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No. , 1915.

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## A BILL

To amend the law relating to the summary jurisdiction of magistrates in reference to married women; to amend certain Acts; and for purposes consequent thereon or incidental thereto.

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**B**E it enacted by the King'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 "Married Woman's Short title. Summary Jurisdiction Act, 1915."

*Summary relief for married women.*

2. Any married woman whose husband shall have been convicted summarily or upon indictment of an assault upon her or any of her children under the age of sixteen years, or whose husband shall have deserted her, or whose husband shall have been guilty of persistent cruelty to her, or wilful neglect to provide reasonable maintenance for her or any of her infant children whom he is legally liable to maintain, and shall by such neglect or cruelty have caused her to leave and live separately and apart from him, may apply summarily to a court for an order or orders under this Act.

Married women may apply for orders. 58 and 59, Vic. 54.

3. Such court to which any such application is made may make an order or orders containing all or any of the provisions following, viz. :—

Powers of Court. *Ibid.* s. 5.

- (a) A provision that the applicant be no longer bound to cohabit with her husband (which provision while in force shall have the effect in all respects of a decree of judicial separation);
- (b) A provision that the legal custody of any children of the marriage between the applicant and her husband, while under the age of sixteen years, be committed to the applicant.
- (c) A provision that the husband shall pay to the applicant personally, or for her use, to any third person on her behalf, such weekly or monthly sum for the maintenance and support of herself and of any children whose custody has been committed to her under this Act as the court shall, having regard to the means both of the husband and wife, consider reasonable.
- (d) A provision for payment by the applicant or the husband, or both of them, of the costs of the court and such reasonable costs of either of the parties as the court may think fit.

4. No orders shall be made under this Act on the application of a married woman if it shall be proved that such married woman has committed an act of adultery: Provided that the husband has not condoned, or connived at, or by his wilful neglect or misconduct conduced to such act of adultery.

Limitations of powers of court. *Ibid.* s. 6.

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**5.** Any court may, on the application of the married woman or of her husband, and upon cause being shown upon fresh evidence to the satisfaction of the court at any time, alter, vary, or discharge any such order, and may upon any such application from time to time increase or diminish the amount of any weekly or monthly payment ordered to be made. If any married woman upon whose application an order shall have been made under this Act shall voluntarily resume cohabitation with her husband, or shall commit an act of adultery, such order shall upon proof thereof be discharged.

Court may vary or discharge order.  
*Ibid.* s. 7.

**6.** All applications under this Act shall be made by complaint on oath by the party seeking relief, or by some reputable person on his or her behalf, and any justice may summon the defendant requiring him or her to appear before the court to answer such complaint, or, if the circumstances seem to require it, may issue a warrant for his or her apprehension.

Applications by whom made.

**7.** (1) The procedure to be followed upon the issue of such summons or warrant shall be the same as in the case of proceedings under the Deserted Wives and Children Act, 1901, so far as the same is not repealed.

Procedure and powers.

(2) The court and any justice respectively shall, in addition to any powers conferred upon them by this Act, have the powers conferred upon justices and any justice respectively under sections eight to twelve inclusive, of the Deserted Wives and Children Act, 1901.

*Appeals.*

**8.** (1) An appeal shall lie from any order on the refusal of any order by such court under this Act to the Supreme Court in its divorce jurisdiction.

Appeals.

(2) Such appeal shall be by way of rehearing, and the said Supreme Court may upon any such appeal affirm, vary, or rescind any such order, or make any order which in its opinion should have been made by the court appealed from.

(3) The Judge in Divorce may from time to time make rules of court regulating the practice and procedure in such appeals.

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**9.** The jurisdiction, powers, and authorities conferred upon the Supreme Court in Divorce, upon the court, and upon justices respectively under this Act shall be in addition to any jurisdiction, powers, and authorities possessed by the same respectively under the Matrimonial Causes Act, 1899, the Deserted Wives and Children Act, 1901, the Infant Protection Act, 1904, and the Neglected Children and Juvenile Offenders Act, 1905, and any Acts amending the same. Powers to be additional.

**10.** Section ten of the Neglected Children and Juvenile Offenders Act, 1905, is amended by adding the following subsection after subsection (c):—

(d) and shall hear and determine complaints and applications under the Married Woman's Summary Jurisdiction Act, 1915.

**11.** The word "court" where used in this Act shall, unless the context otherwise demand, means the children's court for the area in which any matter or cause of complaint, in respect of which relief is claimed under this Act, shall have wholly or partly arisen, or if such matter or cause of complaint shall have wholly or partly arisen out of any such area, then "court" shall mean any court that may exercise the jurisdiction of children's courts out of proclaimed areas.

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