decision—a fair trial—and nothing less, or more, can be desired in the public interest—is, in the measure of such absolute negation, impaired by such a system: the administration of justice, in the light of public order, as well as in consideration of individual civic rights involved is, so far, imperfect and perfunctory.

The Right of Divorce: Its Nature and Scope.

Marriage, *per se*, apart from its incidental effects or character as a civil contract—for whether a "sacrament" or not, it, in its secular relations is always that, is a matter of *status* in the national constitution. It is so *ex natura rei* and *Jure Gentium*. In this sense it is an essential of highest public order. On it—its due maintenance and safeguard—depends the life, growth, and welfare of nations—yea of the human race. The history of the human race: the rise and fall of nations: civic life in every clime and time prove it as a law of nature itself. In the national systems of law from which Canada has drawn—France and England—in their earlier and also subsequently, latterly, in their most virile eras, the principle—of divorce *à vinculo—sub modo*—has ever been admitted. The statement may clash with general preconceptions on the subject, but it is nevertheless historically and substantially correct. At the conquest of *La Nouvelle France*, in the *régime* of Louis XV there was, it is true—as Mr. Abbott says—no law of divorce in Canada. The rule *ad hoc* of the Council of Trent in deference to the Greek church, however, qualifies that canon, viz., thus, "*Si quis dixerit Ecclesiam errare, quum* "*docuit et docet* juxta evangelicam et apostoli- "cam doctrinam, propter adulterium alterius "conjugum, matrimonii vinculum non posse "dissolvi; vel etiam innocentem qui causam "adulterio non dedit, non posse, altero con- "juge vivente,aliud matrimonium contrahere, "mœchariqueeum quí,dimissâ adulterâ,aliam "duxerit, et eam quæ, dimisso adultero, alii "nupserit, *anathema sit.*" (Pothier, Mar. vol. 5, part 6, c. 2.)

We give the passage, for it, virtually, abnegates in its introductory terms (italicised) the canon, in its absolute,—the terms of which are—"Sciendum est legitime contrac- "tum matrimonium dissolvi non posse, "quippe à Deo conjuncti, ab homine separari "non debent nec valeat." (Inst. Jur. Canonici, lib. 2, tit. 16). But follows the qualification which would seem to apply the rule *against the wife*, with liberty to the husband to put away (Query How ?) the errant wife—the interpretation runs thus—"Quamdiu "vivit vir, licèt adulter sit, licèt sodomita, "licèt flagitiis omnibus, co-opertus, et ab "uxore proper hæc scelera derelictus, maritus "ejus reputatur, cui alterum *virum* accipere "not licet." (Cons. 32 Quæst. 7, c. 7.) Query —What as to flagitiousness on the part of the woman? Does the exception prove or indicate a rule otherwise? We do not propose to here discuss the question. We give these authoritative extracts simply to show —that the so-called Canon of Indissolubility is, with its qualifications, not absolute, but to be held as the *arbitrary interpretation* of the Roman Catholic Church, as represented in the Council of Trent—in the passion of that struggle—three thousand years after Sinai; two thousand after the Twelve Tables of pristine Rome itself; fifteen hundred after Christ declared, and at a time when all Europe still held to the primal sacred rule for the well-being of the race of man.

On this question of *status*, in the abstract, of the institution of Marriage, in relation to the State, it may be allowable to cite a leading French authority, when speaking of it under both conditions of the law, viz., as it was before 1792, granting divorces, and after 1816, when (under the Bourbons) it was (for a while) abolished.

Speaking as to the question of implied contract in the act of marriage, between the parties to it, as to its dissolubility or indissolubility, he denies it as a subject of personal contract, and says:—"Ce n'est ni par consé- "quence ni par interprétation de l'intention "dans laquelle a été contracté le mariage, "que le divorce est permis ou prohibé. En "le permettant, comme en le prohibant, le "législateur ne s'arrête ni doit s'arrêter à ce "que les époux ont ou sont censés avoir voulu "au moment où ils sont unis; il ne s'arrête et "il ne doit s'arrêter qu'aux considérations "*d'ordre public* qui lui paraissent en com- "mander impérieusement la faculté ou la "prohibition d'après la conduite respective