

being afforded to the wife and those concerned circumstances of aggravated enormity. It is significant to note, however, that care was taken that the wife was not left destitute. The House of Commons possessed an official known as the "Ladies Friend" whose task it was to ensure that a husband made 'suitable but moderate provision' for his divorced wife.

3. *The Matrimonial Causes Act of 1857*

Following a Royal Commission appointed in 1850, the situation was radically changed by the *Matrimonial Causes Act* of 1857. That Act achieved two things. In the first place it established a civil court upon which was conferred all jurisdiction then exercised by the Ecclesiastical Courts of England in all matters, causes and suits matrimonial. It also provided for the dissolution of marriage, divorce *a vinculo*. The Act substituted judicial separation for "divorce *a mensa et thoro*" and provided that such a decree could be obtained by either husband or wife on the ground of adultery, cruelty or desertion without cause for two years.

Dissolution of marriage was provided for on the ground of adultery of the wife. If a wife wished a divorce, however, she had to establish more than mere adultery, namely:

- (i) incestuous adultery;
- (ii) bigamy with adultery;
- (iii) rape, sodomy or bestiality;
- (iv) adultery coupled with such cruelty as would have entitled her to a divorce *a mensa et thoro*;
- (v) adultery coupled with desertion, without any reasonable excuse, for two years or upwards.

These more stringent provisions in the case of the wife simply followed the established procedure for the granting of parliamentary divorce. In the case of judicial separation, on the other hand, no distinction was made because of the sex of the petitioner.

By the Act of 1857, connivance, condonation and collusion were made absolute bars and adultery on the part of the petitioner, delay, desertion, cruelty or conduct conducive of adultery were made discretionary bars to petitions for divorce.

While the law passed in 1857 still forms the basis of the divorce law of most of Canada, it has ceased to provide the basis for the current law of divorce in England. There have been numerous Acts concerning divorce passed by the British Parliament since 1857. In 1923, the so called "double standard" was removed, placing the wife on an equal footing with her husband, in that she could sue for divorce on the ground of her husband's adultery alone. She was no longer obligated to prove further matrimonial offences. A similar step was taken in Canada, as previously mentioned, in 1925.

The English Divorce courts derived from the practice of the church courts the power to award alimony *pendente lite*. The Act of 1857 further allowed the courts to award permanent alimony and maintenance after decrees were granted of judicial separation or dissolution of marriage. In 1907, the courts were given similar powers after making a decree of nullity of marriage.