sidering that it affected the capacity of persons to marry, and, therefore, might fall under "Marriage," within the jurisdiction of Parliament. But parental consent is a part of the form or ceremony or marriage (*Sottomayor* v. *DeBarros* (1877), 3 P.D. 1, 7), and "the exclusive power to make laws relating to the solemnization of marriage in the province . . . enables the provincial legislature to enact conditions as to solemnization which may affect the validity of the contract." (*Marriage* case, 7 D.L.R. 629.)

"Where a power falls within the legitimate meaning of any class of subjects reserved to the local legislatures by sec. 92 of the B.N.A. Act, 1867, the control of those bodies is as exclusive, full and absolute as that of the Dominion Parliament over matters within its jurisdiction. (Lefroy, Canada's Federal System, 181, citing *Bank of Toronto* v. *Lambe* (1887), 12 A.C., at p. 586).

Can it successfully be maintained that to enact that a minor shall not be married without parental consent is an interference with the status or capacity of the minor; it is not saying that he is not capable of marriage, but that parental consent shall be obtained? It would be quite as forcible to say that the provision that no person shall be married without banns or license is an interference with the capacity of parties, and exclusively within "marriage," and, therefore, *ultra vires* the legislature.

Meredith, C.J.C.P., says:—"If the words 'solemnization of marriage' (in the B.N.A. Act, 1867) be given the extremest width of meaning, or if they be given the meaning of the religious ceremony which in 1867 in Canada was essential to marriage, they cannot come near giving any kind of warrant to the legislature of this province to enact the legislation now in question. Solemnization covers the ceremonial or form by which the marriage may be effected; it cannot affect the capacity of the man or woman to marry. Nor can it afford any justification for the creation of a Court to consider any question of the validity of the marriage with a view to any judgment directly respecting it. . . . Whenever the interpretation of any Court is needed to sever any kind of a marriage tie, that Court must be a divorce Court."

In considering the foregoing extract, it is worth while pointing out once more that sec. 36 of the Marriage Act does not purport to give "power to sever any kind of a marriage tie," but merely to declare, in respect of a very limited class of cases, that no tie was ever created. In its widest meaning "solemnization" plainly includes preliminaries leading up to it (*Sottomayor* v. *DeBarros* (1877), 3 P.D. 1, 7); in its narrowest sense, that of the celebrating ceremony—it could be made to amount to the same thing, by providing that the latter should not be valid unless certain preliminaries took place.

XI. Interpretation of the Marriage Act.

In considering the interpretation which should be placed on secs. 15 and 36 of the Marriage Act, certain admitted principles should be borne in mind, such as:—"The law assumes a favourable attitude towards the marriage state . . . the presumption of law is clearly in its favour."

"The evidence for the purpose of repelling it must be strong, distinct, satisfactory and conclusive. . . . Mere irregularity in the form of the