

things done which even legislation cannot now disturb. In short, the provisions of the Act have been freely exercised, and that for so long a period that it has become part and parcel of the every day law of the province.

No Supreme Court Judge of British Columbia has in all these years actually refused to act under it, until the tentative suggestion of the present Chief Justice sprang into life, and it strikes one as being all the more strange that the revision of the statutes should have been selected as the occasion for suddenly raising and publishing a grave doubt as to a statute upon which the B. C. Full Court has, after prolonged consideration, deliberately pronounced a decision which has ever since been followed by the Supreme Court as settled and competent law.

Sir Matthew Begbie, after he had passed through the first occasion on which his opinions had been combated in Full Court, acted under the Divorce Act in *Scott v. Scott*, as did Gray, J., Crease, J., Walkem, J., and Drake, J., and this during long years past, without (as already mentioned) any question or appeal to the Privy Council being made.

It must not be forgotten, too, that the rules for divorce proceedings for carrying out the Act were the English rules adapted to meet the changed position of affairs in the province, published by authority in 1877, approved and signed by the only three judges then on the Bench—first the late Chief Justice, Sir Matthew Begbie, Mr. Justice Crease and Mr. Justice Gray. At the time the Order-in-Council adopting these Supreme Court Rules was passed, viz., 22nd October, 1892, the present Chief Justice was the Attorney-General, and he presumably must have been familiar with, if not responsible for them.

The Act itself has not been altered since *Sharpe v. Sharpe*, or doubted, until the present Chief Justice indirectly raised it in *Levey v. Levey*. But hitherto it has been acted upon as law, and for the simple reason frankly given by the late Chief Justice Begbie after *S— v. S—* was passed and gone, "because now it is law."

If any alteration of such construction of the law had been thought necessary or advisable, in the public interest, it could only have been obtained, and should only have been attempted, by recourse to a superior authority competent to declare it—certainly not by the volunteer utterances of any person or persons not sitting (in a case) in a superior judicial or legislative capacity.

I see your correspondent in the article under notice, brings forward a suggestion, that "having the matter discussed pro and con. in the Full Court is now the proper thing to be done, and this doubtless will shortly be done." Divorce Acts and laws are not to be altered or disposed of by any such off-hand process.

The Act which the Full Court has declared makes divorces lawful, has not been altered by competent authority, i.e., the Dominion, which by the Constitutional B.N.A. Act, 1867, is the only power which has sole control over divorce, and that being the case, how could the B.C. Full Court, in which all the judges who then composed it, sat—if they discussed the matter pro and con. for a month among themselves—affect what is now out of their hands? The local legislature could offer no assistance. Divorce is beyond their competence. The Full Court (*Scott v. Scott*) could give no appeal. And supposing the members of the Full Court could so meet, what would be the use of it? As the Court is at present constituted—of four judges only—with the