

the male sex greatly predominates among immigrants(5), the natural result has been intermarriage with Canadian women, and these unions of foreign and native born have given rise to a question of serious social and legal importance, viz:—the matrimonial status of a Canadian who becomes the wife of an alien.

There is no doubt that throughout the United States, the chief source of our alien population, all marriages contracted by its citizens in Canada if in conformity with the law of the place of celebration would be held binding (6), and Switzerland(7), Argentina and Brazil (8), would also give full effect to like marriages of any of their subjects, but should the husband owe allegiance to any other foreign country would the Canadian marriage, in all cases, be recognized as valid by his national Courts? Should he die in Canada, leaving property abroad, would his failure to observe any of the essential provisions of his national marriage law compel its tribunals to declare that his Canadian wife and children had no claim to his foreign succession?

The old juristic view upheld the doctrine that the *lex loci contractus* or *celebrationis* should be everywhere applied. "A marriage good by the laws of one country is held good in all others where the question of its validity may arise," said Lord Brougham in *Warrender v. Warrender*(9), and in *Scrimshire v. Scrimshire*(10), the Court declared: "From the infinite mischief and confusion that must necessarily arise to the subjects of all nations with respect to legitimacy, successions, and other rights, if the respective laws of different countries were only to be observed as to marriages contracted by the subjects of those countries abroad, it has become *jus gentium*, that is, all nations have consented, or must be presumed to consent for the common benefit and advan-

(5) *Ibid*, p. 6. "In every 1,000 persons of foreign birth resident in Canada, June, 1911, 626 were males and 374 females. A further significant fact of alien immigration is that the proportion of males to females has steadily increased in each successive year and quinquennium since 1890."

(6) Bishop: Marriage and Divorce, 1, s. 843.

(7) Unless the parties have celebrated the marriage abroad with the manifest intention of avoiding the causes of nullity provided by Swiss law, Swiss Federal Code, art. 61.

(8) Weiss: *Traite de Droit Int. Prive*, vol. 3, pp. 404-406.

(9) (1835) 2 Cl. & F. at p. 530.

(10) (1752) 2 Hagg. Cons. Rep. 395, 417, 418.