

made until after the expiration of such period of three years or it may dismiss the petition without prejudice to any petition which may be brought after the expiration of such period of three years upon the same, or substantially the same, facts as those proved in support of the petition so 5 dismissed.

Relevant considerations for guidance of court.

(4) In determining any application made under this section for leave to present a petition the court shall have regard to the interests of any children of the marriage and to the question whether there is reasonable probability of a 10 reconciliation between the parties before the expiration of such period of three years.

Misconduct within three years after marriage.

(5) Nothing in this section shall be deemed to prohibit the presentation, after the elapse of such period of three 15 years, of a petition based upon matters which have occurred before the expiration of that period.

Section not to apply to adultery.

(6) This section shall not apply in the case of a petition for divorce on the ground of adultery.

Grounds of petition for divorce by either husband or wife.

6. A petition for divorce may be presented either by the husband or the wife to, and it may be entertained by, the 20 court, on the ground that the respondent:—

- (a) has since the celebration of the marriage committed adultery; or
- (b) has deserted the petitioner without cause for a period of at least six years immediately preceding the pre- 25 sentation of the petition; or
- (c) has since the celebration of the marriage treated the petitioner with cruelty; or
- (d) is incurably of unsound mind and has been continuously under care and treatment for a period of at least five years immediately preceding the presentation 30 of the petition.

Grounds of petition by wife only.

(2) A petition for divorce may be presented by the wife to, and it may be entertained by, the court, on the ground that her husband has, since the celebration of the marriage, 35 been guilty of rape, sodomy or bestiality.

Meaning of "care and treatment".

(3) For the purposes of this section a person of unsound mind shall be deemed to be under care and treatment only whilst he is:—

- (a) detained in pursuance of an order or inquisition 40 competently made or had under authority of a statute in force in the province concerned or as a criminal lunatic; or
- (b) receiving treatment as a voluntary patient pursuant to any statute in force in the province concerned, being 45 treatment which follows without any interval a period of such detention as aforesaid.

Duty of court on presentation of petition for divorce.

7. On a petition for divorce it shall be the duty of the court to enquire, so far as it reasonably can, into the facts alleged and whether there has been any connivance or 50