New Brunswick, too, has its own pre-Confederation Divorce Act, dating from an act of 1791 (chapter 5 of the statutes of that year), which superseded an even earlier act of 1787, the text of which apparently cannot now be found but which was in any event repealed by the Act of 1791. (See *Rex v Vesey*, (1938) 2 D.L.R. 70.)

So presumably it does not make much difference whether the text was lost or not—it is gone in every sense of the word.

This act established a divorce court for New Brunswick and provided that the causes of divorce from the bond of matrimony and of dissolving and annulling marriage are frigidity or impotence, adultery and consanguinity within the degrees prohibited by 32 Henry VIII. Cruelty was not included as a ground for divorce. The provisions of the New Brunswick law relating to divorce, as amended from time to time, may be found in the Divorce Court Act (R.S. N.B., 1952, c. 63), as amended.

Prior to and at the time of its entry into Confederation, Prince Edward Island possessed a divorce court consisting of the lieutenant-governor or other administrator of the government and His Majesty's Council or any five members thereof, with power vested in the lieutenant-governor or administrator to appoint the Chief Justice of the Supreme Court of Judicature to preside in his stead.

However, the act of 1835 is said to have remained a "dead letter" until it was revived in 1946: concurrent jurisdiction was conferred on the Supreme Court of Prince Edward Island in 1949.

The laws of England introduced into Newfoundland prior to its joining Canada in 1949 were those of 1832, and it has been held by the Newfoundland Supreme Court (see *Hounsell v Hounsell* (1949) 3, D.L.R. 38, Nfld.) that the Newfoundland courts possessed at that time only the jurisdiction then possessed by the ecclesiastical courts in England, which could not decree divorces *a vinculo matrimonii,* but only divorces *a mensa et thoro*—"from bed and board". When Newfoundland became a province in 1949, these pre-existing laws were continued in force, by virtue of the Newfoundland Act, so that it appears that Newfoundland courts have no jurisdiction to decree divorces *a vinculo matrimonii.* The same is of course true in the Province of Quebec, the courts of which have no jurisdiction to dissolve marriages but have a substantial jurisdiction in respect of other forms of matrimonial relief, such as nullity and judicial separation.

I understand from my colleague, Dr. Maurice Ollivier, that he will speak on this and may have some comments on the interrelation and interaction of the matrimonial laws of Quebec and of statutory divorces obtained here in respect of persons domiciled in that province.

In the result, since Confederation, the Parliament of Canada has granted, by private act of Parliament, divorces *a vinculo matrimonii* on the petition of persons domiciled in Quebec, and also, since 1949, on the petition of persons domiciled in Newfoundland (or of persons whose provincial domicile is in reasonable doubt). The jurisdiction of Parliament is of course absolute as to the grounds upon which it may pass a bill of divorce. However, as a matter of policy it has generally granted such relief only on the grounds formerly recognized by the House of Lords and latterly by the courts in England as of July 15, 1870, the magic date. I will not elaborate further on this legislative jurisdiction since I understand subsequent witnesses may expand upon what has just been said. It is my understanding that I will be followed by the Divorce Commissioner, Mr. Justice Walsh, in this regard.

I must also refer, again in passing, to the Dissolution and Annulment of Marriages Act, chapter 10 of the statutes of 1963, whereby Parliament delegated to the Senate legislative authority to dissolve marriages, by resolution of that body, on any ground recognized by the courts in England, again as of the magic