

New South Wales.



ANNO QUINQUAGESIMO PRIMO

VICTORIÆ REGINÆ.

No. XV.

An Act to amend and extend the Law of Divorce. [*Reserved—13th July, 1887.*]

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 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 Divorce in what cases. the 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 his or her marriage with the respondent may be dissolved—

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

Divorce Extension.

Habitual
drunkenness
with neglect &c.

(II) On the ground that the respondent has by continued habits of drunkenness during two years and upwards habitually left his wife without the means of support or being the petitioner's wife has by such habits for a like period habitually neglected her domestic duties or rendered herself unfit to discharge them.

Sentence for crime.

(III) 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 imprisoned under a commuted sentence for a capital crime or under a sentence for seven years or upwards for some other crime or being a husband has by reason of frequent convictions for crime left his wife habitually during two years and upwards without the means of support.

Violent assaults &c.

(IV) On the ground that within six months previously the respondent has been convicted of having attempted to murder the petitioner or on the ground that the respondent has repeatedly during that period assaulted and cruelly beaten the petitioner or otherwise during a period of two years been repeatedly guilty of cruelty towards her.

Divorce when
pronounced &c.

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 it shall be lawful for the Court to pronounce a decree dissolving the marriage. Provided always that in any suit under the provisions of this Act in which the Court shall have pronounced a decree dissolving the marriage it shall not be lawful for the respondent therein to contract another marriage before the expiration of two years from the time when such decree shall have been made absolute and if any respondent in such suit shall contract another marriage within the said time such respondent shall be guilty of bigamy and the said last-mentioned marriage shall be void.

Previous Acts made
applicable.

3. So far as they severally are applicable all the provisions of the "Matrimonial Causes Act" and the Acts amending the same shall apply to decrees 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 respectively against any Decree or Order as they would be entitled to in respect of a Decree or Order pronounced or made under the first mentioned 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.

Pauper suits or
Defences and
forbidding
publication of
evidence.

4. 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.

The term Court and
title.

5. 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 consisting of three Judges sitting as in banco. And this Act may be cited as the "Divorce Extension Act of 1887."