

is section 146, which enacts that Prince Edward Island, British Columbia, Rupert's Land, and the North West Territories may be admitted into the Union upon terms and subject to the provisions of 1867 (Can.) ch. 3 and that the provisions of any Order in Council in that behalf shall have effect as if they had been enacted by the Parliament of Great Britain. Under this section, B.C. was admitted in 1871, and P.E.I. in 1873, the Orders in Council in each case providing for the continuance of the existing Courts with their then jurisdiction which in both cases as has been seen, included divorce.

At this point the question naturally arises of where the power lies to amend the B.N.A. Act. There can be no doubt that the powers of the Canadian Parliament within the Act are plenary—i.e., complete and full—and as long as it keeps within the Act, Parliament can legislate as it sees fit. For example, it can say on what grounds if at all divorce shall be granted. But it could not deprive itself of all legislative jurisdiction over divorce and hand it over to the Provincial Legislatures; such action would amount to an amendment of the Act, and this can be done only by the Imperial Parliament. (*Citizens Insurance Co. v. Parsons* (1881), 7 App. Cas. 96.) It is obvious that for Parliament to give to a Court—Provincial or Dominion—jurisdiction to try divorce cases amounts to no such amendment, the legislative control would remain in the proper place.

The Maritime Provinces and British Columbia have had Courts exercising jurisdiction over divorce for many years; the three prairie Provinces have discovered only very recently that they too have this jurisdiction. Until 1917, the practice in these Provinces was to apply for divorce to the Senate. *Walker v. Walker* was an application brought in the Court of King's Bench of Manitoba (See (1918), 28 Man. L.R. 495 at p. 496) for a divorce on the grounds of impotency. The case came up for trial before Galt J., who found that the grounds on which the application was founded were sufficient if the Court had jurisdiction. As the case was the first of its kind to come before a Court of the Province, it was dismissed — so that it might be more fully argued by a higher Court. An appeal was made to the Court of Appeal for Manitoba (1918, 39 D.L.R. 731, 28 Man. L.R. 495); the Attorney General of the Province was represented, and a leading King's Counsel was asked to appear as though for the defendant, who up to this stage had not appeared. The appeal was heard in 1918, and allowed, the opin-