

as the British Columbia enactment of 1867 had with respect to British Columbia. It was laid down that the English Matrimonial Causes Act, 1857, did much more than set up a new Court, and actually introduced new substantive law, giving the new Court a new jurisdiction arising out of the principle then first introduced into the law of England—the right to divorce *a vinculo matrimonii* for certain matrimonial offences. This right, it was held, thus became part of the substantive law of Manitoba.

A similar decision was given in *Board v. Board* (*sup.*), with respect to the right of the Alberta Courts to entertain proceedings for divorce. The Provinces of Alberta and Saskatchewan were in 1905 formed out of the North-West Territories and took with them the law in force in the North-West Territories. A Dominion statute relating to the territories (49 Vict., c. 25), enacted by sec. 3, that English law as on the 15th July, 1870, should be in force, in the same manner as already stated with regard to Manitoba. This enactment is now s. 12 of Rev. Stat. Can., 1906, c. 62. The Alberta courts have now therefore been finally held to have the divorce jurisdiction conferred on the English Court in 1857. The same reasoning will apply to the Province of Saskatchewan, so that four of the Canadian provincial Courts must now be taken as fully qualified to grant decrees in divorce, notwithstanding that the Provincial Legislatures cannot pass any statutes relating to divorce, and no direct legislation on the subject has been set on foot by the Dominion Parliament. This is hardly a result that could have been contemplated by the framers of the British North America Act, 1867.

The Privy Council decisions, though finally declaring that the Matrimonial Causes Act, 1857, applies *mutatis mutandis* in British Columbia, Manitoba, and Alberta—and inferentially Saskatchewan must be included—do not place these Provinces on precisely the same footing as England with respect to divorce law. The amending Act of 1884 (47 & 48 Vict., c. 68), for instance, will not be in force in Canada. By s. 5 of this amending Act failure to comply with a decree for restitution of conjugal rights is made equivalent to desertion, and a right to judicial separation or dissolution of marriage may accrue to the injured spouse.