

There are, therefore, two main divisions on this question which must be settled. First: Can a province enact that marriage as such does not and cannot exist save that entered into with the ceremonies it prescribes, thus rendering the Dominion Parliament powerless to define marriage except as a state preceded by those ceremonies; and can the provincial courts dissolve such a form of marriage where in fact the parties have lived together. Second: Does article 127 adopt the Roman Catholic impediment, and does it embrace impediments not existing when it was passed but subsequently declared applicable to mixed marriages celebrated after Easter, 1908.

Whether clear or not, these questions will, unless now submitted to the Supreme Court, remain a source of strife and vexation. They involve, in their settlement, both to the relative jurisdictions of the Dominion and the provinces, and as well the view that article 127 does not validate Church impediments and if it does, it must in any case be limited to those impediments in existence when it was passed and to those then affected by it.

There is another question which has perhaps a somewhat more important constitutional aspect, namely, the right of the Dominion Parliament to define "marriage" and to prevent it being dissolved after the lapse of a definite period or otherwise impeached and then only in a Federal court. It can not be denied that if the Dominion is given jurisdiction as to marriage, its definition is part of that jurisdiction. Marriage originally was founded in consort, followed by cohabitation and if the Federal Parliament chose to say that those two elements without more should now constitute marriage it could do so. And if it could thus render unnecessary any form of solemnisation it seems to follow that it could in effect regulate the limits within which any local legislature could enact laws establishing forms and ceremonies of solemnization. It could do so by decreeing that marriage might be acknowledged before such civil authority as the Federal Parliament might name and with such civil ceremonies as might be prescribed by a provincial legisla-