

The services of Mr. Patrick Savoie, of the Committees Branch of the Senate, have been most efficient and most valuable. He has acted throughout as the Committee's Secretary. The excellence of his work is the more remarkable as it is his first experience in such an office.

To all officers and members of the Senate and Commons and of the public who have assisted, your Committee expresses its thanks.

A. J. P. CAMERON (*High Park*)
Joint Chairman

ADULTERY

It has been urged upon your Committee by a number of responsible witnesses that the entire theory of marital offences as grounds for divorce be abandoned and that there be substituted therefor the fact of marriage breakdown. The practicability of adopting marriage breakdown as the exclusive ground for divorce is discussed elsewhere in this Report.

From time immemorial, adultery on the part of one of the spouses has been deemed a violation of the basic obligations of the marriage relationship entitling the wronged and innocent partner to an immediate dissolution. The marriage need not necessarily break down should the infidelity be forgiven but should the offended spouse consider otherwise, he or she should be entitled to a release from the marital ties without delay. In our monogamous society a woman is allowed but one husband and a husband but one wife.

There is obviously no need for a statutory definition of adultery. It was not defined in the Imperial Statute of 1857 or subsequently, nor has it been defined in any of the Canadian provinces whose law is based upon that statute or in the pre-Confederation law of any of the other provinces. What adultery is in law has been made plain in the decided cases and no difficulty has been experienced in the courts, not even when the law was amended for the abolition of the double standard.

RECOMMENDATION

Your Committee recommends that the marital offence of adultery be retained as a ground for the dissolution of marriage on the petition of the offended spouse, subject of course to the legal defences.

RAPE, SODOMY AND BESTIALITY

The unnatural offences of rape, sodomy and bestiality are violations of the marriage relationship akin to adultery and in some instances are included in that definition. They were made grounds for divorce in the English Act of 1857 and thus became grounds in Canada in those provinces which adopted the law of England as of the 15th of July, 1870. They should be retained as separate grounds for the dissolution of marriage.

A statutory definition is unnecessary and undesirable.

RECOMMENDATION

Your Committee recommends that rape, sodomy and bestiality be retained in Canadian law as grounds for divorce.