

DIVORCE AND MATRIMONIAL CAUSES AMENDMENT BILL.

EXPLANATORY MEMORANDUM.

CLAUSES 2 to 7 make special provision to enable women of British nationality who have been married to persons of enemy origin to obtain divorces from their husbands if their husbands leave New Zealand and remain absent therefrom for more than twelve months. By clause 4 it is provided that the fact that the husband may have desired his wife to leave New Zealand with him shall be no defence to a petition. In every such case the petition of the woman is to be granted unless collusion is proved.

Clause 8 alters the law of guardianship with respect to the children of women of British nationality married to husbands of enemy origin. In every such case the mother is constituted the guardian (with the right of custody of the children) unless the Supreme Court makes an order to the contrary.

Clause 9 adopts the provisions of the Matrimonial Causes (Dominion Troops) Act, 1919. This Act confers on competent Courts of the United Kingdom jurisdiction to entertain matrimonial proceedings in respect of marriages contracted during the war by members of His Majesty's Forces domiciled outside the United Kingdom. The Act has no operation in any self-governing dominion until it is specifically applied by the legislature of that dominion.

Clause 10—Commencement of Act: Clause 9 comes into operation immediately on the passing of the Act. The other clauses are postponed until a date to be named by the Governor-General in a Proclamation issued in that behalf.

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This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed as now printed, is transmitted to the HOUSE OF REPRESENTATIVES for its concurrence.

*Legislative Council,
8th October, 1919.*

Hon. Sir Francis Bell.

DIVORCE AND MATRIMONIAL CAUSES AMENDMENT.

ANALYSIS.

Title.	
1. Short Title.	5. Personal service of petition may be dispensed with.
2. Definition of expression "person of enemy origin."	6. Evidence.
3. British woman, being the wife of a person of enemy origin, may petition for divorce if her husband leaves New Zealand for twelve months.	7. Except in cases of collusion, petition to be granted.
4. No defence to petition that husband willing to support wife, or to provide a home out of New Zealand.	8. Guardianship of children of British women married to husbands of enemy origin.
	9. Adoption of the Matrimonial Causes (Dominion Troops) Act, 1919 (Imperial).
	10. Commencement of Act.

A BILL INTITULED

AN ACT to amend the Divorce and Matrimonial Causes Act, 1908. Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Divorce and Matrimonial Causes Amendment Act, 1919, and shall be read together with and deemed part of the Divorce and Matrimonial Causes Act, 1908 (hereinafter referred to as the principal Act). Short Title.

2. In this Act "person of enemy origin" means a person who was at any time prior to the twenty-eighth day of June, nineteen hundred and nineteen, a subject of any of the States of Germany, Austria, Turkey, or Bulgaria, whether or not such person is or has at any time been, by naturalization or otherwise, a subject of His Majesty. Definition of expression "person of enemy origin."

3. In addition to the rights which the principal Act confers upon a wife to petition for divorce a woman who is or was by birth a natural-born British subject and is resident in New Zealand (whether or not she is domiciled in New Zealand), and whose husband is a person of enemy origin, may present a petition to the Supreme Court praying that her marriage with her husband may be dissolved on the ground that her husband has at any time since the fourth day of August, nineteen hundred and fourteen, and whether before or after the commencement of this Act, left New Zealand and has remained continuously absent from New Zealand for more than twelve months. British woman, being the wife of a person of enemy origin, may petition for divorce if her husband leaves New Zealand for twelve months.

4. It shall not be a ground for refusing dissolution of the marriage that the husband has desired that his wife should depart from New Zealand with him, or should join him in another country, No defence to petition that husband willing to support wife, or to provide a home out of New Zealand.

or that he has provided or is willing to provide for her maintenance in or out of New Zealand, or that the wife has consented to her husband's departure from New Zealand.

Personal service of petition may be dispensed with.

5. Personal service of a petition presented pursuant to the provisions of this Act shall not be necessary, but such notice by letter or advertisement or otherwise as the Court may direct in each case to be substituted for service shall be given to the respondent of the presentation of the petition. 5

Evidence.

6. The Court may accept such evidence as it thinks fit, whether strictly legal evidence or not, that the husband is a person of enemy origin. 10

Except in cases of collusion, petition to be granted.

7. If the Court is satisfied on the evidence that the case for the petitioner has been proved, and does not find that the petition has been presented in collusion with the husband, the Court shall pronounce a decree dissolving the marriage. 15

Guardianship of children of British women married to husbands of enemy origin.

8. Where a person of enemy origin is married (whether before or after the passing of this Act) to a woman who is or was by birth a natural-born British subject, the woman shall in all cases be the guardian of the children of the marriage (whether born before or after the passing of this Act) while they are minors, any law to the contrary notwithstanding: 20

Provided that the Supreme Court may in any particular case direct that the other parent or any other person shall be the guardian or have the custody of all or any of such children.

Adoption of the Matrimonial Causes (Dominion Troops) Act, 1919 (Imperial).

9. The Imperial Act, the Short Title of which is the Matrimonial Causes (Dominion Troops) Act, 1919, conferring jurisdiction on competent Courts in the United Kingdom in matrimonial causes instituted by or against members of His Majesty's Forces, shall apply to New Zealand as from the passing of this Act. 25

Commencement of Act.

10. This Act (except the *last preceding* section which shall come into operation on the passing of this Act) shall come into operation on a date to be named in that behalf in a Proclamation to be issued by the Governor-General. 30