspend the same as to the whole or any part of the money so ordered to be paid and again to revive the same order wholly or in part as to the Court may seem fit Provided also that if the wife shall marry again the Court may upon proof of that fact discharge the said order or if there be infant children in her custody may vary the same.

Power to order monthly or weekly payments to wife from husband on dissolution of marriage.

Matrimonial Causes Act Amendment.

9. In any suit instituted for dissolution of marriage if the respondent shall oppose the relief sought on the ground in case of such a suit instituted by a husband of his adultery cruelty or desertion or in case of such a suit instituted by a wife on the ground of her adultery the Court may in such suit give to the respondent on his or her application the same relief to which he or she would have been entitled in case he or she had filed a petition seeking such relief.

Relief to respondent
in suit for dissolution

10. 9. The provisions contained in the twenty-eighth section of the Principal Act shall for the avoidance of decrees obtained by collusion 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 a divorce" or "divorce" as the case may require.

Extension of
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15 11. 10. Where the Crown Solicitor shall intervene or show cause against a decree *nisi* in any suit or proceeding for divorce or for nullity of marriage the Court may make such order as to the costs of the Crown Solicitor who shall intervene or show cause as aforesaid or of all and every party or parties thereto occasioned by such intervention or showing cause as aforesaid as may seem just and the Crown Solicitor and such party or parties shall be entitled to recover such costs in like manner as in other cases provided that the Attorney-General may if he shall think fit order any costs which the Crown Solicitor shall by any order of the Court made under this section pay to the said party or parties to be deemed to be part of the expenses of his office.

Costs where Crown
Solicitor intervenes.

12. 11. No decree declaring any marriage to be dissolved made before the passing of this Act after the trial of an issue before any jury and no verdict given by such jury shall be invalidated reversed or otherwise prejudicially affected by reason only of such jury having been struck from a Jury List insufficient in number to permit any co-respondent to strike off the number of names which each party in a civil issue is permitted to strike off under the provisions of the Act eleventh Victoria number twenty Provided that nothing in this section shall affect any judgment or decision of the Supreme Court pronounced before the passing of this Act.

Validation of certain
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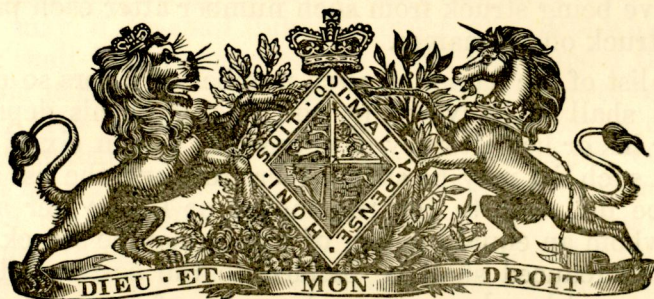
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40. 9. The provisions contained in the twenty-fifth section of the Principal Act shall for the avoidance of doubt be construed as if they apply to decrees and suits for divorce and shall be construed as if they were herein enacted with the substitution of the words "a decree for nullity of marriage" for the words "decree for a divorce" or "divorce" as the case may require.

15 44. 10. Where the Crown Solicitor shall intervene or show cause against a decree nisi in any suit or proceeding for divorce or for nullity of marriage the Court may make such order as to the costs of the Crown Solicitor who shall intervene or show cause as aforesaid or of all and every party or parties thereto occasioned by such intervention or showing cause as aforesaid as may seem just and the Crown Solicitor and such party or parties shall be entitled to recover such costs in like manner as in other cases provided that the Attorney-General may if he shall think fit order any costs which the Crown Solicitor shall by any order of the Court made under this section pay to the said party or parties to be deemed to be part of the expenses of his office.

45. 11. No decree dissolving any marriage to be dissolved made before the passing of this Act after the trial of an issue before any jury and no verdict given by such jury shall be invalidated or reversed or otherwise prejudicially affected by reason only of such jury having been struck from a jury list insufficient in number to permit any respondent to strike off the number of names which each party in a civil case is permitted to strike off under the provisions of the Act. Provided that nothing in this section shall affect any judgment or decision of the Supreme Court pronounced before the passing of this Act.

New South Wales.



ANNO QUADRAGESIMO OCTAVO

VICTORIÆ REGINÆ.

No. III.

An Act to amend the Matrimonial Causes Act. [Assented to, 3rd July, 1884.]

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

1. This Act may be cited as the "Matrimonial Causes Act Amendment Act of 1884" and in its construction the expression "Principal Act" means the Matrimonial Causes Act—the expression "Divorce Judge" means the Judge appointed to exercise jurisdiction under the said Principal Act as amended by the Acts forty-third Victoria number thirty-five forty-fourth Victoria number thirty-one and this Act—the expression "Matrimonial Causes Acts" means the Principal Act amended as aforesaid—the word "Court" means the "Supreme Court" having jurisdiction under the Matrimonial Causes Acts.

Short title and definition of terms.

2. The provisions of section four of the Principal Act shall extend to and be applicable in any case in which the Divorce Judge shall be of opinion that it would be inexpedient for him to exercise jurisdiction under the Matrimonial Causes Acts.

Extension of sec. 4 of Principal Act.

Matrimonial Causes Act Amendment.

Jury issues how to be tried.

3. Whenever in any cause the truth of an issue is to be determined by a jury the Divorce Judge or in case of his absence from Sydney or illness any other Judge of the Supreme Court shall issue his precept directing the Sheriff to summon forty-eight special jurors and when there shall be more than one co-respondent on the record so many additional special jurors as shall allow each co-respondent to strike off six names from the jury list as hereinafter provided.

Calling the jury.

4. At the trial of any issue by a jury the clerk or other ministerial officer of the Court shall put together in a box provided for that purpose the pieces of card furnished by the Sheriff containing the names places of abode and additions of the jurors returned in the jury panel and upon any such issue being called on to be tried such clerk or officer shall in open Court draw out the said cards one after another until such a number of jurors shall appear as shall allow of a jury of twelve being struck from such number after each party to the record has struck off six names.

List of jurors how to be dealt with.

5. A list of the names of such number of jurors so determined as aforesaid shall be delivered by the Sheriff or his deputy to the petitioner or his or her attorney or counsel by whom six of the names contained in such list may be struck therefrom and the list so reduced shall then be delivered to the respondent or his or her attorney or counsel by whom an equal number of names may be struck therefrom and the list so reduced shall be handed to the co-respondent or his attorney or counsel by whom an equal number of names may be struck therefrom or if there be more than one co-respondent then the list shall be handed to each in turn or his attorney or counsel by whom a like number of names may be struck off and the jurors whose names shall then remain upon the list or the first twelve jurors whose names shall then be thereon (as the case may require) shall be the jurors for the trial of the issue and shall be sworn and impannelled accordingly and every party to any such proceeding shall be entitled to the same rights as to challenge and otherwise as if he were a party on the record on an issue at *nisi prius*.

When verdict of three-fourths of jury may be taken.

6. After any jury shall have been in deliberation for six hours but are still unable to agree to a verdict a verdict of three-fourths may be taken by consent but if such consent be not given and the jury are unable to agree to an unanimous verdict at or before the expiration of twelve hours they shall at or after the expiration of that time be discharged.

Application of general law and practice to jury.

7. Except as hereinbefore provided the law and practice governing all questions respecting the jury shall be the same as now in force at *nisi prius* sittings of the Supreme Court.

Power to order monthly or weekly payments to wife from husband on dissolution of marriage.

8. Whenever upon a decree for dissolution of a marriage against a husband it shall appear to the Court that such husband has no property on which the payment of any gross or annual sum can be secured but that he would be able to make a monthly or weekly payment to the wife during their joint lives it shall be lawful for the Court to make an order on the husband for payment to the wife during their joint lives of such monthly or weekly sums for her maintenance or support as the Court may think reasonable Provided always that if the husband shall afterwards from any cause become unable to make such payments it shall be lawful for the Court to discharge or modify the order or temporarily suspend the same as to the whole or any part of the money so ordered to be paid and again to revive the same order wholly or in part as to the Court may seem fit Provided also that if the wife shall marry again the Court may upon proof of that fact discharge the said order or if there be infant children in her custody may vary the same.

Matrimonial Causes Act Amendment.

9. The provisions contained in the twenty-eighth section of the Principal Act shall for the avoidance of decrees obtained by collusion 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 a divorce" or "divorce" as the case may require.

Extension of provisions of Principal Act in respect of collusion to suits for nullity of marriage.

10. Where the Crown Solicitor shall intervene or show cause against a decree *nisi* in any suit or proceeding for divorce or for nullity of marriage the Court may make such order as to the costs of the Crown Solicitor who shall intervene or show cause as aforesaid or of all and every party or parties thereto occasioned by such intervention or showing cause as aforesaid as may seem just and the Crown Solicitor and such party or parties shall be entitled to recover such costs in like manner as in other cases provided that the Attorney-General may if he shall think fit order any costs which the Crown Solicitor shall by any order of the Court made under this section pay to the said party or parties to be part of the expenses of his office.

Costs where Crown Solicitor intervenes.

11. No decree declaring any marriage to be dissolved made before the passing of this Act after the trial of an issue before any jury and no verdict given by such jury shall be invalidated reversed or otherwise prejudicially affected by reason only of such jury having been struck from a Jury List insufficient in number to permit any co-respondent to strike off the number of names which each party in a civil issue is permitted to strike off under the provisions of the Act eleventh Victoria number twenty Provided that nothing in this section shall affect any judgment or decision of the Supreme Court pronounced before the passing of this Act.

Validation of certain decrees.

By Authority: THOMAS RICHARDS, Government Printer, Sydney, 1884.

[3d.]

Mutualist Cases del Abogado

18. The provisions contained in the twenty-eighth section of the Act shall for the avoidance of doubt be construed as if they apply to business and other transactions in which they were entered into with the intention of the words "a business" for the purpose of the words "business" for a divorce or

19. Where the Crown is entitled to a share of the property of a person who is a party to a transaction or to a contract, the Crown may make such order as to the costs of the Crown Solicitor who shall in respect of such order be deemed to be the party to the transaction or to the contract as may seem just and the Crown Solicitor may in any case provide that the Attorney-General may in his discretion in any case where the Crown Solicitor shall by any order of the Court make under this section pay to the said party or parties to be part of the expenses of his office.

20. No decree declaring any marriage to be dissolved shall be made after the passing of this Act after the trial of an issue before any jury and no verdict given by such jury shall be invalidated reversed or otherwise prejudicially affected by reason only of such jury having been struck from a jury that insufficient in number to return any verdict to strike off the number of names which each party in a civil cause is permitted to strike off under the provisions of the Act provided that nothing in this section shall affect any judgment or decision of the Supreme Court pronounced before the passing of this Act.

21. The provisions of this Act shall not apply to any proceedings in which a writ of habeas corpus is granted or to any proceedings in which a writ of habeas corpus is refused.

22. The provisions of this Act shall not apply to any proceedings in which a writ of habeas corpus is granted or to any proceedings in which a writ of habeas corpus is refused.

23. The provisions of this Act shall not apply to any proceedings in which a writ of habeas corpus is granted or to any proceedings in which a writ of habeas corpus is refused.

24. The provisions of this Act shall not apply to any proceedings in which a writ of habeas corpus is granted or to any proceedings in which a writ of habeas corpus is refused.

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