

Divorce

Divorce Until the English Reformation in the sixteenth century, divorces were granted by the Pope. Death was otherwise the only agent for the permanent dissolution of a valid marriage. Marriages found on investigation to be invalid could be set aside (as was the case with Henry VIII). By the end of the sixteenth century, England was the only European Protestant country to have no divorce law as such. There was no legal change in the law of divorce before 1857. Fundamental changes in practice and attitudes came only in the twentieth century. In practice, however, various ways were found to separate partners in unsatisfactory marriages, through custom, the church courts, the common law courts and parliament. There were five main methods:

- Private Separation
- Desertion and Elopement
- Wife Sale
- Declaration of Nullity, Annulment or Divorce a mensa at thoro by Church Courts
- Full Divorce by Act of Parliament

In 1857, Lord Halsbury defined divorce as " the dissolution of marriage with the right thereafter to marry another person while the former spouse still lives"

A divorce in England and Wales could only be secured by the passing of a private Act of Parliament until the Matrimonial Causes Act of 1857. This became effective from 1858, a divorce could now be granted by the new civil Court for Divorce and Matrimonial Causes.[absorbed into the Probate, Divorce and Admiralty Division of the Supreme Court in 1873, becoming in 1970 the Family Division of the Supreme Court]

From 1858, a husband could obtain a divorce because of his wife's adultery. But until 1925 a wife had not only to prove adultery but also that it had been aggravated by the husband's cruelty or other offences such as bigamy or desertion for 2 years. There were around 150 divorces per annum by 1860, and around 800 per annum by 1914.

In that latter year an Act made divorce more widely available after WWI. Further legislation such as the Matrimonial Causes Act of 1937, which greatly extended the grounds for divorce, meant that by 1939 there were around 8,000 divorces per annum and over 20,000 p.a by 1950. The latter increase followed the need for Government to make the divorce process easier and less costly in the chaotic aftermath of the return of British servicemen from WW2 to find that many lonely wives had been fraternising in their absence with US servicemen based here.

The Divorce Reform Act of 1969 made the irremediable breakdown of a marriage the sole grounds for divorce, the court to be satisfied that there had been either adultery, unreasonable behaviour, desertion for 2 years or separation for 5 years [2 where the other party consented to the action].

The 1857 Act also gave powers to Assize Courts to hear petitions and eventually a lot of divorces were dealt with locally. From 1873 the District Courts of the Supreme Court had similar powers, as did from 1967 the County Courts for undefended cases.

There are at the PRO [Kew], and the FRC, indexes of divorce petitions available for searching, these relate to petitions not decrees, the exact coverage should be confirmed with those offices. The files which these indexes relate to are held at the PRO [Kew] in Class J77, they used to be closed for 100 years but are now open to the public.

There is a Central Index of Decrees Absolute granted by courts in England & Wales since 1858 held at the Principal Registry of the Family Division at First Avenue House, High Holborn, London, WC1V 6NP. Also:

Principal Registry of Family Division
 First Avenue House
 42-49 High Holborn
 London, WC1V 6NP
 Telephone number: +44 (0) 20 7947 6000

See also:

1858 to 1937: <http://www.nationalarchives.gov.uk/catalogue/ExternalRequest.asp?RequestReference=ri2289>

after 1937

<http://www.nationalarchives.gov.uk/catalogue/displaycataloguedetails.asp?CATLN=3&CATID=8377&SearchInit=4&CATREF=j77>