

for the substitution or appointment of another Judge to act *pro hac vice* in case of the illness or absence of the Judge so appointed by commission, or his being prevented by other causes from presiding.

In Nova Scotia, the Act passed in 1866 with reference to this Court, provided that during the illness or temporary absence of the Judge Ordinary, the Governor in Council might appoint the Chief Justice or one of the Judges of the Supreme Court to act as Judge Ordinary, and by an Act passed in 1870, this last power was further extended to meet the case of his being prevented from presiding by any disqualifying cause. If this latter Act does not come within section 91 of the British North America Act, 1867, the difficulty in New Brunswick can be removed by local legislation. This difference, therefore, at present exists between those two Provinces on that subject. In both Provinces, powers are given to the Court to enforce its decrees, and in case of divorce on the ground of adultery, to determine whether the wife's right of dower, or the husband's tenancy by the courtesy shall be divested or not.

In New Brunswick the grounds of divorce, *a vinculo*, are limited to impotence, adultery, and consanguinity within the degrees prohibited by the 32 Henry VIII., touching marriages and pre-contracts.

In Nova Scotia they are extended to include cruelty and pre-contract.

In New Brunswick there is an express provision that the divorce *a vinculo* on the ground of adultery, shall not in any way affect the legitimacy of the issue. In Nova Scotia there is no such provision, perhaps not deemed necessary. In both Provinces provisions are made for appeal from the decision of the Judge to the Supreme Court, and in New Brunswick from the Supreme Court to the Privy Council in England.

In Ontario there is no statute constituting a Court of marriage and divorce.

In New Brunswick and Nova Scotia the Supreme Court being the sole Superior Court, there is no Court of appeal from its decisions, except to the Judicial Committee of the Privy Council in England, which, owing to the great expense attending any appellate proceedings therein, is practically of no avail to the great mass of the people in those two Provinces.

In Ontario a Court of Appeal is constituted, composed of the