

No. III.

MATRIMONIAL
CAUSES ACT
AMENDMENT.

An Act to amend the Matrimonial Causes Act. [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:—

Short title and
definition of terms.

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.

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.

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*.

Matrimonial Causes Act Amendment.

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.

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 of 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. 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.