

32) He said:—"12. And if a woman shall put away her husband, and be married to another, she committeth adultery."

After Christianity had exerted its influence over Rome, divorce by consent was forbidden except the husband was impotent, either party desired to enter a monastery, or either was in captivity for a long time. "Let at first by justifiable disrelish for the loose practices of the decaying heathen world, but afterwards hurried on by a passion of asceticism, the professors of the new faith looked with disfavour on a marital tie which was in fact the laxest the western world has seen." (Maine).

By the time the two powers of Roman Law and Christianity had definitely joined forces, and, in the form of the Roman Catholic Church, had started on their conquest of Western Europe, two forms of divorce were quite clearly established—both under the control, not of the State, but of the Church. One was known as divorce "a mensa et thoro," and amounted to what would be known to-day as merely a separation—e.g., there was no bar of dower nor any right to re-marry. The other was called divorce "a vinculo," and either annulled the marriage for causes occurring before the sacrament or dissolved it for causes occurring later. The Church in practice recognized only divorce "a mensa et thoro" and annulment of marriage for causes occurring before or at the time of the ceremony—this latter being not strictly divorce in its modern sense. The causes for annulment were more numerous before than after the Reformation (1500); after this time they were limited to relationship within forbidden degrees, previous marriage, corporeal imbecility, and mental incapacity; and as in these cases it was held that there was in fact no "vinculum," the Church of Rome was able to maintain its stand that marriage was a sacrament and indissoluble. The reformed church, however, refused to regard marriage as purely a sacrament, and in fact recognised it as a civil contract, requiring (in England at least) some religious solemnity. Once the aspect of a civil contract had appeared, the struggle between Church and State over the question of divorce had commenced—the struggle which colors all the later history of British divorce, and which has had much to do with the development of the present status of the question in Canada.

This limitation of the cases to which annulment could apply and the recognition of marriage as a contract were the causes of Parliamentary Divorce. It would appear that Parlia-