

LLEWELYN'S DIVORCE BILL.

1851.
15th, 18th, 29th,
and 31st July.

30*l.* ordered to be paid to the wife for the conduct of her defence.

A wife commits adultery at a time when the husband, ignorant of her misconduct, is living with her in harmony and affection. Whether, continuing still ignorant of her guilt, his subsequent inattention and unkindness to her will bar his bill for divorce brought on the discovery of her guilt,—*Quære.*

Refusal of the House to allow the Petitioner to be examined, and his bill under the circumstances rejected.

BEFORE permitting this case to be opened, the House, on the wife's petition, ordered the husband's solicitor to pay to *her* solicitor 30*l.* for the conduct of her defence; as she had no funds for the purpose.

Mr. *Warren*, Q.C., and Mr. *Macqueen*, appeared for the Petitioner, J. H. Llewelyn, Esq.

The wife was proved to have committed adultery in June, 1846, at a time when her husband was living with her in harmony and affection, he being then ignorant of her misconduct, and acting in all respects the part of a kind and attentive husband.

Afterwards (that is to say subsequently to the commencement of her latent infidelities) she and her husband lived very unhappily together; and in August, 1846, they separated, he continuing still ignorant of her adultery.

It appeared that when she left her husband's house, she was accompanied by the very man (the Baron Von Shenkenberg), who was proved to have been her paramour. It further appeared that the husband was from home at the time, and had been so for two days previously. By the terms of separation, he was to make her a yearly allowance suitable to his means; but it came out that he had been irregular and remiss in the stipulated payments, and the wife went astray with others besides the Baron.

The unexplained absence of the husband at the time when the wife was quitting the house under the escort

of one with whom she was guilty, although her guilt was concealed from her husband, gave to the case an appearance of connivance or of suspicion, which the evidence proved insufficient to get over.

The Petitioner's counsel, however, insisted that his right to redress had accrued in June, 1846, when the adulteries had commenced, and when the husband was subject to no imputation whatever; and they maintained that the subsequent circumstances were immaterial, the wife having, before their occurrence, become worthless, and disentitled to the marital care. Suppose he had discovered her guilt in June, 1846. He would have had a right to turn her instantly out of doors. Then was her case improved by the concealment? It was only made worse—the deception aggravated her guilt. The separation, which took place undoubtedly with the husband's consent, ought not in this case to bar the remedy. The reason why separations so often proved fatal to Divorce Bills was, that when a husband renounced the marital control, and gave his wife liberty to live as she pleased, he could not afterwards complain if she violated her marriage vows. But here she had violated and broken them two whole months before the separation or any unhappiness took place. The injury to the husband was surely not less because it was at the time unknown to him, and his claim to redress ought not to be affected by his wife's fraudulent concealment of her guilt. The Petitioner's counsel, moreover, tendered the husband himself as the only one who could explain the causes of separation and the reasons of his absence at the time of his wife's departure; but their Lordships refused to allow him to be examined (a).

(a) The standing order requires the Petitioner for a Divorce Bill to be in attendance "in order to his being examined at the bar, *if the House shall think fit.*"

LLEWELYN'S
DIVORCE BILL.

—
*Lord Chancellor's
opinion.*

The LORD CHANCELLOR (*a*):

The House expected that the case made out in support of an application for divorce should be one above all exception. In particular, the House expected the Petitioner to show that every reasonable caution had been exercised on his part; and that all suspicion of connivance or collusion should be rebutted. Let their Lordships just consider what the present case was. [Here his Lordship went over the evidence, declaring the proof of the commission of adultery in June, 1846, satisfactory; and then proceeded as follows]:—But it would have been observed by their Lordships that the husband was absent from his house for two or three days prior to his wife's going away; nor did he appear to have made any inquiries to ascertain whether she were supplied with the means of support, or to have given her any money with the exception of two miserable sums of 5*l.* each; which were given by the direction of the husband to the very adulterer for his wife's use. Of this circumstance there had been no explanation offered. The husband had left his wife at a period when, according to the evidence, he had no reason to suspect her of any guilt or impropriety, and he never looked after her, nor furnished her with anything beyond these two wretched sums of 5*l.* each. There was no explanation as to why he had separated from his wife; and when they did separate he ought to have shown some regard for her by taking care that she had means for her support. Now, he (Lord Truro) should have been unwilling to reject any further evidence, if it had been in the power of the parties to produce it; inasmuch as it was a most serious thing for a husband to continue wedded to a woman who had conducted herself as Mrs. Llewelyn appeared to have done. But as this case stood upon the evidence, it was by no

(*a*) Lord Truro.

means satisfactory or sufficient. Great neglect was to be attributed to the husband, even if he had not connived at his wife's leaving the house with her paramour. He should, therefore, move their Lordships that the second reading of the bill be postponed to that day six months.

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—
*Lord Chancellor's
opinion.*

Agreed to.

JONES & CLARKE, Solicitors.—Mc DOUGALL & NEWALL,
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Parliamentary Agents.