

Courts, only a limited part of the jurisdiction exercised in England by Ecclesiastical Courts was conferred on the Provincial Courts, viz., the jurisdiction to grant alimony, and the jurisdiction to grant probate of wills and administration of deceased persons' estates. It appears from the Quebec Act, 14 Geo. III. c. 83, s. 17, that the question of Ecclesiastical Courts was not lost sight of, and power was expressly reserved to create them in the future; but that power was never exercised.

The result is that there is no court in Ontario which has jurisdiction to pronounce a decree of nullity of marriage. Nullity of marriage, of course, differs from divorce. It is pronounced where there never was a lawful marriage; whereas a divorce is the judicial annulment, wholly or partially, of a legal marriage.

The establishment of a matrimonial court does not necessarily involve the granting to the court any power to grant divorces *à vinculo*, although, if such a court were established, it would be the natural repository of such a divorce jurisdiction, if any were granted. But the establishment of a matrimonial court appears to be necessary whether it be granted jurisdiction to grant divorces *à vinculo* or not.

At present, a *de facto* marriage may have been entered into, which, in law, is null and void; and yet there is no provincial tribunal to declare it null. People within prohibited degrees, or persons physically incompetent, or under duress, may have gone through the form of marriage, but such marriages cannot, at least in most of the Provinces, be legally annulled except by application to Parliament.

With regard to divorce no doubt opinions widely differ. Prior to the Reformation the rule of the Christian Church in the West was that marriage was indissoluble during the lifetime of the parties. The legal definition of Christian marriage is that it is the union of one man and one woman for life to the exclusion of all others; see *Re Bethell*, *Bethell v. Hildyard*, 58 L.T. 64; *Hyde v. Hyde*, L.R. 1 P.D. 130. Divorces *à mensa et thoro* only were allowed, but not divorces *à vinculo*. These divorces *à mensa et thoro* were merely a legal separation from