

differences of opinion on the subject which at present are believed to exist among them, a conference so constituted, must necessarily be barren of results. The doubt derives its only practical importance from appearing in your columns, and it is to be hoped that through the same channel it will be set, as it can be, entirely at rest.

It is not generally known that the English divorce law was first practically introduced into British Columbia by the late Chief Justice Begbie himself as far back as 1870, in the case of *Scully v. Lee* (cited in *Sharpe v. Sharpe*, 1 B.C.R. 25). That was an action for crim. con., where a demurrer was heard against the plaintiff's pleading, on the ground that the action of crim. con. had been abolished by the Divorce Act, which was then in force in B. C. The demurrer was sustained on that ground, and with costs. So also in 1877, in the case of *Lawrence v. Lawrence and Egerton*, where on the ground that the Divorce Act was in force in B.C., Sir Matthew Begbie refused to entertain the common law action of crim. con. which it abolished.

It is noteworthy that this abolition of the previously existing remedy, was treated, by those who drew the Act, as a necessary prelude, to clear the ground of the old remedy in order to introduce the then new remedies of the Act—judicial separation or divorce—for which clearly it was passed. Sir Matthew thus admitted the operation of the Act in B.C., and when *Sharpe v. Sharpe* (hereinafter referred to) came up, he acknowledged himself bound by that admission.

His only objection to the fullest exercise of divorce à vinculo was not one of principle at all (the Imperial Parliament had settled that) viz.: That divorce was a right, but was based on the technical objection that it had not in B.C. certain particular judges to administer it, although the B.C. Supreme Court Judges had by law every authority and jurisdiction in the power of the Crown to confer, to enable them to do all that English judges could do. And that, too, under enabling statutes, which Dwaris tells us are to be construed liberally, as well as a Royal Commission signed by the Queen, giving Mr. Begbie all the powers as judge which she could bestow—powers of which each of the subsequent judges by statute equally partook.

The first statutory authority for the applicability of the Divorce Act to British Columbia is the English Law Act, R.S. No. 70, sec. 3. This Act was passed upon the suggestion of the then Secretary of State for the Colonies (Lord Lytton) contained in his dispatch to Governor Douglas, of 14 Feb., 1859 (vide note P.S., to the judgment in *S— v. S—*, 1 B.C.R., p. 25, calling his attention to the questions of divorce, bankruptcy, lunacy, probate, etc., and suggesting legislation on all these subjects to make the laws thereon, for obvious reasons, as uniform as possible through these and the other colonies of the Empire. His directions were followed: first on the mainland of British Columbia, by the proclamation having the force of law of the 19th November, 1858, which, after it had been approved by the Secretary of State for the Colonies, being the form usual, with necessary variations, for establishing British law in all the colonies, enacted "That the civil and criminal laws of England, as the same existed on the 19th November, 1858, and so far as the same were not from local circumstances inapplicable, were and should be in force in British Columbia."