

It is claimed that by somewhat similar legislation the English divorce law has been introduced into Saskatchewan and Alberta; but there are circumstances existing in regard to those Provinces which make it doubtful whether either the English divorce law really was introduced and, even if it were, whether any jurisdiction has been conferred on the Courts of those Provinces to administer it. But be that as it may, it seems an extremely undesirable method of legislating upon such an important subject as divorce and marriage, where it is seen by the result that the subject is not dealt with deliberately and intentionally, but Parliament, by a sort of fluke, enacts something it apparently had no intention of enacting.

How far the Manitoba Court of King's Bench is competent to exercise matrimonial jurisdiction may perhaps be open to question—as far as the English divorce court's jurisdiction to grant divorces was concerned, it must be conceded as to that to have had cognizance of a civil right; because the right to divorce is purely statutory; and therefore a purely civil right; but as regards its other matrimonial jurisdiction can it be said to have had cognizance of civil rights? For instance, was the right to claim nullity of marriage a civil or ecclesiastical right? In granting it, were the former spiritual Courts enforcing a civil right or a religious or ecclesiastical right? or are these rights to be deemed synonymous? If the former spiritual Courts' jurisdiction was in respect of religious or ecclesiastical rights, can the transference of their jurisdiction to another Court alter the nature of the rights to be enforced? These are questions which seem to call for consideration in determining the extent of the matrimonial jurisdiction of the Manitoba Court of King's Bench because it is only to the extent that the English Divorce Court had cognizance of "civil rights" that the King's Bench has jurisdiction.

It must be remembered that the English Divorce Court, in 1870, was in all suits and proceedings "other than proceedings to dissolve any marriage" required to proceed and act and give relief on principles and rules which in the opinion of the said Court shall be as nearly as may be conformable to the principles and rules on which the ecclesiastical Courts have heretofore acted and given