

BILL No. 36 OF 1925.

A BILL RELATING TO DOMESTIC RELATIONS.

NOTE.

The Bill is largely a codification of the law—

- (a) which is in force in the Province by virtue of having been English Law upon July 15th, 1870;
- (b) which is in force in the Province by virtue of Provincial enactment.

PART I.—RESTITUTION OF CONJUGAL RIGHTS.

This appears to require no comment.

PART II.—JUDICIAL SEPARATION.

A special definition of “cruelty” is here given, which extends the older judicial meaning of the word to a considerable extent.

PART III.—ALIMONY.

The Act makes clear that even the whole of the husband’s property may be given by way of alimony or maintenance. (Sec. 16 and Sec. 20.)

PART IV.—PROTECTION ORDERS.

These provisions are taken from *The Matrimonial Causes Act* of England.

PART V.—LOSS OF CONSORTIUM.

It is believed that this Part represents the common law upon the subject.

PART VI.—JACTITATION OF MARRIAGE.

It is believed that this Part represents the common law upon the subject.

PART VII.—ADOPTION OF CHILDREN.

This Part replaces sections 27 to 33 of *The Infants Act* (R.S.A., 1922, c. 216.)

PART VIII.—LEGITIMATIONS.

This Part—

- (a) replaces section 9(2) of *The Intestate Succession Act* (R.S.A., 1922, c. 143) with an Act drafted by the Commissioners for Uniformity of Legislation;
- (b) provides for the making of a declaration of legitimacy by the Court, as enacted by *The Legitimacy Declaration Act*, 1858.

PART IX.—GUARDIANSHIP.

This Part replaces sections 2 to 9 and sections 22 to 26 of *The Infants Act* (R.S.A., 1922, c. 216.)

WALTER S. SCOTT,
Legislative Counsel.

(This note does not form any part of the Bill, and is offered merely as a partial explanation of some of its provisions.)

BILL

No. 36 of 1925.

An Act relating to Domestic Relations.

(Assented to _____, 1925.)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

SHORT TITLE.

1. This Act may be cited as "*The Domestic Relations Act*, 1925."

PART I.

RESTITUTION OF CONJUGAL RIGHTS.

2. If one party to a marriage refuses to cohabit with the other party, the Court may, at its discretion, give a judgment for restitution of conjugal rights.

3. No such judgment shall be enforced by attachment.

4. If the defendant fails to comply with a judgment of the Court for restitution of conjugal rights, such defendant shall thereupon be deemed to have been guilty of desertion without reasonable cause, and an action for judicial separation may be forthwith instituted and a judgment of judicial separation may be pronounced although the period of two years hereinafter mentioned may not have elapsed since the failure to comply with the judgment for restitution of conjugal rights.

PART II.

JUDICIAL SEPARATION.

5. In this part, unless the context otherwise requires, "Matrimonial offence" shall mean any of the offences mentioned in section 6 hereof.

6.—(1) A judgment of judicial separation may be obtained from the Court either by a husband or by a wife, if his wife or her husband, as the case may be, has since the celebration of marriage been guilty of—

- (a) adultery; or
- (b) cruelty; or

- (c) desertion without reasonable cause, for two years or upwards, or desertion constituted by the fact of the wife or husband, as the case may be, having failed to comply with a judgment for restitution of conjugal rights; or
- (d) sodomy or bestiality, or an attempt to commit either of these offences.

(2) "Cruelty" in this Act shall not be confined in its meaning to conduct which creates a danger to life, limb or health, but shall include any course of conduct which in the opinion of the Court is grossly insulting and intolerable, or is of such a character that the person seeking the separation could not reasonably be expected to be willing to live with the other after he or she had been guilty of the same.

7. The Court shall have jurisdiction to hear an action for judicial separation or restitution of conjugal rights, or an application for alimony; when both the parties thereto—

- (a) are domiciled in Alberta at the time of the commencement of the action; or
- (b) had a matrimonial home in Alberta, when their cohabitation ceased, or the events occurred on which the claim for separation is based; or
- (c) are resident in Alberta at the time of the commencement of the action.

8. No judgment of judicial separation shall be granted when it is made to appear at the hearing of the case that the plaintiff has—

- (a) in any case where judicial separation is sought on the ground of adultery, been accessory to or connived at the adultery of the other party;
- (b) condoned the matrimonial offence complained of;
- (c) presented or prosecuted the claim in collusion with the respondent;
- (d) committed adultery during the existence of the marriage, which has not been condoned.

9. A judgment of judicial separation may be refused when the claim has been presented on the grounds of adultery, and it is made to appear at the hearing that the plaintiff has been guilty of conduct conducing to the adultery.

10. After a judgment of judicial separation has been granted—

- (a) Neither the husband or the wife shall be under any duty of cohabitation;
- (b) the wife shall, during the continuance of the separation be considered as a *feme sole* for the purposes of contracts and wrongs and injuries and suing and

being sued in any civil proceeding, and for all other purposes and shall be reckoned as *sui juris* and as an independent person for all purposes, including the acquisition of a new domicile distinct from that of her husband.

11. After a judgment of judicial separation, the property of the wife shall in the event of her death intestate during the continuance of the separation, go as the same would have gone if her husband had been then dead.

12. After a judgment of judicial separation and during the continuance of the separation, the husband shall not be liable in respect of any engagement or contract his wife may have entered into, or for any wrongful act or omission by her, or for any costs she may incur as plaintiff or defendant:

Provided that where, upon any such judicial separation, alimony has been decreed or ordered to be paid to the wife, and the same is not duly paid by the husband, he shall be liable for necessaries supplied for her use.

13. A husband may either by an action for judicial separation or in an action limited to such object only, recover damages from any person who has committed adultery with his wife, and the Court may direct in what manner such damages shall be paid or applied, and may direct that the whole or any part thereof shall be settled for the benefit of the children (if any) of the marriage, or as a provision for the maintenance of the wife.

14. The Court shall dismiss any such action if it finds that—

- (a) the plaintiff during the marriage has been accessory to or conniving at the adultery of his wife;
- (b) the plaintiff has condoned the adultery complained of;
- (c) the action has been presented or prosecuted in collusion with the wife.

15. The Court may dismiss any such action if it finds that the plaintiff has been guilty of—

- (a) adultery during the marriage;
- (b) unreasonable delay in presenting or prosecuting the action;
- (c) cruelty towards his wife;
- (d) having deserted or wilfully separated himself from his wife before the adultery complained of without reasonable excuse; or
- (e) wilful neglect or misconduct which has conduced to the adultery.

PART III.

ALIMONY, MAINTENANCE, ETC.

16.—(1) Upon any application being made in an action for dissolving a marriage, a declaration of nullity, judicial separation or restitution of conjugal rights, an interim order for the payment of alimony to the wife *pendente lite* may be made, and in the event of an appeal such alimony may be continued by a further order until the determination thereof.

(2) No such order shall be made where the wife has from any source whatsoever sufficient means of support independent of her husband.

(3) The order may direct the payment of periodical sums of money, a lump sum of money or the transfer, incumbrance or settlement of the whole or any part of the husband's property, and the amount of the alimony directed shall be in the discretion of the judge.

17. After an order for alimony, interim or other, has been made, and during its subsistence, the husband shall not be liable for necessities supplied to his wife.

18. Whenever alimony is applied for, the Court may, either before or after judgment, grant an injunction for such time and upon such terms as may be just to prevent any apprehended disposition by the defendant of his property, whether real or personal.

19. An order or judgment for alimony may be registered in any land titles office and the registration shall, so long as the order or judgment registered remains in force, bind the estate and interest of every description which the defendant has in any lands in the land titles district where the registration is made, and shall operate thereon in the same manner and with the same effect as a registration of a charge by the defendant of a life annuity on his lands.

20.—(1) When a judgment for judicial separation has been given, the judge may order that the husband shall pay to the wife until further order, or during their joint lives or any shorter period, a periodical sum by way of maintenance or alimony, and when a decree for restitution of conjugal rights has been granted the judge may make a similar order, to take effect in the event of such decree not being complied with.

(2) In lieu of periodical sums, the order may direct the payment of a lump sum of money, or the transfer, incumbrance or settlement of the whole or any part of the husband's property.

21. If it appears that the means of the husband have increased or diminished respectively, or that the wife has been guilty of misconduct, the Court may from time to time vary or modify such order, either by altering the times of payment or by increasing or diminishing the amount, or may temporarily suspend the same as to the whole or any part of the money so ordered to be paid, and again revive the same wholly or in part.

22. Where a husband has obtained a judgment of judicial separation or a judgment of divorce for adultery of his wife, the Court may order such settlement as it thinks reasonable of any property to which the wife may be entitled in possession or reversion for the benefit of the innocent party and of the children of the marriage, or either or any of them.

23.—(1) Where a judgment of divorce or nullity of marriage has been obtained, the Court may order that the husband shall, to the satisfaction of the Court, secure to the wife such gross sum of money, or such annual sum of money for any term not exceeding her life, as, having regard to her fortune (if any), to the ability of the husband and to the conduct of the parties, it may deem reasonable.

(2) The Court may, if it thinks fit (in addition or in the alternative), order that the husband shall pay to the wife during their joint lives such monthly or weekly sum for her maintenance and support, as the Court may think reasonable.

(3) In case of a judgment of divorce an order may be made in favor of a guilty wife.

24. When a final judgment of divorce or of nullity of marriage is given, the Court may make such order as to the Court shall seem fit with regard to the application, either for the benefit of the children of the marriage or of the parties to the marriage, of property comprised in any ante-nuptial or post-nuptial settlement made on the parties to the marriage.

25. Where a judgment for restitution of conjugal rights is obtained by the husband, and the wife is entitled to property, or is in receipt of any profits of trade or earnings, the Court may order a settlement to be made of such property for the benefit of the husband and the children of the marriage, or either or any of them, or may order part of such profit of trade or earnings to be periodically paid to the husband for his own benefit, or to the husband or any other person for the benefit of the children of the marriage, or either or any of them.

PART IV.

PROTECTION ORDERS.

26.—(1) A wife may obtain from a court of summary jurisdiction an order providing that she be no longer bound to cohabit with her husband, in the following cases—

- (a) if her husband has been summarily convicted of an aggravated assault upon her; or
- (b) if her husband has been convicted of an assault upon her, and sentenced to pay a fine of more than twenty-five dollars, or to a term of imprisonment of more than two months; or
- (c) if her husband had deserted her; or
- (d) if her husband has been guilty of persistent cruelty to her, or has been guilty of wilful neglect to provide reasonable maintenance for her or her infant children whom he is legally liable to maintain, and by such cruelty has caused her to leave, and live separately from him.

(2) Such an order, while in effect, shall have the effect in all respects of a judgment of judicial separation on the ground of cruelty.

(3) "Court of summary jurisdiction" shall mean two justices of the peace and also any person having the power or authority of two justices of the peace.

27. The Court may also, in the circumstances referred to in section 26, order that the husband shall pay to the wife personally, or for her use, such weekly sum, not exceeding.....dollars, as it shall, having regard to the means of both parties, consider reasonable.

28. The Court may also, in the circumstances referred to in section 26, order 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.

29. No order shall be made under the provisions of sections 26, 27, and 28 of this Act on the application of a married woman, if it is 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 conducted to such act of adultery.

30.—(1) The 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 payment ordered to be made, so that the same do not in any case exceed the weekly sum ofdollars.

(2) If any married woman upon whose application an order is made under sections 26, 27, and 28 of this Act, 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.

PART V.

LOSS OF CONSORTIUM.

32. A person who, without lawful excuse, knowingly and wilfully persuades or procures a woman to leave her husband against the latter's will, whereby the husband is deprived of the society and comfort of his wife, shall be liable to an action for damages by the husband.

33. A husband shall also have a right of action for damages against any person who, without lawful excuse, knowingly receives, harbours and detains his wife against his will.

34. No such action as that provided for in the last preceding section will lie if either—

- (a) the plaintiff and his wife were living apart by agreement, or were judicially separated, when the act of the defendant took place; or
- (b) the plaintiff has been guilty of cruelty to his wife, and the defendant harbours the wife from motives of humanity; or
- (c) the defendant has reasonable grounds for supposing that the husband has been guilty of cruelty to his wife, and harbours the wife from similar motives.

35.—(1) Where any person has either intentionally or by neglect of some duty existing independently of contract, inflicted physical harm upon a woman, and thereby deprived her husband of her comfort and society, he is liable to an action for damages by the husband in respect of such loss.

(2) The right of the husband to bring any such action shall be in addition to, and independent of, any right which the wife herself, or the husband in her name, may have to bring an action for the injury inflicted upon her.

PART VI.

JACTITATION OF MARRIAGE.

36.—(1) If a person persistently and falsely alleges that he is married to another, the latter may, in an action of jactitation of marriage, obtain a judgment forbidding the former to make such allegations.

(2) No such judgment shall be granted in favour of a person who has at any time acquiesced in the making of such allegations by the other party.

PART VII.

ADOPTION OF CHILDREN.

37. In this part, unless the context otherwise requires—

- (a) “Judge” shall mean judge of the District Court of a judicial district in which either the applicant for an order of adoption or the proposed adoptive child resides;
- (b) “Regulations” shall mean regulations made under the authority of this part.
- (c) “Superintendent” shall mean the Superintendent of Neglected and Dependent Children.

38.—(1) Any adult person may apply to a judge by petition for leave to adopt an unmarried minor as his child.

(2) Where an applicant has a husband or wife living who is competent to join in the application, such husband or wife must join therein, and upon adoption the child shall be in law the child of both.

39. The application shall by affidavit disclose the age of the child, the name or names of the lawful guardian or guardians of the child and their religion.

40.—(1) An order for adoption shall not be made, except as hereinafter provided, without the consent of the child, if he has attained the age of fourteen years, and of his lawful guardian or guardians.

(2) No order for adoption shall be made except after notice to the Superintendent of the application.

(3) If the child was born out of wedlock, that fact shall in no case appear in the order for adoption.

41. The consent of a guardian shall not be required if—

- (a) such person is adjudged by the judge upon evidence submitted to him to be insane or naturally incompetent or unfit to give such consent; or

- (b) such person is undergoing sentence for a term of which more than three years remain unexpired at the date of the application; or
- (c) such person is a person whose duty is to provide proper care and maintenance for such child, and has neglected so to do; or
- (d) the judge for reasons which appear to him sufficient, deems it necessary or desirable that such consent should be dispensed with.

42.—(1) If the consent required by the provisions of sections 40 and 41 is not submitted with the application, the judge may order notice of the application to be served on the parties whose consent is required.

(2) The judge may order the service required by subsection (1) of this section to be made substitutionally or by publication of the notice in each of three successive weeks in such newspaper as the judge may order, the last publication thereof to be at least seven clear days before the time appointed for the hearing.

(3) The judge may require such additional notices and consents as to him seems advisable.

43. If, after such notice, a person whose consent is required does not appear and object to the adoption, or appears and objects upon grounds which the judge deems insufficient having in view the interests of the child and of its guardians, the judge may dispense with his consent.

44. The judge, if satisfied of the ability of the applicant to fulfil the obligations and perform the duties of a parent towards the child to be adopted, and of the fitness and propriety of the adoption, having regard to the welfare of the child, the religion in which it has been brought up and the interests of its guardians and to their religion may make an order for the adoption of the child by the applicant.

45. Where a child is under ten years and is a ward of the Superintendent an order for its adoption shall not be made unless the Superintendent certifies in writing—

- (a) that the child has lived for at least one year previously with the applicant, and that during that period the conduct of the applicant and the conditions under which the child has lived have been such as to justify the making of the order; or
- (b) that the applicant is to the knowledge of the Superintendent a fit and proper person to have the care and custody of the child, and that for reasons set out in the certificate the period of residence may be dispensed with.

46.—(1) An order for adoption shall—

- (a) divest the natural parent, guardian or person in whose custody the child has been, of all legal rights in respect of such child, and free such person from all legal obligations and duties as to the maintenance of such child;
- (b) make such child, for the purposes of the custody of the person and filial and paternal duties and rights, to all intents and purposes the child of the adopting parent;
- (c) give the child the same right to any claim for nurture, maintenance and education upon his adopting parent that he would have were the adopting parent his natural parent.

(2) In and by the adopting order the judge may in his discretion give to such adopted child the surname of his adopting parent or any other surname requested by the applicant, and in that event such child shall thenceforth be entitled to and be known by the surname so given to him.

47.—(1) A person who has been adopted in accordance with the provisions of this part shall upon the intestacy of an adopting parent take the same share of property which the adopting parent could dispose of by will as he would have taken if born to such parent in lawful wedlock, and he shall stand in regard to the legal descendants, but to no other kindred of such adopting parent, in the same position as if he had been born to him.

(2) If the person adopted dies intestate his property acquired by himself or by gift, inheritance or descent from his adopting parent or from the kindred of such parent, shall be distributed according to the laws of this province relating to intestacy among the persons who would have been his kindred if he had been born to his adopting parent in lawful wedlock, and the property received by gift or inheritance from his natural parents or kindred shall be distributed in the same manner as if no act of adoption had taken place.

(3) Where a person is adopted he shall not lose his right to inherit from his natural parents or kindred.

48. The word “child” or its equivalent in any will, conveyance or other instrument shall include an adopted child unless the contrary plainly appears by the terms of the instrument.

49. A person resident out of the Province who has been adopted according to the laws of any of the provinces of Canada, shall upon proof of such adoption be entitled to the same rights of succession to property as he would have had in the province in which he was adopted, save in so far as those rights are in conflict with the provisions of this Act.

50. If the child has been previously adopted, all the legal consequences of the former order of adoption shall, upon a subsequent adoption, determine except in so far as any interest in property may have vested in the adopted child.

51. Every order of adoption, together with all the material used on the application, shall be filed in the office of the clerk of the court, the judge of which made the order, and the clerk shall forward a copy of the order certified by the judge to the Registrar General or his deputy, who shall record the same in the manner prescribed by the regulations.

52. Every application under this part shall be heard by the judge in his chambers.

53. The Lieutenant Governor in Council may make regulations—

- (a) for the recording of all orders of adoption made under this part in the office of the Registrar General or his deputy, as administrator of *The Vital Statistics Act*;
- (b) respecting the procedure to be followed upon an application for an order for adoption;
- (c) for fixing the fees, costs, charges and expenses payable on proceedings under this part and for dispensing with the payment of such fees, costs, charges and expenses where owing to lack of means or any other reason the judge deems such action advisable;
- (d) for payment, out of such sums as may be appropriated by the Legislature for that purpose, of the expenses of the Superintendent in carrying out the provisions of this part;
- (e) generally for better carrying out the provisions of this part.

PART VIII.

LEGITIMATION.

54.—(1) Where the parents of any child born out of lawful wedlock have intermarried after the birth of the child and prior to the passing of this Act, the child shall for all purposes be deemed to be and to have been legitimate from the time of birth.

(2) Nothing in this section shall affect any right, title or interest in or to property where the right, title or interest has vested in any person prior to the passing of this Act.

55. Where the parents of any child born out of lawful wedlock intermarry after the birth of the child and subsequent to the passing of this Act the child shall for all purposes be deemed to be and to have been legitimate from the time of birth.

56. Nothing in the preceding section shall affect any right, title or interest in or to property where the right, title or interest has vested in any person prior to the intermarriage.

57. Any natural born British subject, or any person whose right to be deemed a natural born British subject depends wholly or in part on his legitimacy or on the validity of a marriage, being domiciled in Alberta and claiming any property situate in Alberta, may apply by petition to a judge of the Supreme Court for a decree declaring that the petitioner is the legitimate child of his parents, and that the marriage of his father and mother or of his grandfather and grandmother was a valid marriage, or for a decree declaring either of the matters aforesaid.

58. Every such petition shall be accompanied by such affidavit verifying the same and of the absence of collusion as the Supreme Court may by any general rule direct.

59. A copy of every such petition and affidavit shall one month at least previously to the presentation and filing of such petition be delivered to the Attorney General, who shall be a respondent upon the hearing of such petition and upon every subsequent proceeding relating thereto.

PART IX.

GUARDIANSHIP.

60. In this part, unless the context otherwise requires—

- (a) "Court" shall mean the Supreme Court of Alberta, or a judge of the District Court sitting in chambers;
- (b) "Guardian" shall mean the guardian of the estate and person of an infant.

61. Guardianship in socage, by nature and for nurture are hereby abolished.

62.—(1) Unless otherwise ordered by the Court the father and mother of an infant shall be joint guardians of such infant, and the mother of an illegitimate child shall be sole guardian thereof.

(2) Where a child has been adopted pursuant to the provisions of this Act his adopted father and mother shall be deemed to be his parents within the meaning of this Part.

63. Any parent of an infant may by deed or will appoint any person to be guardian of such infant, after his or her death, who shall act jointly with the other parent, or guardian appointed by such other parent.

64. The Court may from time to time appoint a guardian of an infant to act jointly with the father or mother of such infant, or the guardian appointed by the father or mother of such infant.

65. Upon the application of an infant, or of any one on its behalf, when it is made to appear that the infant has no parent or lawful guardian or that such parent or lawful guardian is not a fit and proper person to have the guardianship of the infant, the Court may appoint a guardian or guardians of such infant.

66.—(1) Testamentary guardians and guardians appointed by order or letters of guardianship shall be removable by the Court for the same causes for which trustees are removable.

(2) Any such guardian may by leave of the Court resign his office upon such terms and conditions as may be deemed just.

67. In any case where a judgment for judicial separation, or a judgment either *nisi* or absolute for divorce, is pronounced, the Court pronouncing such judgment may thereby declare the parent by reason of whose misconduct such decree is made, to be a person unfit to have the custody of the children (if any) of the marriage, and in such case the parent so declared to be unfit shall not, upon the death of the other parent, be entitled as of right to the custody or guardianship of such children:

Provided that the Court may at any time revoke any such declaration.

68. Where the parents are not living together or where the parents are divorced or judicially separated, they may enter into a written agreement as to which parent shall have the custody, control and education of the children of the marriage, and in the event of the parents failing to agree either parent may apply to the Court for its decision.

69.—(1) The Court, upon the application of the father or of the mother of an infant, who may apply without a next friend, may make such order as the Court sees fit regarding the custody of the infant and the right of access thereto of either parent, having regard to the welfare of the infant, and to the conduct of the parents, and to the wishes as well of the mother as of the father, and may alter, vary or dis-

charge the order on the application of either parent, or, after the death of either parent, of any guardian appointed under this part, and in every case make such order respecting the costs of the mother and the liability of the father for the same, or otherwise, as the Court may deem just.

(2) The Court may also make an order for the maintenance of the infant by payment by the father or the mother or out of any estate to which the infant is entitled, of such sum from time to time as, according to the pecuniary circumstances of the father or the mother or the value of the estate, the Court deems reasonable.

70. Where upon any application by a parent or any person at law liable to maintain an infant or entitled to its custody (hereinafter called "any other responsible person") for the production or custody of an infant, the Court is of opinion that the parent or other responsible person has abandoned or deserted the infant, or that he has otherwise so conducted himself that the Court should refuse to enforce his right to the custody of the infant, the Court may, in its discretion, decline to make the order.

71. If, at the time of the application for the production of an infant, the infant is being brought up by another person or by a school or institution, the Court may, in its discretion, if it orders the infant to be given up to the parent or other responsible person, further order that the latter shall pay to such person, school or institution, the whole of the cost properly incurred in bringing up the infant, or such portion thereof as shall seem to the Court to be just and reasonable, having regard to all the circumstances of the case.

72. Where a parent or other responsible person has—

- (a) abandoned or deserted his infant; or
- (b) allowed his infant to be brought up by another person or by a school or institution at his or its expense, for such a length of time and under such circumstances as to satisfy the Court that the parent or other responsible person was unmindful of his parental duties—

the Court shall not make an order for the delivery of the infant unless it is satisfied that it would be for the welfare of the infant so to do.

73.—(1) Upon any application by a parent or other responsible person for the production or custody of an infant, if the Court is of opinion that he ought not to have the custody of the infant and that the infant is being brought up in a different religion to that in which the parent or

other responsible person has a legal right to require that the infant should be brought up, the Court shall have power to make such order as it may think fit to secure that the infant be brought up in the latter religion.

(2) Nothing in this Act contained shall interfere with or affect the power of the Court to consult the wishes of the infant in considering what order ought to be made, or diminish the right which any infant now possesses to the exercise of its own free choice.

74. In questions relating to the custody and education of infants the rules of equity shall prevail where not in conflict with the provisions of this Act.

75. Subject to the provisions of this Act in respect thereto and except where the authority of a guardian appointed or constituted by virtue of this Act is otherwise limited, the guardian so appointed or constituted during the continuance of his guardianship shall be entitled to—

- (a) the custody and control of the infant;
- (b) control his education;
- (c) the possession and control of the lands of the infant and the receipt of the rents and profits thereof;
- (d) the management of the goods, chattels and personal estate of such infant;
- (e) act for and on behalf of the infant;
- (f) appear in any Court and prosecute and defend any action or proceedings in the infant's name.

REPEALS.

76. Sections 21, 22 and 23 of *The Judicature Act*, being chapter 72 of the Revised Statutes of Alberta, 1922, and sections 2 to 9, inclusive, and 22 to 33, inclusive, of *The Infants Act*, being chapter 216 of the Revised Statutes of Alberta, 1922, are hereby repealed.

77. This Act shall come into force on.....

No. 36.

FIFTH SESSION
FIFTH LEGISLATURE
15 GEORGE V
1925

BILL

An Act Relating to Domestic
Relations.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. BROWNLEE.

EDMONTON:
J. W. JEFFERY, KING'S PRINTER
A.D. 1925