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In the case of *Stevens & Fisk* the Supreme Court of Canada stood four for reversing, and one for confirming. Chief Justice Ritchie and Justices Fournier, Henry and Gwynne constituted the majority. The dissentient opinion was by Mr. Justice Strong. Mr. Justice Taschereau did not sit. We print a report, with the text of the opinions of Justices Henry and Gwynne in the present issue.

A remarkable phase of modern litigation in England is the number of cases in which the suitor appears in person. For example, in the Queen's Bench list of trials for Hilary sittings no less than forty cases are marked as conducted in person on one side or the other—in twenty-two the plaintiff appears, and in eighteen the defendant. There are other cases, also, in which a solicitor is engaged, but the client takes the place of counsel at the trial. This would appear to indicate either that the fees of counsel are so high that suitors cannot pay them, or that the knowledge of law which Blackstone said every gentleman should possess is becoming a more common accomplishment at the present day. Thus far in Montreal we can count on the fingers of one hand the cases personally conducted in which the party appearing was not himself a member of the profession.

The *London Law Journal* referring to the manner of judges towards the bar, says the judge's duty is towards the party, "and in the interests of justice he should ensure that the party whose advocate, from whatever cause, requires encouragement in his task should receive that encouragement. The experience of the Courts is, on the contrary, that too frequently arguments are tolerated in the mouths of leading counsel which a junior would never be allowed to advance for a moment. The practice of Sir George Jessel in this respect was to some extent due to an intellectual contempt for his successors in high place at the bar, and he perhaps erred in being too severe towards leading counsel unfamiliar to him. His successor on the bench fully understands the duty of encouraging young counsel, and this is the practice of all generous and right-minded judges." It is to be regretted that some judges after being a long time on the bench, occasionally appear to forget that they and the advocates pleading before them are members of the same profession, exercising different functions. A senior, if guilty of discourtesy to a junior at the bar, would be set down at once as a gross offender against decorum; still less excusable is it for a judge to be unnecessarily severe to a young advocate, because the parties are not fairly matched, and the offence cannot easily be punished as it deserves to be. It must be acknowledged, however, that a large majority of our judges are models of forbearance and courtesy, even under circumstances of provocation which sometimes might be held to excuse a momentary forgetfulness of what is due to the pleader's office.

Lord Bacon, if not himself in all respects a model judge, seems to have had a remarkably clear idea of what a model judge should be. "Patience and gravity of hearing," he says, "is an essential part of justice, and an overspeaking judge is no well-tuned cymbal. It is no grace to a judge first to find that which he might have heard in due time from the bar; or to show quickness of conceit in cutting off evidence or counsel too short, or to prevent information by questions, though pertinent. The parts of a judge in hearing are four: to direct the evidence; to moderate length, repetition or impertinency of speech; to recapitulate, select, and collate the material points of that which hath been said; and to give the rule or sentence. Whatsoever is above these is too much, and proceedeth either of glory and willingness to speak, or of impatience to hear, or of shortness of memory, or of want of a staid and equal attention. It is a strange thing to see that the boldness of advocates should prevail with judges; whereas they should imitate God, in whose seat they sit, who represseth the presumptuous, and giveth grace to the modest; but it is more strange that judges

should have noted favorites, which cannot but cause multiplication of fees, and suspicion of by-ways." Little can be added to these words of the Lord High Chancellor. They are as fresh now as when they were written nearly three centuries ago.

The text of the opinions of the judges of the Court of Appeal in the Provincial Tax Cases is about to appear in a few days in the *Montreal Law Reports*, Queen's Bench Series. The *considérants* of the judgment are very concise, and we append them here:—

"The Court, etc....

"Considering that the taxes complained of in this cause were and are imposed by a Statute of the Legislature of the Province of Quebec passed in the 45th year of Her Majesty's reign and being numbered chapter 22 of the Statutes of the said year;

"And considering that the said Legislature had power to impose the said duties, inasmuch as the said taxes are direct taxes within the Province and were imposed in order to raise a revenue for provincial purposes;

"And considering furthermore that, even assuming the said taxes should be considered as not falling within the denomination of direct taxes, the said Legislature had power to impose the same, inasmuch as the said taxes were matters of a merely local or private nature in the Province;

"And considering, therefore," etc.

SUPREME COURT OF CANADA.

OTTAWA, Jan. 12, 1885.

Before RITCHIE, C.J., STRONG, FOURNIER, HENRY and GWYNNE, JJ.

STEVENS (Plaintiff), Appellant, and FISK (Defendant), Respondent.

Foreign Divorce — Jurisdiction — Status of Foreigner — Domicile of Wife in Divorce Cases — Authorisation.

The parties were married in New York in 1871 *without ante-nuptial contract, both being at the time domiciled in that city. By the laws of the State of New York no community of property was created by such marriage, the wife retaining her private fortune free from marital control, like a femme sole. Shortly after the marriage the Appellant entrusted Respondent with the whole of her private fortune consisting of personalty to the amount of over* $200,000, *and Respondent administered this until* 1876. *The consorts lived in New York until* 1872, *when they removed to Montreal, where the Respondent has ever since resided and carried on business, but Appellant left him shortly after to take up her residence alternately in Paris and New York. In* 1880, *when Respondent was still in Montreal, the Appellant, then in New York, instituted proceedings against him for divorce before the Supreme Court of New York on the ground of his adultery. The action was served on Respondent personally at Montreal and he appeared in the suit but did not contest, and Appellant obtained a decree of divorce absolute in her favour in December* 1880. *In* 1881 *Appellant taking the quality of a divorced woman, and without obtaining judicial authorisation, instituted an action against the Respondent in the Superior Court in Montreal for an account of his administration of her property. The Respondent pleaded that the alleged divorce was null and void for want of jurisdiction of the Supreme Court of New York, that the Appellant was in consequence still his wife, and that she should have obtained the authorisation of the Court to institute the present action.*

Held:—*(reversing the decision of the Court of Queen's Bench and restoring the judgment of the Superior Court—Strong, J., diss.)*

1. *That the Supreme Court of New York had jurisdiction to pronounce the divorce, and that the divorce was entitled to recognition in the Courts of the Province of Quebec.*
2. *That the Supreme Court of New York having under the statute law of New York jurisdiction over the subject matter in the suit for divorce, the appearance of the Defendant (now Respondent) in the suit absolutely and without protesting against the jurisdiction, estopped him from invoking the want of jurisdiction of said Court in the present action.*
3. *That the Plaintiff (now Appellant) had at the date of the institution of the action for divorce a sufficient residence in New York to entitle her to sue there. (The American doctrine of allowing wife to establish a separate forensic domicile in divorce cases quoted and approved.)*
4. *(Per Fournier and Gwynne, JJ.) That even if the divorce in question were not entitled to recognition in the Courts of Quebec, the action to account could still be maintained under article* 14 *C. C. P.*

GWYNNE, J.—The plaintiff and defendant being natural born citizens of the United States of America,—the plaintiff being a

native of the State of New York and the defendant a native of the State of Vermont—and both being in the month of May, 1871, resident inhabitants of and domiciled in the city of New York, in the State of New York, were in that month married to each other at the city of New York according to the law of the State of New York. At the time of the solemnization of the said marriage the plaintiff was possessed of a large separate estate, consisting of personalty amounting to over $220,000, which property, by the law of the State of New York, continued after the marriage to be her separate property, absolutely free from the control of her husband as if she were still sole and unmarried. Shortly after the marriage the whole of the securities in which the above sum was invested were placed by the plaintiff's authority in the possession of the defendant, who thereby became the agent of the plaintiff in respect thereof, and accountable to her for his administration thereof. In the month of October, 1872, the defendant moved with his wife from the State of New York into the Province of Quebec, and he has since resided and still resides at the city of Montreal in that province. His wife lived with him at Montreal until some time about the month of October, 1876, when she returned to her mother in the city of New York, the plaintiff's original domicile.

Whether or not the defendant took her back to her mother upon this occasion does not clearly appear, for being asked in his examination in this cause, "Whether he did "not, a short time previous to October 1876, "accompany the plaintiff to New York city, "and part with her there for the last time?" the only answer which the defendant gives to this enquiry is that he does not remember. But whether he accompanied her or not upon that occasion does not appear to be important.

In the month of February, 1880, the plaintiff, being then a resident and inhabitant of the State of New York, residing with her mother in the city of New York, instituted proceedings in the Supreme Court of the State of New York against her husband, for the purpose of obtaining a divorce *a vinculo matrimonii* and dissolution of her said marriage in consequence of adultery alleged by her to have been committed by him.

At the time of the institution of this suit there was no court in the Province of Quebec, where the defendant was resident, competent to entertain such a suit. The subject of divorce and dissolution of marriage is a subject over which the Province of Quebec has no jurisdiction, that subject being, by the constitution of the Dominion, placed exclusively under the control of the Dominion Parliament. The only Court existing in the Dominion competent to entertain a suit for divorce, and to dissolve the marriage of persons residing in the Province of Quebec is the Court of Parliament of the Dominion of Canada, having its seat at Ottawa, in the Province of Ontario.

By the law of the State of New York it was competent for the plaintiff to institute the said suit instituted by her in the said Supreme Court of the State of New York, although the defendant was then domiciled in the Province of Quebec. No question arises here as to the fact of, or as to the time and place of the committal by the defendant of the adultery charged to have been committed by him; that was a subject which was enquirable, and was enquired into, in the above suit. The summons and complaint of the plaintiff therein was served personally upon the defendant in the City of Montreal, and he appeared to the suit in the said Supreme Court by an attorney of that Court duly appointed by the defendant to appear thereto for him, and such proceedings were thereupon had in the said suit in accordance with the law of the State of New York, that in the month of December, 1880, a decree was made therein whereby the defendant was convicted of having committed the acts of adultery charged against him in the complaint of the plaintiff: and for cause of such adultery it was adjudged by a decree made in the said suit in accordance with the law of the State of New York, that the said marriage between the plaintiff and the said defendant should be, and the same was thereby absolutely dissolved, and by force of that decree the plaintiff is entitled to sue in the courts of the State of New York as if she were sole and unmarried.

Now although the ordinary rule is that the domicile of the wife is the place where her husband has his domicile, yet it is an established exception to this rule in American authority that for the purpose of instituting a suit for divorce the wife may have a domicile separate from that of her husband.

In the case of *Cheever* v. *Wilson*, 9 Wallace 108, it was decided by the unanimous judgment of the Supreme Court of the United States, that the rule is that the wife may acquire a separate domicile whenever it is necessary or proper that she should do so, that the right springs from the necessity of its exercise, and endures as long as the necessity continues, and that the proceeding for a divorce may be instituted where the wife has her domicile.

In *Harteau* v. *Harteau* it was said by the Supreme Court of Massachusetts (14 Pick. 181-5) that the law will recognize a wife as having a separate existence and separate interests and separate rights, in those cases where the express object of the proceeding is to show that the relation itself ought to be dissolved or so modified as to establish a separate interest, and especially a separate domicile and home, otherwise the parties would stand upon very unequal grounds, it being in the power of the husband to change his domicile at will, but not in that of the wife.

In *Colvin* v. *Reed* (5 Smith, Penn., 375-9) it is said "the unity of the person created by the "marriage is a legal fiction to be followed for "all useful and just purposes, and not to be "used to destroy the rights of either, contrary "to the principles of natural justice in pro-"ceedings which from their nature make "them opposite parties."

Mr. Wharton in his work on 'Private International Law' (sec. 46) says: "That the rule "that the wife's domicile is that of the hus-"band, it is now conceded on all sides, does not "extend to cases in which the wife claims to "act, and by law to a certain extent and in "certain cases is allowed to act adversely to "her husband"; and Mr. Bishop, in his invaluable work upon 'Marriage and Divorce' (Vol. ii. sec. 125) states the rule as collected from the decided cases thus—"When a law "authorizes a suit between a husband and "his wife for divorce, and makes the jurisdiction over it depend, among other things, "on domicile, there is an irresistible implica-"tion that if she needs a separate domicile "to give effect to her rights, or if his case "requires her to have one to make his "effectual, the law has conferred it on her."

In *Deck* v. *Deck* (2 Swab. & Tr. 91) it has been decided in England that under the provisions of the English statute 20th and 21st Vic., ch. 85, it was competent for the Divorce Court there to entertain a petition for divorce at the suit of an Englishwoman married in England to an Englishman who had left her and gone to the State of New York, where he acquired a domicile, and had married again there, and upon service of process in the suit upon the husband in the United States to make a decree for the dissolution of the marriage.

A similar point decided in *Bond* v. *Bond* (2 Swab. & Tr. 93), and in *Niboyet* v. *Niboyet* (4 Pro. & Div. 1) in the case of an Englishwoman who had married a Frenchman at Gibraltar it was decided upon the same statute that the Court had jurisdiction to entertain a petition for divorce presented by the wife, although the husband appeared under protest, and contested the jurisdiction of the Court upon the ground that he had never acquired an English domicile or lost his domicile of origin, and among the exceptions to the general rule that the domicile of the husband is the domicile of the wife, which the above statute creates, Mr. Dicey, in his work on 'Domicile,' states the following:

"1st. The Divorce Court has, under excep-"tional circumstances, jurisdiction to dis-"solve a marriage where the parties are, or "where one of them is, at the commence-"ment of the proceedings for the divorce "resident, though not domiciled in England.

"2nd. The Divorce Court has jurisdiction "to dissolve a marriage between parties not "domiciled in England at the time of the "proceedings for divorce *where the defendant "has appeared and not under protest.*

"3rd. The Divorce Court has jurisdiction "to dissolve an English marriage between "English subjects on the petition of a wife "who is resident, though not domiciled, in "England."

Mr. Justice Story, in his 'Conflict of Laws'

(Section 86), says:—"Of the nature, extent "and utility of the recognition of foreign laws "respecting the state and condition of per- "sons, every nation must judge for itself." Now, admitting this to be so, I must say it appears to me very clear that if the husband in *Deck* v. *Deck*, instead of going to the State of New York, had gone to the Province of Quebec and had married there, the courts of the provinces of this Dominion should not hesitate to recognise the validity of the decree made in that case, so as to entitle the wife to maintain a suit like the present in her own name as a *femme sole;* and if we should recognize such a decree made by the Divorce Court in England, I can see no principle upon which we should decline to recognize a decree of the Supreme Court of the State of New York, made under similar circumstances, for a cause which, by the law of the State of New York, is sufficient to justify a decree of dissolution of marriage.

In *Meagher* v. *McAlister* (3 Ir. Chan. Rep. 604), Lord Chancellor Blackburn, in the Irish Court of Chancery, recognizes the validity of a decree of dissolution of marriage made by a Scotch court at the suit of a husband for desertion and non-adherence, in the case of a domiciled Scotchman married in England to an Irishwoman, who, while she and her husband were residing in England, deserted him there, although the cause would have been insufficient to warrant the granting of a decree of divorce by an English court. And the ground of the decision was that the husband having been at the time of the marriage a domiciled Scotchman, the marriage, although solemnized in England, was a Scotch marriage, and that therefore it was competent for the Scotch court to pronounce the decree of dissolution, although the wife had not appeared to the suit.

This judgment is quoted with approbation by the Law Lords in the House of Lords in *Harvey* v. *Farnie* (L. Rep. 8 App. Cas. 53-60), in which case it was decided that the English courts will recognize as valid the decision of a competent Christian tribunal dissolving a marriage between a domiciled native in the country where such tribunal has jurisdiction and an Englishwoman, when the decree of divorce is not impeached by any species of collusion or fraud, and this although the marriage may have been solemnized in England, and may have been dissolved for a cause which would not have been sufficient to obtain a divorce in England.

A fortiori, as it appears to me, should the Decree of the Supreme Court of the State of New York between the parties to the present suit be, upon the principle of the comity of nations, recognized as valid in the Courts of the Provinces of this Dominion, for the marriage between the plaintiff and defendant was in the strictest sense, a New York State marriage. Both parties thereto were natural born citizens of the United States, and domiciled at the time of the marriage in the State of New York, which was also the domicile of origin of the plaintiff and in which she was resident at the time of her filing her petition for divorce and dissolution of marriage in the Supreme Court of the State, and the defendant, though at the time of the presentation of such petition, domiciled in the Province of Quebec, was personally served with the process issued out of the said Supreme Court in the said suit, and appeared thereto absolutely by an attorney of that Court for that purpose duly authorized by the defendant. We may, and in a case of this kind, I think should, refer to the decisions of the Courts of the United States and of the several states, and to the statute law of the particular state in the tribunal of which the decree of dissolution of marriage was made, equally, as we would in a like case in the English Divorce Court refer to the decisions of the English Courts, and to the statute law of England affecting the subject, all countries being equally foreign to the country in the tribunals of which the question arises, in the sense in which that term is applied to questions of domicile and the status of married persons; and so doing we should not in my judgment, hesitate to recognize the decree in the Supreme Court of the State of New York, in the suit instituted by the plaintiff against her husband for adultery, to be valid and binding upon the defendant. There is no suggestion of the decree having been obtained by collusion or fraud, and the parties to that suit having been natural born citizens of the United States, and domiciled in the

State of New York at the time of the marriage, and married under the law of that State, the marriage must be held to have been a New York State marriage, and the parties must be held to have become upon the marriage subject to the law of the State of New York relating to Divorce, by which law it then was, and continually hitherto has been, provided and enacted by statute that a divorce may be decreed and a marriage may be dissolved by the Supreme Court of the State whenever adultery has been committed by any husband or wife, in the following case among others: "Where the marriage has been solemnized or taken place within the state," and that a bill of divorce may be exhibited by the wife in her own name as well as by a husband, and further that if a married woman at the time of exhibiting a bill against her husband *shall reside in this State*, she shall be deemed an inhabitant thereof although her husband may reside elsewhere.

The contention that what this decree purports to effect, namely: Dissolution of marriage, is contrary to the public policy of the Province of Quebec, and that therefore it should not be recognized, cannot prevail, for although the Province of Quebec has no tribunal established within its limits competent to entertain questions of Divorce, and cannot by its constitution establish such a court, yet that is because of the nature of its constitution, and because the subject of divorce is placed under the exclusive jurisdiction of the Dominion Parliament, which can establish such a court competent to entertain all cases of divorce arising in all the Provinces, and in the mean time, until it does, exercises itself jurisdiction over the subject *as a court*, for the same cause as by the law of the State of New York is deemed sufficient there, and in the same manner as the Imperial Parliament did in England prior to the establishment of the Divorce Court there. That cannot be said to be against the public policy of the Province of this Dominion, which the Province by its constitution has not, but the Dominion has power to deal with, neither can it with any propriety be said that the Province has any interest in refusing which would justify its courts in refusing to recognize the validity of the decree. The language of Lord Selborne in *Harvey* v. *Farnie* appears to me to be very appropriate to the present case, to the effect that so far as the question of recognition depends upon any principle, it must be upon the principle of recognizing the law of the forum in which the decree is made, and of the matrimonial domicile when, as in this case, they both concur. I am of opinion, therefore, that the validity of the decree should be recognized in the several courts of the Provinces of this Dominion. That upon one side of the line of 45° of latitude the plaintiff and defendant should be held to be unmarried persons with all the incidents of their being sole and unmarried, and that upon the other side of the same line they should be held to be man and wife is a result so inconvenient, injurious, and mischievous and fraught with such confusion and such serious consequences that, in my judgment, no tribunal not under a preemptory obligation so to hold, should do so. Such a decision would, in my opinion, have the effect of doing great violence to that *comitas inter gentes* which should be assiduously cultivated by all neighbouring nations, especially by nations whose laws are so similar and derived from the same fountain of justice and equity as are those of the State of New York and of Canada, and between whom such constant intercourse and such friendly relations exist as do exist between the United States of America and this Dominion.

But, I am of opinion, that for the purpose of the present appeal it is sufficient to hold that the defendant having appeared to the suit, which, as appears by the evidence, the Supreme Court of the State of New York had jurisdiction to entertain, he should not be permitted in the present suit indirectly to call in question the validity of a decree made in a suit to which he appeared absolutely, and not under protest. This is a position, which, in my opinion, is not only warranted on principle, but on the authority of decided cases—*Zyclinski* v. *Zyclinski* (2 Swab. & Tr. 420); *Calwell* v. *Calwell* (3 Swab. & Tr. 259); *Reynolds* v. *Fenton* (3 C. B. 187), and other cases.

The appeal should, therefore, in my opinion, be allowed with costs, and the case remitted to the Superior Court of the Province of Quebec

to be proceeded with. I have thought it due to the able argument presented to us by the learned counsel upon both sides to express my opinion upon the above point which was so fully and with great propriety dwelt upon as the main point in the case, but I concur also in the judgment of my brother Fournier and in the reasoning upon which he has supported it.

HENRY, J.—The appellant and respondent are natural born citizens of the United States of America, and in the month of May, 1871, being residents of and domiciled in the State of New York, were married in the city of New York according to the laws of that state.

The appellant, at the time of her marriage, was the owner in her own right of money, securities, and other personal property amounting to about $220,000, which by the law of that state continued after her marriage to be her separate property, uncontrolled by her husband, as fully as before her marriage.

After her marriage, the securities and property owned by her were by her given to the respondent as her agent and trustee. In 1872 they moved to Montreal, where the respondent has since resided. The appellant resided with him there until the month of October, 1876, when she abandoned her domicile there on account of the improper conduct of her husband, and returned to New York, her original domicile, to live with her mother.

In 1880 the appellant, then residing in the city of New York, commenced an action in the Supreme Court of that state against the respondent, for the purpose of obtaining a divorce *a vinculo matrimonii* and dissolution of her said marriage, on the ground of the adultery of the respondent.

There was no court in the Province of Quebec that had jurisdiction in the matter of divorce, but the Parliament of Canada had and has power to deal with such a matter.

In 1880, when the appellant took the proceedings for divorce in New York, she might have obtained the desired result by an application to the Dominion Parliament, as many others have done. By the law of the State of New York the Supreme Court of that State had jurisdiction to deal with the subject matter of the appellant's suit, although the respondent at the time resided in Montreal. The summons and complaint were duly served on him personally at Montreal, and he appeared by an attorney of the court out of which the summons and complaint were issued and filed, specially appointed for that purpose. The charge of adultery was proved, and a decree of the court was duly made by which the marriage of the parties was dissolved. It was satisfactorily shown that after that decree was made the appellant was authorized to commence and prosecute actions in her own name, in the State of New York, in the same manner as if she had always been a *femme sole* and unmarried, and that her property in her husband's hands was under her sole control.

The general rule is, that the domicile of the husband is that of his wife, but in England and in the United States the domicile of the husband is not necessarily that of the wife, when she is seeking by legal means to have their marriage dissolved. The appellant was a natural born subject of the United States, and so was her husband.

They were married in New York, where their domicile then was. By the law of that state, the court had full jurisdiction over the subject matter of the divorce applied for by the appellant, and the decree of the court duly dissolved the marriage. I consider, therefore, that by the comity of nations respect must be paid to a legal decision and judgment of a foreign court shown to have had jurisdiction over the parties, and the subject litigated by them and adjudicated upon.

In England there are cases to sustain that proposition, and many in the United States. When the respondent appeared to the suit, and submitted to the jurisdiction of the court, I cannot conceive what difference it makes where he then resided, and the jurisdiction of the court I take it would be the same as if he then resided in New York. His appearance would not of itself give the court jurisdiction if it had it not otherwise; but by the law of New York the court had jurisdiction without such appearance, if the necessary service of process were made according to the laws and rules prevailing in such cases.

In the absence of such appearance the court would, no doubt, decide upon the sufficiency of the service before passing a decree, and in such a case we should assume that such had been done. If the respondent, when served with the summons and complaint in question, expected any legal benefit from the fact of his domicile being then in Montreal, he should then have contested the right of the court in New York to deal with the matter. After appearance and defence, I think his objection is too late.

It was contended that because in the Province of Quebec there is no law by which a marriage could be dissolved, the Courts in that Province cannot give effect to a decree of a Court in the United States for the dissolution of a marriage, even where the latter Court had full jurisdiction.

The same objection might be raised to the dissolution of a marriage by the Parliament of the Dominion, and it would apply equally well to the one as to the other.

Suppose that such a decree had been made in England, where the parties had been born and were domiciled when married in that country, and they had removed to and lived in Montreal, as the parties in this case did: that the wife subsequently returned to where she had been born, and married, and proceeded in the Divorce Court of that country for a dissolution of the marriage, and obtained a decree dissolving it, could it be said that the parties continued to be man and wife in the Province of Quebec because of the absence in the latter of judicial jurisdiction for the same purpose, while in England and elsewhere they held no longer such relations? If not, why should not a decree duly made in New York or any other country having the necessary jurisdiction in such cases have the same result and value?

We are not trying whether there is in the Province of Quebec jurisdiction to try and adjudicate upon such a case, or whether, if there is not, there should be; but whether in some other country a court properly constituted, and having jurisdiction according to the law of that country over the parties and cause of action, has made a valid decree dissolving a marriage. Such is the governing rule in England and in the United States, and in my opinion it should be the same here.

In such a case no authority to commence the present action was necessary. In ordinary cases, a married woman in the Province of Quebec requires authority, either from her husband or a judge to appear in Court or commence legal proceedings, but I don't think such a provision is applicable when the wife takes proceedings against her own husband to account for his administration of her estate. The wife could hardly be required to obtain authority from her husband to sue himself. In this case the respondent administered the appellant's property and estate, and she is but calling upon him to account as she would any other agent, and I think that it being a case of administration, the rule requiring authority to sue does not apply to it.

I am of opinion that the judgment below should be reversed and judgment entered for the appellant, with costs.

[To be Continued.]

RECENT DECISIONS AT QUEBEC.

Faute—Dommage.—Jugé, que le fait, de la part de la corporation de Québec, de laisser ouvert à la circulation l'espace environnant l'ouverture d'un passage souterrain, sans protéger le public au moyen d'une balustrade ou autrement, constitue une négligence et une faute de la part de la corporation, et qu'en conséquence elle est responsable pour les dommages résultant de cette négligence ou faute.—*Brault* v. *La Corporation de Québec* (*en Révision*), 10 L. R. Q. 291.

Nantissement—Gage—Tradition Symbolique. Jugé, 1. Que la remise, par le débiteur à son créancier, d'une reconnaissance écrite, dans laquelle il déclare tenir à la disposition de ce créancier des marchandises contenues dans un entrepôt appartenant au débiteur, transfère au créancier un droit de gage sur ces marchandises.

2. Que cette remise est une tradition symbolique qui constitue le creancier en possession légale des dites marchandises, sans qu'une livraison en nature soit nécessaire.—*Ross* v. *Thompson et al.* (Cour de Révision, Stuart et Routhier, JJ.; Caron, J., diss.), 10 Q. L. R. 308.