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Legislative Council.
49^o VICTORIÆ, 1886.

A BILL

Further to amend the Law relating to Divorce.

[SIR ALFRED STEPHEN;—10 February, 1886.]

WHEREAS it is desirable in the interests of morality and for the relief of unoffending married persons to extend the provisions of the Law of Divorce to certain cases of desertion drunkenness and conviction for crime in which the objects of marriage are by the conduct of the offending party equally defeated as in the case of adultery or cruelty Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

1. Any married person who at the time of the institution of his or her suit is domiciled in this Colony and has been so domiciled for two years and upwards and whose marriage with the Respondent was celebrated therein may present a petition to the Supreme Court in the form prescribed by the "Matrimonial Causes Act" (thirty-sixth Victoria number nine) or by the Rules made under the same praying on one of the grounds in this section mentioned that such marriage may be dissolved (1) on the ground that since such celebration the Respondent has without just cause or excuse deserted

Preamble.

Petitions for Divorce.

Grounds for Divorce.

deserted the Petitioner and remained continuously absent from the Colony or in places therein unknown to the Petitioner for three years and upwards or (II) on the ground that since such celebration the Respondent by long continued habits of drunkenness during three years and upwards has become insane or has by such habits wasted the means of support of the Petitioner or their family or left the Petitioner for twelve months and upwards without such means or (III) on the ground that at the time of the presentation of the petition the Respondent is under sentence for a capital crime or to penal servitude for seven years or upwards or that within two years previously he has been twice convicted whether before a Court or summarily of an aggravated assault upon the Petitioner accompanied or followed by threats from the Respondent of further violence.

Divorce or judicial separation.

2. In any such case of assault the Court may pronounce either a sentence of judicial separation or a decree for dissolution of the marriage. Provided that if in the opinion of the Court the Petitioner's own habits or conduct induced or contributed to the wrong complained of the petition may be dismissed. But in all other cases under this Act if the Court is satisfied that the case of the Petitioner is established the Court shall pronounce a decree dissolving the marriage but subject to the provisions of the "Matrimonial Causes Act" respecting unreasonable delay or misconduct on the part of the Petitioner and the temporary suspension of such decree and the allowing of an Appeal therefrom so far as such provisions are applicable. And provided also that where the ground of dissolution is the desertion and continuous absence of the respondent the decree shall not take effect so as to enable him or her to marry again until after the expiration of two years from the date thereof.

Previous Acts made applicable.

3. So far as they severally are applicable all the other provisions of the "Matrimonial Causes Act" and the Acts amending the same shall apply to petitions and suits under this Act and to the parties and all proceedings therein and to all persons whatsoever affected thereby.

The term Court and title.

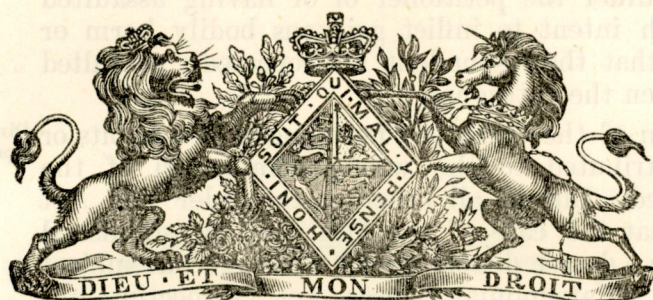
4. The word "Court" in this Act shall ordinarily be taken to mean the Judge exercising jurisdiction in matrimonial causes but for the purposes of an Appeal after its institution shall mean the Supreme Court sitting as in banco. And this Act may be cited as the "Divorce Extension Act of 1886."

This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

*Legislative Council Chamber,
Sydney, 19th May, 1886.* }

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO QUADRAGESIMO NONO

VICTORIÆ REGINÆ.

No. .

An Act further to amend the Law relating to Divorcee.

WHEREAS it is desirable in the interests of morality and for the relief of unoffending married persons to extend the provisions of the Law of Divorce to certain cases of desertion cruelty drunkenness and conviction for crime in which the objects of marriage are by the conduct of the offending party equally defeated as in the case of adultery Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

1. Any married person who at the time of the institution of his or her suit shall have resided in this Colony for two years and upwards may present a petition to the Supreme Court in the form prescribed by the "Matrimonial Causes Act" (thirty-sixth Victoria number nine) or by the Rules made under the same praying on one or more of the grounds in this section mentioned that such marriage may be dissolved—

(1) On the ground that the respondent has without just cause or excuse deserted the petitioner and without any such cause or excuse left him or her so deserted during three years and upwards.

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(II)

Divorce Extension.

- (II) Or on the ground that the respondent by long-continued habits of drunkenness during three years and upwards has habitually left the petitioner without the means of support or being a wife has habitually neglected her domestic duties or rendered herself unfit to discharge them. Habitual drunkenness.
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- (III) Or on the ground that at the time of the presentation of the petition the respondent is under sentence or a commuted sentence for a capital crime or to penal servitude for three years or upwards or being a husband has by reason of frequent convictions for crime left his wife habitually without the means of support. Crime.
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- (IV) Or on the ground that within two years previously the respondent has been convicted of an assault upon the petitioner occasioning actual bodily harm or of having attempted to murder the petitioner or of having assaulted him or her with intent to inflict grievous bodily harm or on the ground that the respondent has repeatedly assaulted and cruelly beaten the petitioner. Cruelty assaults &c.
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2. If in the opinion of the Court the Petitioner's own habits or conduct induced or contributed to the wrong complained of the petition may be dismissed. But in all other cases under this Act if the Court is satisfied that the case of the Petitioner is established the Court shall pronounce a decree dissolving the marriage but subject to the provisions of the "Matrimonial Causes Act" respecting unreasonable delay or misconduct on the part of the Petitioner and the temporary suspension of such decree and the allowing of an Appeal therefrom so far as such provisions are applicable. And provided also that where the ground of dissolution is the desertion and continuous absence of the respondent the decree shall not take effect so as to enable him or her to marry again until after the expiration of two years from the date thereof. Divorce or judicial separation.
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3. In order that a decree *nisi* for a divorce under the "Matrimonial Causes Act" and the Acts amending the same shall be made absolute it shall not after the passing of this Act be necessary that a motion be made to the Court to make such decree absolute but the decree shall on the expiration of the time fixed by the Court be declared absolute upon report being made in writing by the Registrar of the Court to the Judge thereof that no objection has been made and that the Crown Solicitor has not intervened under the twenty-eighth section of the said "Matrimonial Causes Act". And any notices required to be served by or on behalf of a petitioner in whose favour a decree *nisi* shall hereafter be made may before such decree shall be declared absolute be either served in the manner prescribed by rules and regulations made under the aforesaid Acts or in accordance with the present practice or may be transmitted by registered letter by an officer of the Court authorized by the Court. As to decrees nisi and notices.
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4. No decree heretofore pronounced under the "Matrimonial Causes Act" and the Acts amending the same shall after the passing of this Act be questioned in any Court on the ground that such decree was not made absolute on motion in the manner prescribed by any rule or regulation made pursuant to the said Act. Nor shall any marriage contracted by any party to a suit in which any such decree shall have been pronounced but not made absolute on motion as aforesaid be deemed in any Court to have been illegally contracted by reason only of the failure of either party to such suit to move the Court to make such decree absolute. Provided that no marriage shall be so held to be legal which was contracted before the time fixed upon the expiration of which the rule might have been made absolute. As to certain decrees not made absolute on motion.
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Divorce Extension.

5. So far as they severally are applicable all the other provisions of the "Matrimonial Causes Act" and the Acts amending the same shall apply to petitions and suits under this Act and to the parties and all proceedings therein and to all persons whatsoever affected thereby and in any suit or proceeding under this Act for obtaining a decree dissolving a marriage the parties or either of them may insist on having all contested matters of fact tried by a jury.

Previous Acts made applicable.

6. The word "Court" in this Act shall ordinarily be taken to mean the Judge exercising jurisdiction in matrimonial causes but for the purposes of an Appeal after its institution shall mean the Supreme Court sitting as in banco And this Act may be cited as the "Divorce Extension Act of 1886."

The term Court and title.

Divorce Act

7. So far as they are applicable all the other provisions of the Matrimonial Causes Act, and the Act amending the same shall apply to petitions and suits under this Act and to the parties and all proceedings therein and to all persons whatsoever affected thereby and in any suit or proceeding under this Act for obtaining a decree dissolving a marriage the parties or either of them may insist on having all contested matters of fact tried by a jury.

8. The word "Court" in this Act shall originally be taken to mean the Judge exercising jurisdiction in matrimonial causes but for the purposes of an appeal after its institution shall mean the Supreme Court sitting as in banc. And this Act may be cited as the "Divorce Extension Act of 1886".