

To allow a church court to annul marriages is to allow it to repeal these enactments, one of which empowers the civil court so to do where the marriage has not been solemnized by a "competent officer," and the other which prohibits those who have openly lived together and have a certificate of marriage, from demanding its nullity that is in any court or from any authority. In fact if the contention could be maintained that the ecclesiastical courts could before 1866 annul a marriage, then it can hardly be doubted that the civil code then adopted has radically altered the situation by substituting its distinct provisions regarding the solemnization of marriage for the pretensions set up under the treaty of cession, and thus, by their own law, those pretensions necessarily fall to the ground.

The "Ne Temere" decree has extended this assumed ecclesiastical jurisdiction to mixed marriages. This is an extension of the Roman Catholic claim to jurisdiction as evidenced by Archbishop Bruchesi's pastoral, and for the first time affects denominations other than the Church of Rome. It is also a step in advance as to Roman Catholics citizens. For example, while by the doctrine of the Church of Rome marriage is indissoluble by any civil power, the innocent person under a divorce by Parliament in Canada may marry again; but, if such a one were a Roman Catholic and wanted to marry, and could not get a Roman Catholic priest to marry him, the statute law of Canada would be of no effect unless a marriage by a Protestant minister were valid.

The real question, and it is of great interest, is not whether any church can annul a marriage, but whether a particular one can. No other church claims for its ecclesiastical courts such power. The Church of Rome has no greater power than any other denomination, and its claim must rest wholly upon the contention that at the conquest and cession the right to the free exercise of the religion of French Canada resulted in the abdication by Great Britain of the sovereignty of her courts in regard to what is the foundation of the security of the State. A proposition which is on its face a manifest impossibility, and one which is not even open to argument.

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