

marriage between Roman Catholics, can and ought to be recognized by the Superior Court."⁵¹

In view, however, of the opinions of the majority of the Judges of the Supreme Court of Canada in answer to the questions submitted to the Court as to the authority of the Parliament of Canada to enact the proposed Marriage Act of 1912,⁵² it seems probable that this pronouncement of the Quebec Court is not good law and would not be approved by the Supreme Court of Canada.

(5) *Difference of religion.*—While difference of religion of the contracting parties is not an impediment to a lawful marriage in any part of Canada, the Roman Catholic Church in Quebec has recently made a determined effort to establish its authority to declare invalid a marriage between two Roman Catholics or between a Roman Catholic and a Protestant, unless performed by a Roman Catholic priest. The Papal decree known as *Ne Temere*, which came into force on Easter Sunday, 1908, promulgated this doctrine. A majority of the Judges of the Supreme Court of Canada are, however, of the opinion that this decree is only binding on the consciences of members of the Roman Catholic Church, and cannot be given effect to by the Civil Courts of Quebec.⁵³

(6) *Marriage of minors of legal age—Consent of parents.*—But in one respect Ontario has gone further than any of the other provinces. In 1907 the Provincial Legislature passed an Act⁵⁴ providing that where a form of marriage has been gone through between persons one of whom is under the age of eighteen, without the consent of the parent or guardian, the Supreme Court of the Province shall have jurisdiction in an action brought by the party who was under the stipulated age, to declare the marriage invalid, provided the parties have not lived together as man and wife and provided that the action is brought before the plaintiff attains

51. *Laramée v. Evans* (1880) 24 Lower Canada Jurist, p. 235; *Treuberg v. Terrill* (1900) 6 R. de J., p. 143.

52. See *In re Marriage Laws*, 46 S.C.R., p. 132.

53. *Ib.*

54. Now R.S.O. (1914) ch. 148, secs. 36 and 37.