

marriage, not the relationship afterwards, is the indictable offence. There is no crime if the accused on reasonable grounds believed his lawful wife or husband to be dead; or if the wife or husband has been continually absent for seven years and has not been heard of during that time; or if the accused has been lawfully divorced from the bond of the first marriage; or if the former marriage has been declared void by a Court of competent jurisdiction. To constitute a crime punishable before a Canadian Court the general rule is that the offence must have been committed in Canada. Bigamy is an exception to this rule to this extent, that if the accused person, being a British subject resident in Canada, contracted the bigamous marriage in another country, having left Canada "with intent to go through such form of marriage," the offence is one cognizable in a Canadian Court. This provision has particular application to the cases of Canadians who go to the trouble to procure so-called divorces from Dakota or other easy-going States, founded on a pretended domicile, and having procured these worthless papers afterwards go through the form of a marriage ceremony in the United States. Neither the Dakota bill of divorcement, nor the fact that the marriage ceremony was performed outside of Canada, will avail as a defence in a Canadian Court if the accused left Canada "with intent to go through such form of marriage."¹⁶

The Criminal Code prohibits the practice "of any form of polygamy or of any kind of conjugal union with more than one person at the same time, or what among persons commonly called Mormons is known as spiritual or plural marriage," under penalty of imprisonment for five years and a fine of five hundred dollars.¹⁷ The teeth of the polygamy section of the Code were, however, drawn in 1893, when it was held by Chief Justice Armour of the Ontario bench that this section was intended to apply only to Mormons.¹⁸ Under the laws of Canada as interpreted by this decision it would appear to be no offence for a resident of Canada

16. Sec. 307, sub-sec. 4.

17. Sec. 310.

18. *The Queen v. Liston*; article on Bigamy and Divorce by W. E. Raney, 34 Canada Law Journal, p. 546.