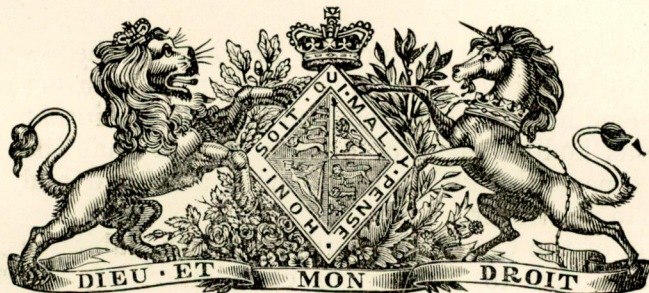


This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

*Legislative Assembly Chamber,
Sydney, 27 August, 1889.* }

F. W. WEBB,
Clerk of Legislative Assembly.

New South Wales.



ANNO QUINQUAGESIMO TERTIO

VICTORIÆ REGINÆ.

No. .

An Act to amend and extend the Law of Divorce.

WHEREAS it is desirable, in the interests of morality, and for the Preamble.
relief of unoffending married persons, to extend the provisions
of the Law of Divorce to certain cases of desertion, cruelty, drunken-
ness, and conviction for crime, in which the objects of marriage are by
5 the conduct of the offending party equally defeated as in the case of
adultery, and it is desirable also in certain other particulars to amend
the existing law. 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,
10 and by the authority of the same, as follows:—

1. Any married person, who, at the time of the institution of Divorce in what cases.
the suit, shall have been domiciled 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

Divorce Extension.

number nine), or by the Rules made under the same, praying on one or more of the grounds in this section mentioned that his or her marriage with the respondent may be dissolved, that is to say—

- 5 (a) On the ground that the respondent has, without just cause or excuse, wilfully deserted the petitioner, and, without any such cause or excuse, left him or her continuously so deserted during three years and upwards. Desertion.
- 10 (b) On the ground that the respondent has, during two years and upwards, been an habitual drunkard, and habitually left his wife without the means of support, or habitually been guilty of cruelty towards her, or, being the petitioner's wife, has, for a like period, by continued habits of drunkenness, habitually neglected her domestic duties or rendered herself unfit to discharge them. Habitual drunkenness, with cruelty or neglect, &c.
- 15 (c) On the ground that, at the time of the presentation of the petition, the respondent has been imprisoned for a period of not less than twelve months, and is still in prison, under a commuted sentence for a capital crime, or under sentence to penal servitude for seven years or upwards, or, being a husband, has within three years undergone frequent convictions for crime, and left his wife habitually without the means of support. Sentence for crime.
- 20 (d) On the ground that, within six months previously, the respondent has been convicted 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 during that period assaulted and cruelly beaten the petitioner. Violent assaults, &c.
- 25
- 30 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. Divorce when pronounced, &c.
- 35 3. Provided always that no dissolution shall be decreed, if it be proved that at the time of the marriage the petitioner knew that the respondent was a person of habitually drunken habits, or was a person against whom a decree of divorce had been granted for any cause whatever—but in such cases the Court may grant a judicial separation. Where to be refused.
- 40 Provided also that it shall not be lawful for the respondent, in any case, to contract another marriage before the expiration of two years from the time when the decree was made absolute; and if he or she shall contract another marriage within that period, such respondent shall be guilty of a misdemeanor, and the marriage shall be void. Limitation as to marriage by respondents.
- 45 4. So far as they severally are applicable, all the 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 affected thereby. And in every such suit the parties shall have the same right of Appeal, against
- 50 any Decree or Order, as they would be entitled to in respect of a Decree or Order pronounced or made under the firstmentioned Act, and shall have the same right of trial of contested matters of fact by a jury. And every Decree or Order may, on Appeal, be reversed or varied as the Court shall think proper. Appeal and Trial by Jury.
- 55 5. A domiciled person shall, for the purposes of this Act, be taken to be one who for the period specified has resided in this Colony as his or her actual home—although such person's domicile of origin or other legal domicile may be elsewhere. Provided that no person shall be entitled to petition under this Act who shall have resorted to the
- 60 Colony for that purpose only. Application of the word domiciled.

Divorce Extension.

6. The Court shall have the same power of granting Orders to sue or defend *in formá pauperis*, in any suit under this or the recited Act or Acts, as in cases at law or in equity—and may in any suit, at any stage thereof, and from time to time, make an Order forbidding the publication of the evidence therein, either as to the whole or portions thereof. And the breach of any such Order may be dealt with as for Contempt of Court.

Pauper suits or defences, and forbidding publication of evidence.

7. 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 shall, after its institution, mean the Supreme Court sitting as in banco. And this Act may be cited as the “Divorce Extension Act of 1889.”

The term Court and short title.

The Court shall have the right to grant a writ of habeas corpus in any case where a person is detained against the law of the State or the United States, or where a person is detained in violation of the Constitution of the United States.

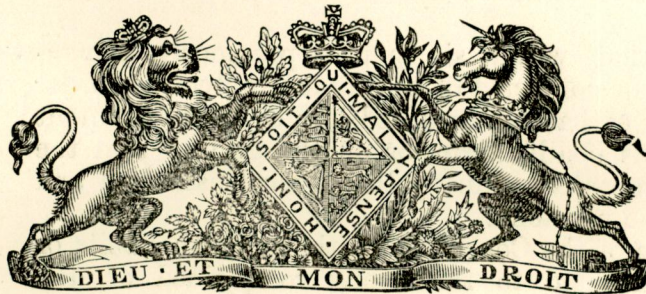
IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Court at the City of New York, this 1st day of January, 1870.

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

*Legislative Assembly Chamber,
Sydney, 27 August, 1889. }*

F. W. WEBB,
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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, and it is desirable also in certain other particulars to amend the existing law. 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 the suit, shall have been domiciled 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

Divorce Extension.

number nine), or by the Rules made under the same, praying on one or more of the grounds in this section mentioned that his or her marriage with the respondent may be dissolved, that is to say—

- 5 (a) On the ground that the respondent has, without just cause or excuse, wilfully deserted the petitioner, and, without any such cause or excuse, left him or her continuously so deserted during three years and upwards. Desertion.
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- 25 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. Divorce when pronounced, &c.
- 30 3. Provided always that no dissolution shall be decreed, if it be proved that at the time of the marriage the petitioner knew that the respondent was a person of habitually drunken habits, or was a person against whom a decree of divorce had been granted for any cause whatever—but in such cases the Court may grant a judicial separation. Provided also that it shall not be lawful for the respondent, in any case, to contract another marriage before the expiration of two years from the time when the decree was made absolute; and if he or she shall contract another marriage within that period, such respondent shall be guilty of a misdemeanor, and the marriage shall be void. Where to be refused.
- 35 4. So far as they severally are applicable, all the 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 affected thereby. And in every such suit the parties shall have the same right of Appeal, against any Decree or Order, as they would be entitled to in respect of a Decree or Order pronounced or made under the firstmentioned Act, and shall have the same right of trial of contested matters of fact by a jury. And every Decree or Order may, on Appeal, be reversed or varied as the Court shall think proper. Limitation as to marriage by respondents.
- 40 5. A domiciled person shall, for the purposes of this Act, be taken to be one who for the period specified has resided in this Colony as his or her actual home—although such person's domicile of origin or other legal domicile may be elsewhere. Provided that no person shall be entitled to petition under this Act who shall have resorted to the Colony for that purpose only. Previous Acts made applicable.
- 45 6. Appeal and Trial by Jury.
- 50 Application of the word domiciled.
- 55 60

Divorce Extension.

6. The Court shall have the same power of granting Orders to sue or defend *in formá pauperis*, in any suit under this or the recited Act or Acts, as in cases at law or in equity—and may in any suit, at any stage thereof, and from time to time, make an Order forbidding
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