

course to alteration either by the Parliament of Canada or the provincial legislature, according to their respective jurisdiction under the British North America Act. Thus British Columbia now has in force the English Act of 1857.

The provinces of Manitoba, Alberta, Saskatchewan were all carved out of the territory surrendered by the Hudson's Bay Company in 1869. The *Rupert's Land Act* of the Imperial Parliament (31-32 Victoria, c. 105) which provided for the acquisition by the Crown of Rupert's Land and the Northwest Territories from the Hudson's Bay Company, also provided that the laws in force in these territories on July 15, 1870, when they were united with Canada would remain in force until altered by the Canadian Parliament or the Lieutenant-Governor of the Northwest Territories. The *Northwest Territories Act* of the Canadian Parliament in 1886 provided that the laws previously in force in the Territories would continue and the *Alberta and Saskatchewan Act* of 1905 similarly provided that the then existing laws would continue in force in the provinces of Alberta and Saskatchewan until altered or repealed by the Dominion Parliament or the respective provincial legislature. Thus the law of divorce in these provinces is still the law of England as of July 15, 1870, and consequently their divorce law is based upon the English Statute of 1857. The situation in Manitoba is essentially the same, although as a result of a court case (*Sinclair vs Mulligan*, 5 Man. L.R., 17) a Provincial Statute and a Federal Statute (51 Victoria, c. 53) were felt necessary to declare it so formally.

Likewise, the divorce law of the Northwest Territories and Yukon is based on the 1857 English Statute. By the *Northwest Territories Act* of 1886, the Civil and Criminal Law of England as of July 15, 1870, was continued in the Territories, subject of course to repeal or amendment by the appropriate authority. The Yukon which was carved out of the Northwest Territories in 1898 acquired the existing law of the Territories.

What then was the Law of England on the magic date of July 15, 1870? The *Matrimonial Causes Act* of 1857 provided for a dissolution of marriage on the petition of the husband if his wife had committed adultery since the celebration of the marriage. For the wife, however, to obtain a divorce, it was necessary for her to prove that since the celebration of the marriage the husband had been guilty of either (i) incestuous adultery; or (ii) bigamy with adultery; or (iii) rape, sodomy, or bestiality; or (iv) adultery coupled with such cruelty as would have entitled her to a divorce *a mensa et thoro*; or (v) adultery coupled with desertion for two years or longer without reasonable excuse. Thus a "double standard" was established that permitted a husband a greater latitude in this regard than was possessed by his wife.

This so-called "double standard" was removed in Canada in 1925 when the Parliament of Canada exercised for the first time its general legislative jurisdiction over Marriage and Divorce. Heretofore, Parliament had passed only private divorce Acts. The *Marriage and Divorce Act* of that year permitted the wife to sue for divorce on the ground of her husband's adultery alone. This Act applied, of course, only in those provinces where the courts had power to grant divorces *a vinculo*, but the same principle has been followed since in parliamentary divorce.

Since then there have been only four other federal Acts directly concerned with Divorce. Two of these were applicable to specific provinces only and all of them concerned the extension of the jurisdiction of the courts rather than the grounds for granting divorces. The *Divorce Jurisdiction Act* of 1930 permitted a