

DIVORCES.

1389. Gemmill on divorce says: "The primary meaning of 'Divorce' is *separation*. As used in the British North American Act it means dissolution of the bonds of matrimony—the separation by law of husband and wife—and under the power given to 'make laws in relation to marriage and divorce,' the Parliament of Canada has since exercised itself in passing numerous acts for the dissolution of marriage. Perhaps, as has been observed, it was conceived that the power to do so would be delegated by Parliament to a court or courts constituted for the purpose, as had been done some few years before in England. But the Parliament of Canada has not seen fit to do so, and the legislative results have been special acts for divorce in individual cases; following the course of the Imperial Parliament before the passing of the Divorce Court Act."

In Canada, under the Union Act, 1867, divorce is one of the subjects assigned to the Federal Parliament. As, however, some of the provinces had established divorce courts before Confederation, they have been permitted to continue the jurisdiction which was conferred upon their courts. These provinces are: Nova Scotia, New Brunswick, Prince Edward Island and British Columbia. A divorce court was first established in Nova Scotia in 1739. It consisted of the Governor or Commander-in-Chief and the members of the Executive Council. By Act (1866) the Judge in Equity became Judge Ordinary of the court. One of the assistant judges of the Supreme Court is now at the head of this court. The court has jurisdiction to declare any marriage null and void for impotency, adultery, cruelty or kindred within the prohibited degrees.

In New Brunswick a divorce court was established in 1791, and consisted of the Governor and five members of the Executive Council. In 1835 a judge of the Supreme Court was added, and in 1860 a Court of Divorce and Matrimonial Causes was created.

Prince Edward Island, in 1836, received a Court of Divorce, composed of the Lieutenant-Governor in Council.

British Columbia exercises the power of granting divorces under an ordinance passed in 1867, after the union of the two Colonies of Vancouver Island and the Mainland, which enacted that the civil and criminal laws of England, as they existed on the 19th November, 1858, were in force in all parts of British Columbia.

In Ontario, Quebec, Manitoba and the North-west Territories divorce can only be obtained by legislation—an Act of the Parliament of Canada being necessary. The rules of the Senate touching divorce require the production of such evidence in support of the application for relief as would be deemed sufficient in a court of law; in other respects the matter is dealt with as for an ordinary private Act of Parliament.