

Judge Jetté in his decision is more moderate. He recognizes marriage to be a civil contract, subject to the laws of the country, but being also a sacrament of the Church of Rome it is subject to the ecclesiastical jurisdiction of the Archbishop after an appeal to the Pope, and that the Canon law which is the law of this province regards the competent official to be the parish priests of the parties. He also states that the words "publicly" and "competent officer" must be restrained to mean according to the usage of the different congregations or communions which in the case of Roman Catholics is before the "proper parish priest." He also added "that the free exercise of their religion and the continuance of the French law, including regulations of marriage by Canon law, had been guaranteed to Canada by the Treaty of Paris and by acts of the English Parliament."

Although the Delpit case only involved the competency of the officiating minister, nevertheless Judge Archibald entered very fully into the history and laws both of Church and State on the whole subject of marriage, and from the evidence at his command showed clearly that there is no ecclesiastical court recognized by the State to review the civil acts of the people, nor has there been any legislation conveying to the Archbishop of Quebec jurisdiction to pronounce a solemn decree of annulment against a marriage sanctioned by sovereign authority, through a license, where no legal impediment existed, and the officer competent by the authority of the Crown to officiate on the occasion.

The plaintiff, Delpit, had applied to the Archbishop of Quebec, Begin, to consider the validity of his marriage to Madame Coté. The question was entered into by Rev. Cyrille Marois, Apostolic Prothonotary, Vicar-General of the Diocese of Quebec, official judge and delegate for matrimonial causes, who pronounced and declared the marriage contracted by the parties to be null and invalid on the ground of clandestinity, upon which judgment and its confirmation, by an appeal to Rome, the Archbishop of Quebec granted the parties the following certificate: "In consequence, that in virtue of the judgment rendered by our official the 12th of July, 1900, Mr. Edourd Delpit and consequently his consort, Madame Marie Coté, are free from every matrimonial bond and that they may, if they think fit, enter into new marriages." It is therefore evident that in the opinion of Roman authorities the civil courts have no jurisdiction in such cases except to decide upon the civil effects.

The points decided by the judgment of Judge Archibald are:

1. The legality of a marriage between two Roman Catholics by a Protestant minister on the authority of a properly