which in practice is dealt with as a matter of legal contract between the parties concerned.

Quebec is an exception only in the sense that its law is not based upon the English law of 1857. The Courts of Quebec do grant "separations from bed and board". Voluntary separation has no legal recognition in that province. A written separation agreement made by the spouses will not be enforced by the courts. While the existence of such an agreement may indicate that no desertion has taken place, it can in no way change the legal duties of the marriage partners to each other or to their children. By Quebec law, a husband and wife owe each other mutual fidelity, succor and assistance. A wife is under an obligation to cohabit with her husband, and reside with him wherever he chooses to live. For his part, a husband has a duty to receive his wife and maintain and support her to the best of his ability and condition. Any breach of these conditions by one partner, gives the other grounds for action in separation from bed and board. Such separation may be demanded on the grounds of adultery or of "the outrage, ill-usage or grievous insult committed by the other."

Since a dissolution of marriage can be obtained in Quebec only through parliamentary divorce and since a proportion of the population of the province find divorce contrary to their religious beliefs, judicial separation is a common procedure in that province.

II ENGLISH DIVORCE LAW

Since the basis of Canadian Divorce law rests, for the most part, upon English law, it may be useful to put on record a brief summary of the English law of divorce and its development in order to provide a basis of comparison.

1. *Ecclesiastical Courts*

Until the *Matrimonial Causes Act* of 1857, the English civil courts lacked the jurisdiction to grant divorces. Up to that time, matrimonial causes had been reserved to the Ecclesiastical Courts. These courts, however, could grant a decree of judicial separation, divorce *a mensa et thoro,* only. Dissolution of Marriage, or divorce *a vinculo matrimonii,* was not within their jurisdiction. Exclusive jurisdiction of the Ecclesiastical Courts over all matters relating to marriage and its dissolution extends back very far in English history. Matrimonial causes had been the exclusive prerogative of the Ecclesiastical Courts since the thirteenth century, and perhaps even earlier.

The trial of matrimonial causes within the Ecclesiastical Courts meant that it was Canon Law rather than common law or even Roman civil law that shaped the law of divorce in England. Before the Reformation, the Church regarded marriage as a sacrament and thus it was virtually impossible to obtain a divorce *a vinculo.* The Pope alone could grant a dissolution of a validly contracted marriage and he rarely did. It was relatively easy, however, to obtain a decree of nullity. The grounds for a nullity were precontract (proof of a binding promise to marry another), consanguinity and affinity. Consequently elaborate rules of a highly artificial character grew up around the table of prohibited degrees set out in the Book of Leviticus. These even included blood relationship and relationship by marriage down to the seventh degree. The doctrine of