
LAW OF DIVORCE IN CANADA

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(Continued from March issue)

In Canada, as in Great Britain, the procedure has always been for private bills to originate in the Upper House. Before 1847, no standing orders on the question of divorce bills appear to have been in existence; the practice was merely to follow British procedure. In 1847 standing orders were adopted; in all unprovided cases reference was to be had to the procedure of the House of Lords; however, the latter was not followed absolutely, the outstanding example being that in this country a wife could get a divorce from her husband on the sole ground of adultery. These Senate rules were amended in 1876, 1888, and again in 1906, and the subject of divorce is now dealt with by rules 133 to 152. These twenty rules are published under separate cover and are available upon application. The only amendment affecting jurisdiction was in 1888. Under the former practice, the Senator in charge of the bill moved immediately after the second reading the appointment of a Select Committee of nine, and also named its members. At the instance of Senator Gowan, who had been a Judge of the district of Simcoe from 1843 to 1883, rules were adopted in 1888 providing for the formation at the beginning of each session of a committee of nine to whom all questions of divorce are referred with a view to relieving the Senate itself of some of the duties which under the old rules had devolved upon it. At first, an attempt was made to select the committee on the basis of provincial representation, but on account of the objection to divorce of Roman Catholic Senators, it has not always been possible to adhere to this plan.

Applications for divorce come under the head of private bill legislation. The practice is now governed by the set of rules adopted in 1906; apart from these rules the general regulations regarding private bills apply if not in conflict with the rules. A committee of selection of nine is appointed at the first of each session to nominate the Senators to serve on the several standing committees—among others, the one on divorce, which consists of nine. Every standing or special committee meets, if practicable, on the day after its appointment, and chooses a chairman. A majority of the committee constitutes a quorum. Senators who are not members of the committee may attend and