

ject evidence of adultery by the petitioner if it occurred after the adultery complained of in the application. Generally the adultery of the petitioner although long passed and condoned is a bar to divorce. In Scotland, the petitioner's guilt was no bar, and it is doubtful if the guilt of both is not a greater reason for sundering the tie than the guilt of one. Lord Daysart in his evidence before the British Royal Commission stated that he often felt that in intervening as King's Proctor to have the applications refused on the ground of the petitioner's adultery, he was doing more harm than good. On the other side, that the applicant must come with clean hands is an old principal of British justice, and one which acts as a check on immorality. The only reform which suggests itself is to leave the check, but to give the Court discretion as to its use according to the circumstances of the case and the petitioner's conduct. The respondents' counterclaim of adultery on the part of the petitioner is useless:

- (a) Where the adultery is committed in ignorance of the fact—as where the respondent is believed to be dead;
- (b) Or in ignorance of law—as where a party bona-fide believed that a decree nisi dissolved the marriage. (Query this.)
- (c) Where the adultery is committed in consequence of the violence and threats of the husband.

Delay pleaded on the part of the respondent may be answered by want of means on the part of the petitioner.

In addition to the above defences, in Provinces where the English Act is followed, under sec. 32, the Court has power to suspend a decree until some provision is made for a wife divorced.

7. PROCEDURE.

As the purpose of this article is to discuss rather the general principles of divorce in Canada than the minute details in regard to practice before the various Provincial Courts, many of which details are those common to all litigation rather than peculiarly the divorce proceedings, only a few points in regard to such practice will be noted in passing.

In the East, the proceedings are commenced by a petition which corresponds to the Writ of Summons in other actions. In Saskatchewan some of the earlier proceedings were commenced by petition and others by writ, but now they are all commenced by writ in the ordinary way. Other pleadings