

In The Supreme Court
Of New South Wales
In Divorce

Coram GREGORY WALKER J.
Friday 10th March 1905.

CALETTI V CALETTI

Petitioner: GUIDO ANGELO CALETTI

Respondent: HENRIETTA CALETTI

Mr F. S. BOYCE appeared for the Petitioner.

ISSUE:

1. Marriage 8th December, 1898.
2. Desertion during three years and upwards without just cause or excuse.

SERVICE PERSONAL: Affidavit of Louis Frederick Pomeroy sworn 24th February 1905; Affidavit of Leslie George Burton Cadden sworn 24th February 1905 of search and no appearance

PETITIONER:

Sworn. Examined by Mr BOYCE:

My name is Guido Angelo Caletti. I am a cook by trade. I am the chief night-cook of the Hotel Australia. I live at No. 224 Kent Street, Sydney. I married Henrietta Clark on the 8th December 1898 in Sydney, according to the rites of the United Methodist Free Church.

(Certificate of Marriage put in marked Exhibit "A".)

I was born in Italy. I came to Australia when I was 14 years of age, and I am now 32. I came to New South Wales about 10 years ago. I landed first in Victoria.

TO HIS HONOR: I came out alone from Italy. My father died when I was three years old. My mother stayed in Italy.

TO MR BOYCE: Since I have been here I have become a naturalized subject of the Commonwealth. I have not the letters of Naturalization here, but I have them at home.

HIS HONOR: They must be produced.

MR BOYCE: Very well, your Honor, I will produce them later.

WITNESS: (To Mr BOYCE): I have a vote if I like to use it. I have no property in New South Wales. I have no intention of leaving this State, and am in permanent employment. I made a home with my wife. There is one child of the marriage, and it is in my custody. After marriage in 1898 we lived happily up to the time the child was born on the 16th September, 1900. The child was four years old last September, and was born in Bourke Street, at Mrs Walsh's place. At that time I was working at the Hotel Australia. We remained with Mrs Walsh until the child was 4 or 5 months old. After that Mrs Walsh shifted to Miller's Point, and as I thought the place was too far away from my business, we moved to a room in Woolloomooloo. Three months afterwards my wife went to see Mrs Walsh, and subsequently told me that she had engaged a room there. She lived at Trinity Avenue, and we lived with her for the second time. While there I would often find my wife out when I came home on Sunday night, and the child would be alone. I spoke to my wife about it, and said she should not have left the child. She replied that she would not stay at home as she was young and wanted to enjoy herself. At that time I worked every Sunday, and never had a Sunday to myself. Mrs Walsh's son told me something, and I spoke to my wife. I asked her whether she thought it was good conduct for a woman to leave her child alone at home and go out dancing while her husband was working for her. She said she was not a slave to any man or child, and if I did not like it I could lump it. I spoke to her several times after that, but on each occasion she said she would do as she liked. I said to her "You were a good wife for a couple of years until you mixed up with Mrs Walsh. It is her influence. Leave her and get a home somewhere else." She replied that she would not leave Mrs Walsh for the best man on earth. I repeatedly asked her the same question, until I got another house ready, but she refused to go. I gave notice to Mrs Walsh and told my wife where the other place was. I left Mrs Walsh, and again asked my wife to come with me. She said she would not leave the place, not for the best man on earth. She packed up my own things, and I left. Two days afterwards I went back and she summoned me for maintenance, but the case was dismissed. Then I wrote a letter to her, and also went to see her. I wrote to her one day, but as I did not receive any answer the following day I went to see her.

(Letter handed to witness) This is a copy of the letter I wrote. I addressed it to my wife 25 Trinity Avenue, Miller's Point, and posted it myself. I know she got the letter, because she told me herself afterwards that she received it and laughed at it.

TO HIS HONOR: What is the meaning of the words in this letter "Put your pride aside"? - - - - She said because I refused to live at Mrs Walsh's we wanted to be proud. She thought she was going to show me a point by refusing to live with me, although I wanted her to. I said "Don't be proud; come and live with me."

(Copy letter put in marked Exhibit "B".)

TO MR BOYCE: After writing the letter the following day I received another summons for maintenance, but I was again successful. I think that was the 6th December, 1901.

TO HIS HONOR: It was about November, six days after the first summons, that we left North Shore, the 22nd November, 1901.

TO MR BOYCE: After the second summons I asked her in Court if she would come and live with me, and she refused. I asked for the custody of the child, and she refused to give it to me. About a week after that I received a letter from her that she wanted to see me at the place where she was working. I saw her at once of the saloon bars in an hotel in George Street West. She was a barmaid. She wanted me to take the child, as she could not look after him. She was sick and tired of him. I wanted her to come back, and she laughed, and said she was sick of the kid. I made an appointment to get the child the next day, and she asked me for £3. She wanted £3 to part with him, and I gave it to her. I gave the boy to an Italian family in Surry Hills to look after. I got the child about 4 or 5 days afterwards – about 1st January 1902 – she waited for me outside the Australia Hotel, and I coaxed her to come back and live with me. I got a room in Palmer Street, and we took the child with us. We went to live there together, and remained about 14 days. About three days after we got there, my wife started growling about the child, as he was too troublesome, and on the 16th she gave the child to a lady to look after, and on the 18th she left me finally. During that period she was not kind to me. She said she did not like a quiet life at all, and wanted to work for herself, that she would be better free. She told me I could have the child, so I asked her if she knew where I could find somebody to look after him. She knew a lady in Redfern, and went one day to see her, and on the following day I took the child there. The child was not in good health at the time. My wife told me she was going to be a barmaid. Of course I did not want her to go. I kept on the house until a week after she left, but she did not return. I have seen her since then. The next time was about two months afterwards, in Nicholson's wine bar, in King Street. A friend of mine took me there and gave me an introduction to her, and I said I thought I had met the lady before. She asked me to have a drink, and I had one. I asked her to come away, and she said to see her the following afternoon. I went back to see her, but she only laughed and said I was foolish to run after her, and hoped to God I would not come near her again.

About five months afterwards I saw her again. I was in the A.B.C. at the time, and she wanted me to buy a pair of boots. I gave her the money to buy them, and asked her if she would not go back and stop all the trouble, and stay at home for the sake of the child. She said I was a fool. She said she wanted a pair of boots, and she had got them, and walked away. I saw her again a year afterwards, about Christmas Time. I asked her then to come back. She was out of work at the time

and ill, and she sent for me. I got a telephone message at the A.B.C. saying my wife was dying. I went to see her and obtained some medicine and some other little things. When she got better a few days afterwards, I asked her to come back to me. I took the child with me on that occasion, but he did not know her, as he had not seen her for two years. She got angry with the child, and said she hated both of us. She would not come back to me. I saw her dozens of times after that, but she always refused to come back to me.

I have always been in Sydney, bar four months when I was at Medlow Baths. I have always been working in Sydney. The child is named Guido Caletti.

TO HIS HONOR: There was nothing in my conduct to justify her refusing to live with me.

HENRIETTA BLAKE:

Sworn. Examined by Mr BOYCE:

My name is Henrietta Blake. I am a married woman residing at 160 George Street, Redfern. I live with my husband. I know the petitioner and his wife. Petitioner lived with me for over two years, from about four months after he left his wife. I remember Mrs Caletti coming to me with the child on January 15th 1902. The child had dysentery very badly, and was ill for some time. The child was about 15 months old, but he was weaned. Respondent said he was too tiresome to look after, as she wanted to go about more. She said she was going away to work in a bar. She did not say anything about her husband.

TO HIS HONOR: I had not known respondent personally prior to this time. She had a room there, but I knew nothing about her. I knew she was a married woman.

TO MR BOYCE: She left the child with me, and said she would go to work, as she could not stand her husband or the child. She said the child was too much trouble to look after. The next day Mr Caletti and his wife brought the child and left him with me. He has been with me ever since, and I have been paid for looking after him by Mr Caletti. Respondent came to see me about a week afterwards, and told me she was working at a wine bar in King Street. She did not say where her husband was. About a month or six weeks after that she came again, but did not tell me anything in particular except that she was working. I did not bother to ask her anything.

Mr Caletti came to live with me then, - that was about the April, or two or three months afterwards. He lived with me for over two years, but during that time Mrs Caletti was not living at my house. She did not come to see the child for two years. So far as I can say, no cohabitation has occurred between the petitioner and his wife during that time. Petitioner was always a respectable man in my house, and always paid his way.

JUDGEMENT

HIS HONOR: I find the issues proved, subject to the Letters of Naturalization being filed within three days. I grant a decree Nisi, returnable in three months, petitioner to have the custody of the child.