

in Canada by a Dominion statute enacted under the powers conferred by s. 132 of the B.N.A. Act (3 & 4 Geo. V. c. 27). Paragraph 3 of article 1 of the treaty states that the subjects of the high contracting parties "shall in all that relates to the pursuit of their industries, callings, professions, and educational studies be placed in all respects on the same footing as the subjects of citizens of the most favoured nation."

It was held by Davies, C.J., and Duff and Brodeur, JJ., that the provincial statute of 1921, as to its part relating to Japanese, is *ultra vires* of the legislature of the province as being in conflict with the Japanese Treaty. Idington, J., *contra*.

LAW OF DIVORCE IN CANADA.

By C. S. McKEE, of the Toronto Bar.

(Continued from April issue)

1. Neither party an infant, insane, intoxicated, or impotent—obviously no question arises.

2. One party only an infant, insane, intoxicated, or impotent. If the other party has knowledge of the incapacity, then it would appear that no action should lie at the instance of that party. In the case of insanity an action should lie at the instance of the Crown, and the Criminal Code should provide punishment for the guilty party. If the party with full capacity marries in ignorance but later learns of the incapacity of the other, then in cases of insanity and impotency actions should lie at the instance of the former, provided the necessary action is taken within a reasonable time of the receipt of the knowledge. Actions by the incapacitated person are the same as in the next class, except that a person knowing of his or her impotency should not be allowed to plead it as a ground of nullity, but should if he or she married in ignorance of it.

3. Both parties, infants, insane, intoxicated, or impotent.

(a) Infants—action tenable by guardians while infancy exists or by either party acting within a reasonable time of coming of age.

(b) Insane persons—action tenable by Crown, by committee, or by either party acting within a reasonable time of ceasing to be under the incapacity.