

Brierly charged that, being a married man and a British subject resident in Canada, he took to wife another woman at Port Huron, Michigan, having left Canada with intent to commit the offence. Brierly was convicted, subject to a case reserved for the opinion of the High Court as to whether the Dominion Parliament had power to enact the sections in question. The case was argued before the Chancery Divisional Court, and Chancellor Boyd and Mr. Justice Ferguson delivered elaborate judgments, reviewing the statute and the case law, and upheld the constitutionality of the Act. In 1894 the question was raised once more in this Province in the *Plowman case*, 25 O.R. 656, in which the facts were practically identical with those in the Brierly case. The point was argued before the Queen's Bench Divisional Court, and at the conclusion of the argument Chief Justice Armour delivered the judgment of the Court (composed of himself and Mr. Justice Falconbridge) quashing the conviction on the short ground that, "the second marriage is the offence, and the Dominion Parliament has no power to legislate about such an offence in a foreign country." This case stood as the interpretation of the law until the recent judgment of the Supreme Court on the special case referred by the Governor-General-in-Council as to whether the Parliament of Canada had authority to pass sections 275 and 276 of the Code. The Court was divided in opinion, the Chief Justice in a characteristically able, vigorous and elaborate argument, holding with the Queen's Bench Divisional Court that the sections were *ultra vires*. The other members of the court taking part, namely, Justices Gwynne, Sedgewick, King and Girouard, agreed with the Chancery Divisional Court that the sections were *intra vires* of Dominion jurisdiction. It should be added that the case was presented to the Court *ex parte* on behalf of the Department of Justice.

It was conceded by Sir Henry Strong, as by Chief Justice Armour, that the Imperial Parliament may enact regulations governing the conduct of British subjects in foreign countries, and it was also conceded that such power may be dele-