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c 226 Matrimonial Causes Act

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CHAPTER 226

The Matrimonial Causes Act

1. In any action for divorce or to declare the nullity of any marriage, the court may order that the husband shall secure to the wife, unless she has been guilty of adultery, such gross sum of money or annual sum of money for any term, not exceeding her life, as, having regard to her fortune, if any, and to the ability of the husband and to the conduct of the parties, may be deemed reasonable and may suspend the pronouncement of the judgment absolute until all necessary deeds and instruments have been executed. R.S.O. 1937, c. 208, s. 1.

2.—(1) In addition to or in substitution for an order under section 1 the court may direct the husband to pay to the wife, unless she has been guilty of adultery, during the joint lives of the husband and wife and so long as she remains chaste such monthly or weekly sum for her support and maintenance as the court may think reasonable, provided that,

- (a) if the husband after any such order becomes, from any cause, unable to make the payments, the court may discharge or modify the order or temporarily suspend the order in whole or in part and may subsequently revive it in whole or in part as may be deemed proper;
- (b) if the means of the husband shall at any time after the making of any such order be increased, the court may, if it is deemed proper, increase the amount payable thereunder;
- (c) such payments shall cease on the wife marrying again.

(2) The court shall have the same power to make an order for the payment of interim alimony as in the case of an action for alimony. R.S.O. 1937, c. 208, s. 2.

3. If a judgment for divorce is pronounced by reason of the adultery of the wife and it appears that the wife is entitled to property either in possession or reversion, the court may order such settlement as it thinks reasonable of her property or any part thereof for the benefit of the children of the marriage or their issue or any or either of them. R.S.O. 1937, c. 208, s. 3.

Power of court where marriage settlement.

4. If a judgment for divorce is pronounced and it appears that a marriage settlement has been made, the court may make such order with reference to the application of the whole or any part of the property settled for the benefit of the children of the marriage as the court may under all the circumstances of the case deem proper. R.S.O. 1937, c. 208, s. 4.

Power as to custody of children.

5.—(1) In any action for divorce the court may from time to time and either before or after the judgment absolute, make such provision as appears to be just with regard to the custody, maintenance and education of the children of the marriage and may direct payment by either the father or the mother of such sum as may be necessary for the due care, maintenance and education of the children of the marriage.

Who may make application.

(2) An application under this section may be made by either husband or wife or by the children by their next friend either at the hearing of the case or upon summary application therein. R.S.O. 1937, c. 208, s. 5.

Divorce actions, children under 16.

6.—(1) Where the statement of claim in any action for the dissolution of marriage contains particulars as to any child of the marriage who is under sixteen years of age at the time of the commencement of the action, the Official Guardian shall cause an investigation to be made and shall report to the court upon all matters relating to the custody, maintenance and education of the child.

Agents.

(2) The Official Guardian may engage any person to make such investigation on his behalf.

Report to be received in evidence.

(3) An affidavit of any person making the investigation, verifying the report as to such facts as are within his knowledge and setting out the source of his information and his belief as to any other facts, with the report marked as an exhibit thereto, shall be received in evidence upon the trial of the action.

Attendance at trial.

(4) Where the facts contained in the report are disputed the Official Guardian or his agent shall attend the trial on behalf of the child and shall cause the person making the investigation to attend as a witness.

Powers of Judge.

(5) Notwithstanding the fact that no claim for custody is made in the action the judge presiding at the trial may make such order as to the custody and maintenance of the child as may seem proper.

Costs.

(6) The judge in his discretion may order that the costs of the Official Guardian, including his disbursements in connection with the investigation, be paid by any party to the action.

(7) Any person affected by an order made under this section, including the Official Guardian on behalf of the child, may appeal therefrom to the Court of Appeal. Appeal.

(8) The Rules Committee may make rules for carrying this section into effect and except where inconsistent with this section or such rules, *The Judicature Act* and the rules made thereunder shall apply to proceedings under this section. 1949, c. 56, s. 1, *part.* Rules.
Rev. Stat.,
c. 190.

(9) This section shall apply to actions for divorce that are commenced on or after the 1st day of April, 1950. 1949, c. 56, s. 2 (2). Application
of section.

7.—(1) Any party to an action for divorce or for the annulment of a marriage in which a judgment nisi is granted may appeal to the Court of Appeal from the judgment nisi, but no appeal shall lie from the judgment absolute in any such action by any party who having had time and opportunity to appeal from the judgment nisi has not done so. Rights of
appeal.

(2) Any party to an action for divorce or for the annulment of a marriage in which a judgment nisi is granted or any person who intervened or who applied to show cause why the judgment should not be made absolute may appeal to the Court of Appeal from the judgment or order disposing of the matter raised by the intervention or by the application. 1949, c. 56, s. 1, *part.* Idem.

(3) This section shall apply to actions for divorce or for the annulment of a marriage in which judgment nisi is granted on or after the 1st day of April, 1950. 1949, c. 56, s. 2 (3). Application
of section.

8. After the granting of a judgment absolute of divorce the wife shall be regarded as a *feme sole* so far as her property and her right to contract are concerned. R.S.O. 1937, c. 208, s. 6. After divorce
wife a
feme sole.

9. The rules of court relating to the conduct of matrimonial causes may be repealed, amended or varied by the Rules Committee, subject to the approval of the Lieutenant-Governor in Council. R.S.O. 1937, c. 208, s. 7; 1941, c. 55, s. 19, *amended.* Rules
confirmed
with right
to repeal,
amend, etc.

10. So many of the provisions of *The Divorce Act (Ontario), 1930* (Canada) as are or may be within the legislative competence of this Legislature are hereby enacted as if fully set out in this Act. 1950, c. 42, s. 50. 1930, c. 14
(Can.),
enacted
in part.

