

proof of adultery, on the part of the wife, or of adultery coupled with cruelty or desertion, or of incest, rape, sodomy or other like flagrant offences, on the part of the husband, an unjust discrimination which still subsists in the English law. The power to grant judicial divorce has, since that time, been continuously exercised in England by the civil Court then erected and its present successor, the Probate, Divorce and Admiralty Division of the High Court of Justice.

The laws of Quebec, or Lower Canada, on the other hand, are an admixture of the Code Napoleon, the Custom of Paris, and the common law of England, with changes suited to local conditions, and much of their Civil Code and Code of Civil Procedure is of French origin. The laws of France as to divorce are much more modern and liberal even than the laws of England. Applications for divorce are entertained in their civil courts and the causes there existing for such a decree are: adultery of either party, cruelty or other serious insults, or if one spouse has been sentenced and imprisoned for serious crime, etc. Judicial separation is also granted on similar grounds, and after three years of continued separation either party is entitled to take out a decree absolute. That our compatriots did not adopt this feature of the jurisprudence of their great prototype was due to the fact that they chose to adhere to the Church dogma of the middle centuries, which treated marriage as a sacrament indissoluble only by death, rather than accept the French theory that it was essentially a civil contract creating a status subject to State regulation and control. From the divergent origin of the laws in force in Ontario and Quebec, it is not surprising, therefore, that differences should exist in the matter of judicial rights and remedies. Divorce by Act of Parliament, abandoned in England, as we have seen, in 1857, is thus the only method by which relief can be obtained from an unfortunate matrimonial alliance by anyone domiciled in Ontario or Quebec, a distinction which we share with Ireland practically alone of all Dominions within the British Empire, where, as here, there is no judicial divorce, and relief has to be obtained by promoting, in the first instance, a bill through the House of Lords.