

MARRIAGE AND DIVORCE.

"and by the Legislature of the realm, "and which has been known from early "times by the distinguishing title of the "King's Ecclesiastical Law. That the "Canon Law of Europe does not, and "never did, as a body of laws form part "of the Law of England, has long been "settled as established Law. Lord "Hales defines the extent to which it is "limited very accurately. The rule, "he says, by which they proceed, is the "Canon Law, but not in its full latitude ; "and only so far as it stands uncorrect- "ed, either by contrary Acts of Parlia- "ment, or the Common Law and Custom "of England ; for there are divers can- "ons made in ancient times and decre- "tals of the Popes, that never were here "in England."

The Council of Trent in its 24th Ses- sion (A. D. 1563), declared marriage to be a religious ceremony ; but the decree was never accepted as authoritative in England.

The Ecclesiastical Commissioners in one of their reports, state : "The Canon "Law was at all times much restricted, "being considered in many respects re- "pugnant to the Law of England, or in- "compatible with the jurisdiction of "the Courts of Common Law ; so much "of it as has been received, having been "obtained by virtual adoption, has been "for many centuries accommodated by "our own lawyers to the local habits "and customs of the country ; and the "Ecclesiastical Laws may now be de- "scribed in the language of our Statutes, "as Laws which people have taken at "their free liberty, by their own con- "sent to be made among them, and not "as Laws of any foreign prince, poten- "tate or prelate. In addition to those "authorities of *foreign origin*, must be "enumerated also the *Constitutions*, "passed in this country by the Popes "Legates Otho and Othobon, and the

"Archbishops and Bishops of England "assembled in National Council in the "years 1237 and 1269—and a further "body of *Constitutions* framed in Pro- "vincial Synods under the authority of "successive Archbishops of Canterbury "from Stephen Langton in 1222 to "Archbishop Chicheley in 1414. These "English Constitutions as they may be "termed, have been illustrated by the "commentaries of English Canonists of "distinguished learning and experience. "These commentaries will be found to "contain much valuable information on "subjects connected with the govern- "ment and history of the Church. To "the foregoing enumeration must be "added the Canons of the English Pro- "testant Church passed in Convocation "in 1603, and such Acts of Parliament "as make particular subjects matters of "ecclesiastical cognizance or regulate "the course of proceeding with respect "to the same."

These last mentioned Canons were never ratified by Parliament, although they received the Royal assent ; and are not held to be binding on the Laity, though they are binding on the Clergy.

Lord Hardwicke's Marriage Act, passed in 1773, provided that marriages by mi- nors should be absolutely void ; that no marriage could be celebrated without li- cense or publication of banns, and the presence of two witnesses—and further, that no suit should be entertained by the Ecclesiastical Courts to compel the pub- lic solemnization of a matrimonial con- tract, whether *de præsenti* or *de futuro*.

By the British Statute 6 & 7 W. IV. chap. 85, persons were enabled to contract val- id marriages without any appeal to spiritual authority. By giving notice to the registrar and procuring the pre- scribed certificate, marriage may be con- stituted by verbal declaration, or be so- lemnized in the registered places at cer-