

determine the property rights of the parties,⁷⁶ and in the case of an alleged divorce the validity of the decree.

Domicile being thus important, it is desirable to have a clear understanding of the meaning of the word.

In a leading case Lord Westbury describes domicile as "A conclusion or inference which the law derives from the fact of a man fixing voluntarily his sole or chief residence in a particular place, with an intention of continuing to reside there for an unlimited time. There must be a residence freely chosen, and not prescribed or dictated by any external necessity, such as the duties of office, the demands of creditors, or the relief from illness; and it must be residence fixed, not for a limited period or particular purpose, but general and indefinite in its future contemplation."⁷⁶

The domicile of a married woman is the same as and changes with every change of the domicile of her husband, even though she resides apart from him, except for the purpose of procuring divorce.⁷⁷

The validity of a foreign marriage is decided by Canadian Courts according to the law of England—which on this subject is also the law of Canada. A foreign marriage is valid when—

1. Each of the parties has, according to the law of his or her respective domicile, the *capacity* to marry the other, and

2. Either of the following conditions as to the *form* of celebration is complied with: (a) The marriage is celebrated in accordance with the local form; or (b) the marriage is celebrated in accordance with the requirements of the English common law in a country where the use of the local form is impossible.⁷⁸

6. DISSOLUTION OF MARRIAGE.

(1) Canadian Divorce Courts have no jurisdiction to entertain proceedings for the dissolution of the marriage of parties not

75. *De Nichols v. Curlier* (1900) Appeal Cases, p. 21.

76. *Udney v. Udney* (1869) Law Reports, House of Lords (Scotch), p. 441.

77. *Harvey v. Farnie* (1882) 5 Appeal Cases, p. 43, at pp. 50 & 51; *Dolphen v. Robins* (1859) 7 House of Lords Reports, p. 390.

78. *The King v. Brampton* (1808) 10 East's Reports, p. 282.