

the age of nineteen. The constitutionality of this Act has been doubted by high authority.<sup>55</sup> The other provinces have contented themselves with enacting legislation intended to discourage such marriages, without, however, affecting their status once the contract has been entered into. These acts contain provisions intended to insure publicity and that the parties are of competent age to marry without parental consent or that such consent has been given, and are all modelled after the English Act of 1834.<sup>56</sup> Quebec, Nova Scotia, British Columbia, the North West Territories, Alberta and Saskatchewan require parental consent, if the parties are under twenty-one, with the exception that in the North West Territories and Alberta and Saskatchewan where a female over eighteen and under twenty-one is living apart from her parents and earning her own living, their consent is not necessary. Manitoba and New Brunswick fix the age of emancipation in this respect at eighteen for both sexes. In Quebec a marriage contracted without the required consent can only be attacked by those whose consent was required, and then only within six months after the marriage.<sup>57</sup>

It is to be noted that it is only in respect of clandestine marriages, that is to say, the marriage of a person under the age of eighteen without consent of his or her parents, that Ontario has asserted its jurisdiction. Theoretically a marriage may be avoided in any province of Canada on the other grounds above indicated, but in Ontario these other grounds are practically a dead letter for want of a forum competent to make the declaration. Moreover, the jurisdiction of the Ontario Legislature to establish such a forum is doubtful.<sup>58</sup>

(7) *Communicable disease or feeble-mindedness.*—The fact that one of the contracting parties may have a communicable and incurable disease, the presence of which is not known to the other, is no legal ground for attacking the marriage and will not subject the party to any penalty at law. Nor is it a legal objection that

55. *May v. May* (1910) 22 O.L.R., p. 559.

56. Imp. Stat., 4 Geo. IV. ch. 76.

57. Civil Code of Quebec, Arts. 150 & 151.

58. *May v. May* (1910) 22 O.L.R., p. 559.