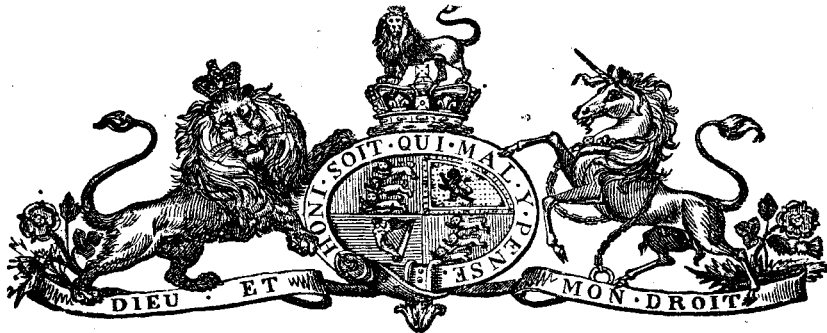


T A S M A N I A.



1864.

ANNO VICESIMO-OCTAVO

VICTORIÆ REGINÆ,

No. 4.



AN ACT to amend the Procedure and Powers of the Supreme Court in respect of Divorce and Matrimonial Causes.

[21 September, 1864.]

BE it enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

1. In every case of a Petition for a dissolution of Marriage it shall be lawful for the Supreme Court, if it sees fit, to direct all necessary papers in the matter to be sent to Her Majesty's Attorney-General, who shall cause Counsel to be instructed to argue before the Court any question in relation to such matter, and which the Court may deem it necessary or expedient to have fully argued. Court may, where one party only appears, require Counsel to be appointed to argue on the other side.

2 And whereas by Section Thirty-five of *The Matrimonial Causes Act* it was enacted that, " In any case in which the Court pronounced a Decree of Divorce or Judicial Separation for adultery of the wife, if it was made to appear to the Court that the wife was entitled to any property, either in possession or reversion, it should be lawful for the Court, if it thought proper, to order such settlement as it thought reasonable to be made of such property, or any part thereof, for the benefit of the innocent party and of the children of the marriage, or either of them : " Be it further enacted, That any instrument executed pursuant to any Order of the Court made under the said Enactment 24 Vict. No. 1, s. 35, amended.

before or after the passing of this Act, at the time of or after the pronouncing of a final Decree of Divorce or Judicial Separation, shall be deemed valid and effectual in the Law, notwithstanding the existence of the disability of Coverture at the time of the execution thereof.

Decrees.

**3** Every Decree for a Divorce shall in the first instance be a Decree Nisi, not to be made absolute till after the expiration of such time as the Court shall by general or special Order from time to time direct; and during that period any person shall be at liberty, in such manner as the Court shall by general or special Order in that behalf from time to time direct, to show cause why the said Decree should not be made absolute by reason of the same having been obtained by collusion or by reason of material facts not brought before the Court; and, on cause being so shown, the Court shall deal with the case by making the Decree absolute, or by reversing the Decree Nisi, or by requiring further inquiry, or otherwise as justice may require; and at any time during the progress of the cause, or before the Decree is made absolute, any person may give information to Her Majesty's Attorney-General of any matter material to the due decision of the case, who may thereupon take such steps as he deems necessary or expedient; and if from any such information or otherwise the Attorney-General suspects that any parties to the suit are or have been acting in collusion for the purpose of obtaining a Divorce contrary to the justice of the case, he may, by leave of the Court, intervene in the suit, alleging such case of collusion, and may cause Counsel to be retained and Witnesses to be subpoenaed to prove it; and it shall be lawful for the Court to order the costs of such Counsel and Witnesses, and otherwise, arising from such intervention, to be paid by the parties or such of them as it sees fit, including a wife if she have separate property.

Collusion.

Attorney-General to be reimbursed costs incurred.

**4** All costs and expenses incurred and disbursed by the Attorney-General under this Act, except such costs as the Court may order to be paid by the parties or such of them as it sees fit, shall be paid and reimbursed to him by the Colonial Treasurer out of the General Revenue, upon the Warrant of the Governor; and the Treasurer shall be allowed credit in his accounts for all sums so paid by him.

This Act and 24 Vict. No. 1 to be read together.

**5** This Act and *The Matrimonial Causes Act*, except in so far as the same is amended by this Act, shall be read and construed together as one and the same Act.

Short Title.

**6** In referring to this Act it shall be sufficient to use the expression *The Matrimonial Causes Act, No. 2*.