

Joseph Walton, 1593, Dudbrook

Transcribed by Marcia Watson

Western Australia

In her Majesty's Court for Divorce and Matrimonial Causes

Frances Walton Petitioner

Joseph Walton Respondent

18 June 1869. Frances Walton in her petition presented in this Cause Alleged

1. That on the 16th day of August 1856 the Petitioner (then Frances Kenny Spinster) was lawfully married to the said Joseph Walton in the Wesleyan Chapel in the City of Perth in the said Colony.
2. That from and after her said Marriage the Petitioner lived and cohabited with her said husband at various places in the said Colony, to wit, at Perth aforesaid, at Toodyay and at the Irwin aforesaid all in the said Colony, until the 3rd day of February 1868 when the Petitioner was turned out by her said husband and separated from him as hereinafter more particularly mentioned And that the Petitioner and her said husband have had two children, one born before and the other the lawful issue of their said marriage both of whom are now dead.
3. That from and shortly after the Petitioners said marriage the said Joseph Walton habitually conducted himself towards the Petitioner with great harshness and cruelty frequently abusing her in the coarsest and most insulting and disgusting language imputing to her unchaste and improper conduct with other men and frequently striking her and beating her with his fists, with sticks or some other and most dangerous weapons and otherwise beating her with very great cruelty.
4. That about the end of the year 1856 the Petitioner and her said husband went to reside in Toodyay in the said Colony where they resided for a period of about seven years. During the whole of such residence at Toodyay the Petitioners said husband frequently beat and abused her striking and knocking her down on very many occasions.
5. That the conduct of the Petitioners said husband became so bad and unbearable that the Petitioner at length applied to Mr Durlacher the then Magistrate at Toodyay for protection, and a separation was agreed to before him and he made an order upon the Petitioners said husband for a weekly payment of 14 shillings for the maintenance of the Petitioner.
6. That the Petitioner remained separate and apart from her said husband for a period of about 14 days only when his earnest persuasion and reiterated promises to kind treatment for the future she returned to her said husband and again cohabited with him.
7. Very soon after the Petitioners return to her said husband his conduct became again bad and the Petitioner underwent a continual course of ill-treatment from him and was beat and abused in very many ways.
8. That on one occasion afterwards while residing at Toodyay aforesaid the Petitioner became infected with venereal Disease - communicated to her by her said husband and she was obliged to consent a medical man there - Mr Alfred Green.
9. That about the middle of the year 1864 the Petitioner and her said husband removed to the Irwin and resided there together until the said 3rd day of February 1868 and the conduct of the Petitioners husband though bad was to some extent better than it had been before, since the said marriage.
10. That on the 26th day of April 1867 the said Joseph Walton in the house at Irwin, in which the Petitioner and the said Joseph Walton were then residing, seized the Petitioner by the hair and beat

her with his clenched fists violently about the head and face, breaking her nose knocking her down and kicking her violently when down and injuring her so seriously that she as confined in her Room for many days, and the said Joseph Walton prevented any one from coming to the room of the Petitioner or rendering her any assistance.

11. That on the Evening on the 13th of January 1868 the said Joseph Walton in the house at Irwin without provocation struck the Petitioner with his clenched fists beating her with great violence about the head and face, knocking her down and kicking her about the body and stabbed her also with a knife thereby inflicting a severe wound on the left hand and wrist and injuring her so severely that her body was a complete mass of contusions and wounds.

12. That on the 14th January 1868 the said Joseph Walton in the said house at Irwin aforesaid stabbed the Petitioner with a Knife in the right hand and struck her with a Tomahawk at the back of the head, thereby inflicting severe wounds on her right hand and on her head; that he then forced the Petitioner into her bedroom very violently, tearing off her clothes and kept her there confined without permitting any one to see her for several days.

13. That at this time the Petitioner was about five months advanced in pregnancy.

14. That as soon as the Petitioner became able to move about she was in a most brutal and insolent manner told by her said husband that she must prepare to leave his house as he intended to have other women there.

15. That on the 3rd day of February 1868 the Petitioner after being absent from the house for about half an hour returned thereto and on proceeding into the house found her husband in a room with a woman named Dering; they were in the act of committing positive adultery.

16. That on the same evening the said Joseph Walton turned the Petitioner out of his house with great violence, threatening to murder her and refusing to allow her a sufficient quantity of clothing, and the Petitioner has ever since lived separate and apart from her said husband.

17. That the Petitioner on being turned out of the house by her said husband proceeded as soon as possible to the residence of the Magistrate at the Greenough, a distance of 30 miles, and while on her way back again to the Irwin in company with one of her husband's men servants she was seized in premature labor and her child was born dead, and the Petitioner lay in the Bush for three days and nights before she could be moved, and nearly without support of any kind.

18. That during the period since the marriage of the Petitioner with the said Joseph Walton as aforesaid to the 3rd day of February 1868 the said Joseph Walton on divers occasions and with divers persons whose names are unknown to the Petitioner, committed adultery and has on many occasions suffered from Venereal disease contracted by his intercourse with other women, and the Petitioner had been aware of such disease and has been obliged to abstain from sexual intercourse with her said husband.

19. That on or since the said third day of February 1868 the said Joseph Walton has contracted an illicit connexion with one Mrs Hicks, a married woman separated from her husband, and is now living in adultery with her in his said house at the Irwin aforesaid.

20. That on divers occasions since the said 3rd of February 1868 the said Joseph Walton has been in Perth and has been several times seen by the Petitioner in company of prostitutes and has at various times and at various places unknown to the Petitioner committed adultery with women of that class and particularly with women named Cosgrove, Bell, Priestly and Moorhouse.

Prayer. A Judicial separation to Petitioner her said husband by reason of his aforesaid adultery and cruelty or that Petitioner may have such further or other relief on the premises as should be deemed meet. Affidavit of Frances Walton the Petitioner.

Sworn 17th June 1869. Filed 18 June 1869.

Verifies every allegation contained in the petition and negatives collusion or connivance.

13 July 1869. Appearance for Respondent. No answer filed by Respondent.

2nd August 1869. Petition for Alimony pend. Lite. No answer filed to this petition by respondent.

23 August 1869. Notice of motion for decree for Alimony pend. lite, and to direct mode of trial.

1st September 1869. Decree for Alimony pend. Lite. of 2 per week directs Trial before his Honor without a Jury on 3rd November 1869. Costs to date to be taxed.

12 October 1869. Order of His Honor the Chief Justice for payment of Costs as taxed on or before the 19th day of October 1869, and that forthwith and previous to the Trial of the Cause the sum of £50 be lodged with the Registry as and by way of deposit to cover the costs of the Petitioners incidental to the trial of this cause. 18 October 1869. Cause set down for hearing and notice given.

18th October 1869. Notice of Motion for permanent alimony.

3rd November 1869. Decree for Judicial separation Permanent Alimony £78 per annum payable by weekly instalments £1 10.0. each

26th February 1870. Affidavit filed shewing an arrear of Alimony due to 21st February 1870 of £6.0.0. being 4 weeks.

A Writ against the goods and chattels lands and tenements for the above sum of 6.0.0, the arrears for permanent Alimony.

On 23rd April 1876. Joseph Walton was £66.11.0 for 45 weeks (less 18/6 received) in arrears. A Writ of Fieri Facias was made to enforce payment.

Note: Joseph Walton kept a public house at Irwin.

Reference LDS film 1686264, image 99

There are also newspaper articles about the separation.