

domiciled within their respective Provinces at the commencement of the proceedings,⁷⁹ except where a husband domiciled in the Province deserts his wife and removes from the Province, and she continues to live in the Province. In such a case the Court may on petition grant her a divorce.⁸⁰ On the other a Canadian Divorce Court has jurisdiction to entertain a suit to declare a marriage to be null and void if it was celebrated within its jurisdiction. It may also entertain a suit for judicial separation or for the restitution of conjugal rights when both the parties thereto are at the commencement of the suit resident within its jurisdiction although this residence may not amount to domicile.⁸¹

(2) With regard to the dissolution of a Canadian marriage by the Courts of a foreign country, the law is that the Courts of such a foreign country have jurisdiction to dissolve the marriage of persons domiciled there in good faith at the commencement of the proceedings for divorce. This rule applies alike to Canadian and to foreign marriages.⁸² A foreign divorce, therefore, if pronounced by a competent Court of a country where the parties to a marriage performed in Canada were (in good faith) domiciled at the time of the divorce proceedings, will dissolve such marriage and be held valid in Canada.⁸³ This rule is equally applicable to foreign divorces granted for causes not recognized in Canada, if proper domicile is established.⁸⁴

In the *Ash Case* (1887) it was stated that under no circumstances would the Canadian Parliament recognize a divorce granted by a United States Court in a case where the parties were married in Canada.⁸⁵ But the evidence in the *Ash Case* did not establish a *bonâ fide* domicile within the jurisdiction of the Court which granted the divorce, and this broad statement was therefore

79. Prof. A. V. Dicey, "The Conflict of Laws" (1908), 2nd ed., at p. 256.

80. *Armstrong v. Armstrong* (1898) Probate Reports, p. 178.

81. Dicey, *supra*, at p. 265.

82. Dicey, *supra*, at p. 361.

83. *Scott v. The Attorney-General* (1886) 11 Probate Division Reports, p. 128.

84. *Harvey v. Farnie* (1882) 8 Appeal Cases, p. 43.

85. See Gemmill, "Practice of the Senate as to Divorce" (1889), at p. 27.