

living. For those whose aim is to be freed from one marriage in order to contract another, there may be very little satisfaction in obtaining a judgment of this nature; but for a wife with a bad husband, or a husband with a bad wife, when real hardships exist, and when only a separation is desired, the remedy is satisfactory and complete. The conditions under which this action can be taken are:—

Firstly, and principally, adultery on the part of either of the consorts; as to the wife the offence has only to be proved, but on that of the husband it must also be shown that he keeps a concubine in the house, though the practice is not to insist on strict proof of the latter. If it be proved that the adultery of the husband was notorious, this is, generally speaking, sufficient.

Secondly, husband and wife may respectively demand separation on the ground of outrage, ill-usage, or grievous insult (*excès sévices et injures graves*), committed by one toward the other. It is usually, as might well be imagined, the wife that urges this ground in an action against the husband, but there have not been wanting cases where a peaceful and law-abiding husband has had to take action against his better-half. In many cases this provision of the law is taken advantage of by wives who are subject to the ill-treatment of drunken husbands.

Thirdly, a wife may demand separation if her husband refuses to receive her and furnish her with necessaries of life. As will be seen, the causes are much the same as are usually urged to obtain a divorce in England or America.

Many French writers have laboured to prove the advantages of *séparation de corps* over divorce. It is cited by one eminent writer, "*Une institution d'ordre public qui se propose le bon ordre des familles le bon ordre de la société.*" It is possible, however, that they may have thought more of the dictates of their Church—the Roman Catholic hierarchy, as is well known, having always condemned divorce—than of the requirements of the community.

In the Province of Quebec, if the plaintiff is poor, permission may be obtained to proceed *in forma pauperis*, so that in this way the poorest may there obtain a practical divorce. Indeed, it is a sort of poor man's law; he may get relieved from a life of misery, but is not allowed to marry again. Another advantage is that the consorts may, after being separated, re-unite at any time and without any formalities. This has been strongly urged in its favour, "*Si vous n'admettez que la séparation de corps, le nombre des familles désunies sera comparativement restreint, et la société aura l'espoir de voir ces familles se reconstituer, et la paix et la tranquillité se rétablir entre les époux.*" This argument may not, however, have as much force with us as with the more versatile countrymen of the writer.

The object of this paper is simply to bring out these following points, which may be useful in the consideration of this important subject: (1) That such a law exists in the Province of Quebec; (2) That it is practically a divorce law; (3) That it is within the reach of the poorest. It is worth considering whether it would not be well to adopt some such law in the other provinces of the Dominion.