



Western Australia.

ANNO SEXAGESIMO

VICTORIÆ REGINÆ.

No. X.

AN ACT to amend the Law relating to the Summary Jurisdiction of Magistrates in reference to Married Women.

[Assented to, 23rd September, 1896.]

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

1. THIS Act may be cited for all purposes as the Summary Jurisdiction (Married Women) Act, 1896.

Short Title.

2. ANY married woman whose husband shall have been convicted of an aggravated assault upon her, within the meaning of the Imperial Statute 24 and 25 Victoria, cap. 100, Sec. 43 (adopted in Western Australia by Ordinance 29 Victoria, No. 5), or whose husband shall have been convicted of an assault upon her and sentenced to a fine of more than Five pounds, or to a term of imprisonment exceeding two months, or whose husband shall have been guilty of persistent cruelty to her, or wilful neglect to provide reasonable maintenance for her or her infant children whom he is legally liable to maintain, and shall by such cruelty or

By and to whom orders may be applied for.

60° VICTORIÆ, No. 10.

Summary Jurisdiction (Married Women).

neglect have caused her to leave and live separately and apart from him, may apply to any two Justices of the Peace acting within the Magisterial District in which any such conviction has taken place, or in which the cause of complaint shall have wholly or partially arisen, for an order or orders under this Act: Provided that where a married woman is entitled to apply for an order or orders under this Section on the ground of the conviction of her husband by the Supreme Court or any Court of General or Quarter Sessions of the Peace, may apply to the Court before whom her husband has been convicted, and that Court shall, for the purposes of this Section, become a Court of Summary Jurisdiction, and shall have the power, without a jury, to hear an application and make the order or orders applied for.

Powers of Court.

3. THE said Justices, or any Court to which an application under this Act is made, may make an order or orders containing all or any of the provisions following, viz. :—

- (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 on the ground of cruelty):
- (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 officer of the Court or third person on her behalf, such weekly sum not exceeding Three pounds, as the Court shall, having regard to 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.

Limitations of powers of Court.

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.

Court may vary or discharge order.

5. ANY two Justices acting within the district in which any order under this Act or the Act mentioned in the Schedule hereto, or either of them, has been made, may, on the application of the

60° VICTORIÆ, No. 10.

Summary Jurisdiction (Married Women).

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 payment ordered to be made, so that the same do not in any case exceed the weekly sum of three pounds. If any married woman upon whose application an order shall have been made under this Act or the Act mentioned in the Schedule hereto, or either of them, shall voluntarily resume cohabitation with her husband, or shall commit an act of adultery, such order shall, upon proof thereof, be discharged.

6. ALL applications under this Act shall be made in accordance with the Ordinance 14 Vict., No. 5, and in the case of a conviction of a husband for aggravated assault upon his wife, her application may, by leave of the Court, be made by summons to be issued and made returnable immediately upon such conviction.

Procedure.

7. THE payments of any sum of money directed to be paid by an order under this Act may be enforced in the same manner as the payment of money is enforced under an order of affiliation.

Enforcement of orders for payment of money.

8. IF, in the opinion of the Justices, the matters in question between the parties or any of them would be more conveniently dealt with by the Supreme Court, the Justices may refuse to make an order under this Act, and in such case no appeal shall lie from the decision of the Justices: Provided always, that the Supreme Court or a Judge thereof shall have power by order in any proceeding in the Supreme Court relating to or comprising the same subject matter as the application so refused as aforesaid, or any part thereof, to direct the said Justices to rehear and determine the same.

Court may refuse an order in cases more fit for Supreme Court.

9. SAVE as hereinbefore provided, an appeal shall lie from any order or the refusal of any order by Justices under this Act to the Supreme Court. Rules of Court may from time to time be made regulating the practice and procedure in such appeals, and until such rules be made, the practice as to appeals from Justices under the Police Act, 1892, shall apply to appeals under this Act.

Appeal.

10. THE Act specified in the Schedule to this Act is hereby repealed, to the extent therein mentioned.

Repeal.

In the name and on behalf of the Queen I hereby assent to this Act.

GERARD SMITH, Governor.

60° VICTORIÆ, No. 10.

Summary Jurisdiction (Married Women).

SCHEDULE.

ENACTMENT REPEALED.

| Year and Number. | Extent of Repeal. |
|------------------------|-------------------|
| 43 Vict., No. 9 | Section three. |