

Sterling, Ontario, and at once removed to Boston where they lived together and had a family. The petition of Susan Ash for a divorce was based upon bigamy and adultery of M., alleging that M.'s divorce was not valid in Canada, and should not be recognized here, because it was granted for a cause not recognized here, namely, desertion by the wife of the matrimonial home. This objection would appear to have been founded upon the doctrine in what is known as *Lolley's case* (w), in which case all the judges were "unanimously of opinion that no sentence or act of any country or state could dissolve an English marriage (i.e. the marriage of a man domiciled in England), a vinculo matrimonii, for ground on which it was not liable to be dissolved a vinculo matrimonii in England." This decision has been in England dissented from and overruled (x), and is no longer recognized as law in English Courts. But in the discussion which took place in the Senate, the Massachusetts' divorce seems to have been assailed on the broader ground, that inasmuch as the Parliament of Canada had not entrusted any Court with the granting of divorce, it was not called upon to recognize a divorce granted by the Court of any other country for any cause, and *Lolley's case* was cited, as it has been at different times cited before the English Courts for this broader proposition as well as for the narrower one.

Mr. Gemmill (in his book on "The Practice of the Parliament of Canada upon Bills of Divorce") thus states the result: "It was here clearly settled that under no circumstances would Parliament recognize an American divorce as valid and conclusive in Canada. The opponents of the Bill argued that as a matter of international comity we were bound to give effect to decrees of a foreign Court but the leader of the House (Senator Abbott) stated the principle, which was ultimately sustained by both Houses, to be, that as the Parliament of Canada has not yet recognized the power of any Court to deal with the subject of divorce, there is nothing binding in the argument which claims by the comity between nations, for a judgment by a foreign Court, that kind of consideration and recognition by the Senate which that judgment would have before an ordinary tribunal, upon a matter the subject matter of which

(w) *Rex v. Lolley*, Russ. & Ry. 237.

(x) *Harvey v. Farnie*, 5 P.D. 153; 6 P.D. 35; 8 A.C. 43.