

ment first made itself active in the matter of divorce in the middle of the sixteenth century. Several divorce bills were passed in favour of Henry VIII, but were really declarations of nullity. About the year 1549 the Marquis of Northampton divorced "a mensa et thoro" his wife for adultery, re-married, and had this second marriage confirmed by Parliament—only to have the statute repealed in the next reign on the accession of Mary, a Roman Catholic. However, during the next 50 years, marriage was not as a fact held by the Church—and therefore not by the courts—to be indissoluble; but the first half of the seventeenth century saw the pendulum swing the other way again, saw the old theories of the Church in supremacy, debaring absolute divorce and re-marriage. Lord Roos having obtained a divorce "a mensa et thoro" (1666), an Act was passed permitting him to re-marry, the theory of the indissolubility of marriage being thereby distinctly negatived. The first example of an actual dissolution by Parliament was the *Macclesfield* case (about 1700) where the wife frustrated all attempts to obtain a divorce from the ecclesiastical courts, with the result that a special Act was passed. Up to this time, the few who had applied to Parliament had supported their claim by special reasons—such as the desirability of avoiding bastard children or of continuing the name. The first case in which Parliament was applied to as a matter of course and of right was in 1701, when there was passed "An Act to dissolve the marriage of Ralph Box with Elizabeth Eyre and to enable him to re-marry again," a wording which was followed down to 1858. In 1798 standing orders were framed for the House of Lords—there had first to be a divorce "a mensa et thoro" before the Ecclesiastical Courts, and an action against the adulterer for damages in a Civil Court. The cost of a non-contested application was from £700 to £800.

In 1853 a commission was appointed to examine into the question of divorce, and its report recommended: 1. The transfer of jurisdiction from Parliament to a Court. 2. That the Court should consist of three judges. 3. That the husband should be able to get a divorce merely on the grounds of his wife's adultery, but that this should not be a sufficient ground for the wife to obtain a divorce. 4. That the causes for which a divorce should be allowed to a husband should be adultery, cruelty, or desertion. After several attempts, an Act embodying these recommendations was passed in 1857 (Imp.)