

ony, but merely resident there, his marriage with his deceased wife's sister in such circumstances is bad everywhere, because he carries the impediment of his domicile to such a marriage with him." Foote P. I. Jurisprudence, p. 107.

(8) Lord Davey, in an article on "Status in connection with colonial marriages," (Journal of Society of Comparative Legislation, Vol. II., N.S., 1900, p. 201) says: "What is the legal status in this country of the wife and offspring of such a marriage? It cannot, in the opinion of the present writer, be denied that the wife has the status of a wife for all purposes, except, possibly, that of a right to dower from real estate in England. There is no actual decision on the point, but it is conceived that a woman who was incapable of contracting the marriage by the law of England, could not claim dower as widow of her deceased husband. It is thought that the *lex sitæ* would be held to prevail. As to the children, also, they are legitimate for all purposes of succession to personal estate *ab intestato*, or under the description of children of their father and mother under a will."

(9) But in regard to succession to English land on an intestacy different principles prevail. Here there is required not merely legitimacy by the personal law, but legitimacy by the *lex situs*, that is, the person concerned shall have been born in what the English law calls wedlock (*ex justis nuptiis procreatus*. Co. Litt., 7 b), speaking for itself, and not as adopting the principles of international law.

(10) Mr. Foote says (p. 108): "In the absence of authority it would have seemed that such a marriage would have been accepted as *justæ nuptiæ* by English law; and it has just been shewn that for all purposes other than those of heirships it would be so accepted. Nevertheless such authority as exists is against the right of the child of such marriage to succeed to English land and as heir." (*Fenton v. Livingston* (1859) 3 Macq. 497.) "It seems impossible to contend with any hope of success, if *Fenton v. Livingston* is to be regarded as a binding authority, that the child of a marriage with a deceased wife's sister, though legitimate by the *lex domicilii* for all purposes, and by the law of England for all purposes save this, can inherit English land as heir." *Ib.* p. 109.