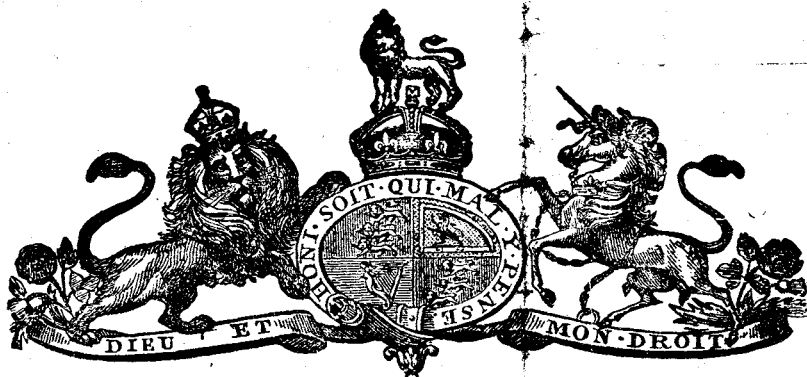


TASMANIA.



1919.

ANNO DECIMO

GEORGII V. REGIS.

No. 65.

ANALYSIS.

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| <p>1. Short title and incorporation with<br/>24 Vict. No. 1.</p> <p>2. Interpretation.<br/>"Desertion."<br/>"Cruelty."<br/>"Habitual drunkard."<br/>"Intoxicant."</p> <p>3. Repeal and re-enactment of Section<br/>Fourteen of Principal Act.<br/>Adultery.<br/>Where husband domiciled in Tasmania.<br/>Desertion.</p> | <p>Habitual drunkenness and neglect.<br/>Sentence for crime.<br/>Violent assaults, &amp;c.<br/>Lunacy.<br/>Where wife is domiciled in Tasmania.<br/>Desertion.<br/>Habitual drunkenness and neglect.<br/>Sentence for crime.<br/>Violent assaults, &amp;c.<br/>Adultery.<br/>Lunacy.<br/>When petition may be dismissed.</p> |
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AN ACT to further amend "The Matrimonial Causes Act," and for other purposes. A.D. 1919.

[Reserved, 6 January, 1920; Royal Assent proclaimed, 17 May, 1920.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1 This Act may be cited as "The Matrimonial Causes Amendment Act, 1919," and shall be construed as one with "The Matrimonial Causes Act" (hereinafter referred to as "The Principal Act"), and every amendment thereof. Short title and incorporation with 24 Vict. No. 1.

*Matrimonial Causes Amendment.*

A.D. 1919.

Interpretation.

"Desertion."

"Cruelty."

"Habitual  
drunkard."

"Intoxicant."

Repeal and re-  
enactment of  
Section 14 of  
Principal Act.Adultery.  
Cf. Vict. No. 2691  
of 1915, s. 123.Where husband  
domiciled in  
Tasmania.Desertion.  
Cf. *ibid.* s. 122.Habitual  
drunkenness and  
neglect.**2** For the purposes of this Act—

"Desertion" means desertion without the consent or against the will of the other party to the marriage, and without reasonable cause; and wilful or non-justifiable refusal to permit marital intercourse shall be treated as equivalent to desertion:

"Cruelty" means such conduct by one married person to another, whether in the form of actual physical violence or of grave insults and offensive behaviour, as makes it unsafe, having regard to the risk of life, limb, or health, bodily or mental, for the latter to continue to live with the former; and the following facts:—

(a) That one party to a marriage has knowingly or negligently infected the other with venereal disease; and

(b) That a husband has compelled his wife to submit herself to prostitution—

shall, without prejudice to the generality of the foregoing definition of cruelty, be treated as equivalent to cruelty:

"Habitual drunkard" means a person who habitually takes or uses any intoxicant, and while under the influence or in consequence of the effects thereof is at times dangerous or the cause of terror to himself or others, or the cause of serious harm or suffering to the members of his family or others, or incapable of managing himself or his affairs; and the expression "habitual drunkenness" has a corresponding meaning:

"Intoxicant" includes any intoxicating liquor, and any sedative, narcotic, or stimulant drug or preparation.

**3** Section Fourteen of the Principal Act is hereby repealed and the following sections inserted in lieu thereof:—

*Dissolution of Marriage.*

**"14a—**(1) Any husband may present a petition to the Court praying that his marriage may be dissolved on the ground that his wife has, since the celebration thereof, been guilty of adultery.

**"(2)** Any husband, who at the time of the institution of the suit, has been domiciled in Tasmania for Two years and upwards (provided he did not resort to Tasmania for the purpose of such institution) may present a petition to the Court praying that his marriage may be dissolved on one or more of the grounds following:—

i. That his wife has, without just cause or excuse, deserted the petitioner, and without any such cause or excuse left him continuously deserted during Four years and upwards:

ii. That his wife has, during Three years and upwards, been an habitual drunkard and habitually neglected her domestic duties, or rendered herself unfit to discharge them:

*Matrimonial Causes Amendment.*

- iii. That at the time of presentation of the petition his wife has been imprisoned for a period of not less than Three years, 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 has within Five years undergone frequent terms of imprisonment, and has been sentenced in the aggregate to imprisonment for Three years or upwards: A.D. 1919.  
—  
Sentence for  
crime.
- iv. That within One year previously his wife has been convicted of having attempted to murder the petitioner or on the ground that his wife has repeatedly during that period assaulted and cruelly beaten the petitioner: Violent assaults,  
&c.
- v. That his wife has for a period or periods of not less in the aggregate than Seven years, within Ten years immediately preceding the filing of the petition, been a lunatic or person of unsound mind, and is unlikely to recover from such lunacy or unsoundness of mind, or has been confined as such in any hospital or other institution in accordance with the provisions of 'The Mental Diseases Hospitals Act' for a period of or periods not less in the aggregate than Seven years within Ten years immediately preceding the filing of the petition, and is unlikely to recover from such lunacy or unsoundness of mind. Lunacy.  
N.Z., No. 50 of  
1908, s. 21.

"If in the opinion of the Court the petitioner's own habits or conduct induced or contributed to the wrong complained of, such petition may be dismissed. Provided always that the Court may, if it thinks fit, notwithstanding that the petitioner has been guilty of conduct which would disentitle such petitioner to relief as provided in Section Twenty of the Principal Act, if satisfied that it is in the interest of all parties that the marriage should be dissolved, pronounce a decree declaring that such marriage be dissolved.

"14b Any wife who at the time of the institution of the suit has been domiciled in Tasmania for Two years and upwards may present a petition to the Court praying that her marriage may be dissolved on one or more of the grounds following: Where wife is  
domiciled in  
Tasmania.

- i. That her husband has without just cause or excuse deserted the petitioner and without any such cause or excuse left her continuously deserted during Two years and upwards: Desertion.  
Cf., *ibid.*, s. 122  
(Vic).
- ii. That her husband has during Three years and upwards been an habitual drunkard, and either habitually left the petitioner without the means of support, or habitually been guilty of cruelty towards her: Habitual  
drunkenness  
and neglect.
- iii. That at the time of the presentation of the petition her husband has been imprisoned for a period of not less than Three years, 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 has within Five years undergone frequent terms of imprisonment, and has been sentenced in the aggregate to imprisonment for Three years or upwards: Sentence for  
crime.

*Matrimonial Causes Amendment*

A.D. 1919.

Violent assaults.  
&c.

Adultery.

Lunacy.  
N.Z., No. 50 of  
1908, s. 21.When petition  
may be  
dismissed.

- iv. That within One year previously her husband has been convicted of having attempted to murder the petitioner, or on the ground that her husband has repeatedly during that period assaulted and cruelly beaten the petitioner :
- v. That her husband has since the celebration of his marriage and after the First day of January, One thousand nine hundred and twenty, been guilty of adultery :
- vi. That her husband has for a period or periods of not less in the aggregate than Seven years, within Ten years immediately preceding the filing of the petition, been a lunatic or person of unsound mind, and is unlikely to recover from such lunacy or unsoundness of mind, or has been confined as such in any hospital or other institution in accordance with the provisions of 'The Mental Diseases Hospitals Act' for a period of or periods not less in the aggregate than Seven years, within Ten years immediately preceding the filing of the petition, and is unlikely to recover from such lunacy or unsoundness of mind.

" If in the opinion of the Court the petitioner's own habits or conduct induced or contributed to the wrong complained of under this section, such petition may be dismissed. Provided always that the Court may, if it thinks fit, notwithstanding that the petitioner has been guilty of conduct which would disentitle such petitioner to relief as provided in Section Twenty of the Principal Act, if satisfied that it is in the interest of all parties that the marriage should be dissolved, pronounce a decree declaring that such marriage be dissolved.

" A deserted wife who was domiciled in Tasmania at the time of desertion, shall be deemed for the purposes of this Act to have retained her Tasmanian domicile notwithstanding that her husband may have since the desertion acquired any foreign domicile."