

the marriage a nullity—viz. impotence, precontract, consanguinity, and such like. These would render the marriage contract a nullity, and *ab initio* void. Adultery, being subsequent to marriage, is regarded only as a proper cause for a temporary separation—that is, a divorce *a mensa et thoro*. The Act says that no other cause whatever than certain antecedent or precedent impediments should break the bond of marriage. But the Bishop of London did not observe this distinction, and suggested that adultery should be made a cause for divorce *a vinculo*.

The answer of the Lieutenant-Governor Carleton shows that he appreciated the difference which the Bishop overlooked; and Governor Carleton and his advisers were certainly in the right.

However, in 1791 (there does not seem to have been a meeting of the Legislature in 1790) the Bill was introduced afresh, and passed with the alterations hinted at or suggested by the Bishop of London; and now for the first time, and this in consequence of the suggestion of a Bishop of the Church, adultery was made one of the ordinary causes of divorce from the bond of marriage. This being the case, there was no need of any license or permission to the innocent party to marry; for the *bond* being broken, both parties were free to marry others. At the same time the clause in the former Bill, which recognized separation from Bed and Board, remains the same in the new Act; though as adultery is now held to authorize divorce from the Bond there is no longer any cause recognized for separation from Bed and Board.

There is evidence in the original of this Act of very great care. The Bill is altered and amended and clauses are introduced and others struck out, so that in some parts it is rather difficult to be quite certain of the sequence of clauses or words. But the MS. is more accurate than the printed copy of 1805, which speaks of the '*rights* of the Church,' whereas the MS. has, accurately, *rites*.

There was an attempt made to allow of an appeal as suggested in the Bishop of London's letter, but it was ultimately struck out. The right of appeal was introduced into Clause 5, but it was struck out.

Though by successive Acts of Assembly since 1791 almost all the Act has been repealed, yet the causes for divorce from the bond of matrimony still remain the same to the present day; and adultery remains a cause of