

American Court, Parliament declining to be bound by the action of a foreign tribunal. During the present (1888) session of Parliament, an application will be made to nullify a marriage upon the ground of impotency. This will be the first instance of the kind in the history of Canadian divorce.

The *Campbell* case (*u*) is one of the most peculiar in the history of divorce in Canada. In 1876, Robert Campbell petitioned for a bill of divorce from his wife on the ground of adultery. This was met by a counter petition from Mrs. Campbell charging him with cruelty and desertion. The Senate rejected Campbell's petition as not proved, and postponed further consideration of the cross-petition until the following session. In 1877 no fresh evidence was adduced, but the report of the select committee of the Senate from the previous session was taken into consideration with the result that the majority of the Senate declared Campbell's charges proved. The bill was rejected in the Commons, however, on the ground that fresh notice of the application had not been given (*v*). In 1878, Mrs. Campbell prayed for leave to prosecute her cause *in forma pauperis*. This time the Senate rejected her application for want of notice. In 1879 she renewed her application *in forma pauperis* after having given notice thereof, and she obtained a bill equivalent to judicial separation under a decree pronounced by the English Divorce Court, with a substantial annual cash allowance for the maintenance of herself and children. Provision was also made in the Act for enforcing the payment of the allowance. The right of Parliament to grant her maintainance and the custody of the children was warmly contested in both Houses upon the ground that these being civil rights they could only be dealt with by the Provincial Legislature under the terms of the B. N. A. Act 1867, but the result of the decision of the majorities in the two Houses determined that they were incidents to marriage and divorce, and as such within the competency of Parliament (*o*).

^u Senate's Journals, 1876, 1877, 1878, 1879.

^v This shows that it is unsafe to assume that the Commons will always follow the practice of the Senate.

^o With respect to maintainance or alimony, Wilson, C.J., held a contrary view; *M. Seng v. Campbell*, 4, 1, C. R. 372.