



**SOMETHING OLD, SOMETHING NEW**

Divorce and divorce law in South Australia, 1859-1918

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Thesis submitted in fulfilment of the requirements  
for the degree of Doctor of Philosophy  
in the Department of History at the University of Adelaide

1988

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## Summary

The two propositions put forward in the thesis concern, respectively, divorce law in particular and the law in general. In the first instance, I claim that other analyses of divorce, notably William O'Neill's 'safety valve' thesis, see divorce as a product of the rise of the companionate marriage among the ascendant middle class of the nineteenth century. While not rejecting this argument out of hand, I argue that the most sweeping change wrought in English (and consequently South Australian) divorce was its formalization. Access to formal divorce increased so greatly in the second half of the nineteenth century that instead of focusing upon change in marriage as a cause of change in divorce law, it is more appropriate to talk about the influence of divorce law upon change in marriage. The thesis measures this influence by examining the use of divorce law by men and women who seldom came from powerful social groups but who nevertheless played an important part in changing the dominant marital values of South Australian society.

The sources used in the thesis are two distinct bodies of material: court records and fictional literature. They reveal a set of marital values shared by the South Australian judiciary and the novelists which was based on strong opposition to the resort to divorce as an alternative to unhappy marriage. Each of these two groups attempted to oppose divorce: the judiciary by using members of South Australia's ruling *élite* as moral exemplars of good marriage and the novelists by a combination of moral imperatives and romantic enticements. Each failed to forestall the resort to divorce because their positions entailed inconsistencies which were exposed as untenable against the pressure of the demand for divorce. Finally, the thesis draws conclusions from the South Australian example of divorce about the relationship between the law and its users, taking issue with other historians of the left who see this relationship as necessarily one of oppressor and victim, powerful and powerless.