

in the Territories and the Provinces formed out of them, when these subjects have not been dealt with by subsequent provincial or federal legislation. This point has not, however, been judicially determined.³⁰

The Manitoba Marriage Act, 1906, as amended in 1910, is broader than the British Columbia Act and deals with consent, non-age and impotency.

(3) *Ontario*.—The law of Ontario is based on the English Common Law and Statute Law of the 15th of October, 1792, in so far as applicable.³¹ The statute of 1792 provides that in matters of controversy relative to property and civil rights, and as to testimony and legal proof, the law of England as of that date shall be binding, except as repealed by any Act of the Imperial Parliament having force in Upper Canada, or by Act of the Province of Upper Canada.

As there was no law in England permitting the dissolution of marriages except by Act of Parliament until 1857³² the Province of Ontario has not now and never has had any Court with jurisdiction to grant a divorce. For some time it was held, following a dictum of the Chancellor of Ontario,³³ that the Supreme Court of Ontario had jurisdiction to declare the nullity of a marriage which had been procured by fraud or duress. In a very recent case, however, this decision has not been followed, and it appears now to be well settled that the Ontario Courts have no such jurisdiction.³⁴

(4) *Quebec*.—In Quebec the law of marriage rests on the Civil Code which came into force on the 1st day of August, 1866, the year preceding Confederation.³⁵ The Civil Code codifies the

30. See Eversley & Craies—"Marriage Laws of the British Empire," London, 1910, p. 247 (Note).

31. Statutes of Upper Canada. 32 Geo. III. ch. 1; Con. Stat. Can. (1859) ch. 9.

32. The Matrimonial Causes Act, Imperial Statutes, 20 & 21 Vict. ch. 185.

33. *Lawless v. Chamberlain* (1890) 18 Ont. Rep., p. 296.

34. *Reid v. Auld* (1914) 7 Ont. Weekly Notes, p. 85.

35. Proclamation of Governor-General Lord Monck of the 26th of May, 1866. See Sharp's Civil Code, p. xix.