legal meaning of the phrase is clearly defined in *Nugent* v. *Smith* (1), and there can be no doubt that the present case does not come within that definition. So far from the loss having been caused by any convulsion of nature, it appears that for these steamers and flats to get ashore is quite a usual occurrence, and that the loss was occasioned by a variety of causes, which happened after this steamer with the flats attached to it had got aground and during the many hours which elapsed before the flat sunk, no one of which was occasioned by any tremendous or even unusual disturbance of the elements. For these reasons I would reply that upon the facts of the case as they have been found and stated, the judgment ir correct in law.

Attorney for plaintiffs: Mr. *E. O. Moses.*

Attorney for defendants: Mr. *R. L. Upton.*

T. A. P.

ORIGINAL CIVIL.

Before Mr. Justice Wilson.

GOMES v. GOMES.*

1891
March 24.

Practice—Divorce—Decree absolute—Notice of application to make decree absolute.

When a decree *nisi* has been served on the respondent in a divorce suit, it is not necessary to give him notice of an application to make such decree absolute.

THIS was an application to have a decree *nisi*, which had been passed on the 10th April 1890, made absolute, the case being set down in the list of cases for hearing in the ordinary way on March 23rd, 1891. The decree had been passed in the suit which was for dissolution of marriage on the ground of the adultery and cruelty of the respondent, and had been served on the respondent in the usual way, but no notice of the application to make it absolute had been served on him.

Original Civil suit No. 1 of 1890.

(1) L. R. 1 C. P. D., 423.

1891

GOMES v. GOMES.

The petition, on which the application was made, set out that the period of six months allowed by the decree had expired; that no cause had been shown by the respondent why the marriage should not be dissolved as directed by the decree within that period; and that no leave to intervene had been applied for or affidavit filed by any one desiring to show cause why the decree should not be made absolute.

Mr. Acworth appeared in support of the application and submitted that the petitioner was entitled to have the decree made absolute. He referred to Belchamber's Practice, pages 419 and 420, and to the cases there cited, and contended that according to the practice now prevailing notice of the application was unnecessary.

The Court (WILSON, J.) took time to consider the judgment, which was delivered on March 24th, as follows:—

WILSON J.—This was a divorce case in which the decree *nisi* was made in due course. That decree has been properly served upon the respondent. Yesterday, when the case was set down for the purpose of making the decree absolute, a point arose which I took time to consider. The point was whether notice of the application to make the decree absolute ought to be given to the respondent. I find there has been a variation in the practice. Formerly the practice seems to have been strictly observed of requiring service of such notice. But the more usual practice of late appears to have been not to require it; and it seems to me that, as a matter of principle, it ought not to be required. For all purposes for which the respondent is entitled to come before the court, as for instance, for the purpose of an appeal, or for the purpose of making an application for review, the service of the decree *nisi* is sufficient. Therefore I think the more modern practice of not requiring notice to be given of the application for a decree absolute, when once the decree *nisi* has been served, is the proper one. The decree must be made absolute with costs.

H. T. H.

Application granted.

Attorney for the petitioner: Baboo *N. C. Bural.*