

Its practice has been to grant divorce only on such grounds as the English courts recognized in 1870, save that it will grant a wife a divorce on the ground of her husband's adultery without qualification.

Similarly, although Parliament's power to grant a divorce is unqualified, in fact it has entertained petitions only from persons who lack an alternate remedy in the courts. That means from those domiciled in Quebec and Newfoundland, or from those whose domicile in a province is in doubt.

While parliamentary divorces were rather few in the nineteenth century, the number has grown rapidly since 1900. Consequently, in 1963 the *Dissolution and Annulment of Marriages Act* (12 Eliz. II, c. 10) delegated to the Senate the power to dissolve and annul marriages by resolution, without concurrence by the House of Commons; subject to an appeal to Parliament as a whole. Such an appeal may be made by the aggrieved party within 30 days after the passage of such a resolution by petitioning Parliament for a private Act. Such a petition has the effect of staying the resolution until the bill has been disposed of by Parliament. If the appeal is not made, the resolution becomes effective 30 days after the adoption of the resolution by the Senate.

Under the *Dissolution and Annulment of Marriages Act*, each petition must be referred to an officer of the Senate, designated by the Speaker, who hears the evidence in the case and reports on it to the Senate. This officer, however, may recommend the dissolution or annulment of the marriage only "on a ground on which a marriage could be dissolved, or annulled, as the case may be, under the laws of England as they existed on the 15th day of July, 1870, or under the *Marriage and Divorce Act*, Chapter 176 of the Revised Statutes of Canada, 1952." In effect, this means that parliamentary divorces are granted on the same grounds as divorces are granted by the courts in the Prairie Provinces, British Columbia and Ontario.

The existence of this procedure does not fetter Parliament in any way. When the case has been referred to the Divorce Commissioner and his report has been received, the Senate has a right to refuse or to grant a resolution of divorce as it sees fit, subject, of course, to the right of the parties to apply for a private bill from Parliament as a whole. Parliament can still pass private divorce bills as it has in the past. The Senate has been given an additional jurisdiction in respect of divorce, but the sovereign power of Parliament in matters relating to marriage and divorce has not been impaired.

3. Jurisdiction

Parliament is assigned exclusive jurisdiction over "Marriage and Divorce" by the British North America Act. The provincial legislatures enjoy exclusive jurisdiction over "Solemnization of Marriage" in their respective provinces. Parliament's jurisdiction extends to the right to grant divorces *a vinculo matrimonii*. The provinces have the right to prescribe the necessary procedural rules and this they have done. The provinces draw their authority from Section 92, subsection 14, of the British North America Act, whereby the provinces are authorized to make laws dealing with "administration of justice in the province, including the constitution, maintenance and organization of provincial courts, both of civil and criminal jurisdiction, and including procedure in civil matters in those courts". While the courts for the administration of divorce laws are at present the provincial courts, Parliament has authority to establish a federal