

SANDWICH'S
DIVORCE.
SESS. 1859.
April 12th.

SANDWICH'S DIVORCE.

SESSION 1859.

Divorce.—Dissolution of marriage by way of legislative Bill where the husband's domicile was Anglo-Indian.

THE Petitioner in this case, William Sandwith, of the Bombay Civil Service, domiciled and resident in the East Indies, presented his Petition to the House for leave to bring in a Bill to dissolve his marriage with his wife Georgiana, whom he had married at Surat on the 19th July 1856.

The usual order having been made for the issuing of a warrant to authorize the taking of the necessary evidence in India, a return was made thereto in April 1859, establishing the necessary proofs that are required to induce the House to pass Bills of this description.

On the 12th April 1859 Mr. Serjeant *Wrangham* and Mr. *Alexander* appeared in support of the motion that the Bill of Divorce be read a second time.

The LORD CHANCELLOR (a) : Why was not this case proceeded with here—in this country ?

Mr. Serjeant *Wrangham* : The parties were domiciled in India.

Lord CRANWORTH : At the time of the adultery they were domiciled in India.

Mr. Serjeant *Wrangham* : Only one of the parties, the lady, is residing here.

Lord CRANWORTH : And the adulterer ?

(a) Lord Chelmsford.

Mr. Serjeant *Wrangham* : The adulterer is presently in this country.

Lord CRANWORTH : Does it signify where the Petitioner is ?

Lord WENSLEYDALE : Which is the clause which gives power to a party in India to apply for a divorce ? Does the Act establishing the Divorce Court give a power in favour of all persons domiciled abroad against persons domiciled here ?

Mr. Serjeant *Wrangham* : It does not. The Divorce Act of 1857 does not even mention India.

Lord WENSLEYDALE : To what class of persons does it give the power of applying for a divorce ?

Mr. Serjeant *Wrangham* : It is by the 27th section.

The LORD CHANCELLOR : I think we had better go on. It was rather with a view to the future that I suggested the question (a).

Lord CRANWORTH : Of course the Legislature has the power, and therefore it is unnecessary to raise this question.

Lord WENSLEYDALE : Does that Act (b) take away the power of the House of Lords ?

Lord CRANWORTH : No, certainly not. You cannot take away the power of the House to legislate.

The Bill was read a second time, and ultimately, in the course of the session 1859, passed into law.

(a) A principal ground for granting the Second Reading was that the expense of taking evidence in India had already been incurred. If this had not been so, it would seem that the Lord Chancellor would have opposed the proceeding by way of legislative Bill.

(b) 20 & 21 Vict. c. 85, the Divorce Act of 1857.