

divorce on the ground of lack of jurisdiction. The motion was dismissed, Harvey C. J. dissenting. The opinion of the Court was exhaustively set out by Stuart J. It was pointed out that it was the first case of its kind, and that the mere fact that Parliament had entertained divorce applications from Alberta could not be treated as a legislative interpretation of the meaning of the Act of 1886. The Dominion Parliament by 1886 (Can.), ch. 25, sec. 3 (now sec. 11) had enacted: "Subject to the provisions of the next preceding section, the laws of England relating to civil and criminal matters as the same existed on the fifteenth day of July in the year of our Lord one thousand eight hundred and seventy shall be in force in the Territories . . . and in so far as the same have not been or may not hereafter be repealed, altered, varied, modified, or affected by any Act of the Parliament of the United Kingdom applicable to the Territories or of the Parliament of Canada or by any ordinance of the Lieutenant Governor in Council." The preceding subsection contains nothing affecting the question involved. At the date mentioned, the Divorce Act was in force in England. Reference was made to *S. v. S.*, 1 B.C.R. 25 and to *Walker v. Walker*, 39 D.L.R. 731, 28 Man. L.R. 495. It was argued that the sections of the Act dealing with the establishment of the Supreme Court impliedly limit the meaning of sec. 3 because there is an omission of reference to the British Divorce Court in detailing the jurisdiction to be exercised by the Provincial Supreme Court. But, it was held that sec. 3 is perfectly clear, and should be taken to mean exactly what it says; and it was further held that it is a well established British principle that the law can come before the establishment of the Court which is to enforce it. The Alberta Act, 1905 (Can.), ch. 3 had continued the law of the Territories until it should be altered. Lastly, it was pointed out by Stuart J., that all jurisdiction—all law—must come before one or other of His Majesty's Courts; there can be no such thing as a law and no Court to enforce it; and the Supreme Court is the Court with jurisdiction in this case. When the case came before the Judicial Committee of the Privy Council, it was pointed out that an amendment in 1858, (Imp.) ch. 108 to the British Divorce Act provided that all Judges of the three Common Law Courts were to be Judges of the new Divorce Court. The committee also pointed out that the Act of 1907, ch. 3 had set up a Supreme Court, and that it is a rule as regards presumption of jurisdiction in such a Court that as stated by Willis J. in *Mayor, etc., of London v.*