

State in regard to the grounds for divorce is summed up in the Minority Report of the British Royal Commission of 1912 as follows: ". . . It (the State) has a concern of its own in the peace of the community, the welfare of the family, the rearing of healthy children, and the training of good citizens, which renders it imperative that the making and breaking of marriage contracts should be treated as matters of public importance touching the commonwealth itself, and not as merely private transactions only affecting the parties." Dicey in *Conflict of Laws* points out that the doctrine maintained by the Courts of a country in regard to divorce depends on the view entertained in regard to the nature of divorce, and summarises these views under the heading of contractual, penal, and status theories. That the right to rescind the marriage contract much as one rescinds any other contract has not been recognised is apparent to any thinking person; divorce is but rarely looked upon as punishment for a crime—in fact in cases of lunacy, such a view is out of the question; rather divorce is the extinction by the State of a status—the status of husband and wife—the discontinuance of which is expedient for the purpose of giving relief to the person injured.

The grounds for divorce recognised before the Reformation by the Ecclesiastical Courts were very numerous, but the decree, it should be remembered, was one of annulment rather than of divorce as understood to-day. The grounds were: error as to person, error as to condition, vow of chastity on entering religious order before marriage, consanguinity, crime, disparity of worship, duress, preceding marriage, public decorum in being solemnly betrothed to another, madness, affinity, clandestinity, impotency, and rape. After the Reformation the grounds for divorce were limited to consanguinity, previous marriage, corporeal imbecility, and mental incapacity. In England during the period of divorce by Private Acts of Parliament, of the two hundred and forty-nine Acts passed only four were in favor of wives, the first being that of a Mrs. Addison in 1801; all of the remainder were granted to the husband on account of the wife's adultery; in two of the four cases, the adultery was incestuous; in the third there was profligacy, deceit, abandonment, and gross injury; in the fourth, there was bigamy. The Act of 1857 (Imp.), ch. 85, practically adopted the former parliamentary practice in regard to grounds for divorce. Under this Act a man