v. *Brown*, [1897] A.C. 615. But in the case last cited, which was an action to recover certain penalties, Lord Davey gave the fact that a statute expressly conferred jurisdiction on another tribunal as a reason for holding that a section similar to 16 (*b*) did not extend the jurisdiction of the Court, a reason which does not apply here in nullity proceedings, and he also pointed out that the rule was made in England by a committee of Judges, who could not be held to have power to extend the jurisdiction given by Parliament, whereas here the section in question is a part of the Judicature Act. Nevertheless, as other sections of the Act expressly deal with jurisdiction, it is perhaps proper to read sec. 16 (*b*) as if it were expressly qualified, *at the conclusion of the section*, by the addition of the words "in the exercise of its jurisdiction." The English rule and the Ontario section are precisely similar, and should be given the same meaning:—"The rules were made to carry out the Act, not to enlarge it" (*per* Brett, L.J., in *Longman* v. *East*, 3 C.P.D. 152-156).

IX. Jurisdiction Exists as to Void Marriages.

It is submitted, however, that as the Supreme Court undeniably had and exercised the right to declare the nullity of void marriage ceremonies when the question arose either directly or collaterally (Eversley, p. 59), but in practice did not, prior to sec. 16 (*b*), make declarations "in the air," that is, where no consequential relief was sought (*Langdale* v. *Briggs*, 8 DeG. M. & G. 391), the effect of sec. 16 (*b*) may be to warrant declarations of nullity in relation to void ceremonies of marriage where the proceedings are for declarations merely, and no consequential relief is sought. This would not be the effect in relation to voidable marriages, since other Courts exercised no jurisdiction in relation to them, directly or indirectly, but treated them as valid until an Ecclesiastical Court had declared them otherwise. The effect of sec. 16 (*b*) may be, therefore, to warrant the exercise of an existing jurisdiction in a class of actions not previously entertained in practice; that is to say, may warrant declarations of nullity as to void ceremonies, but not as to voidable marriages. Meredith, C.J.C.P., says, in *Peppiatt* v. *Peppiatt*, "There being no power to avoid or annul a marriage, there can be no power to declare it avoidable or annullable," but in that case the Court was not asked, as already pointed out, to annul or avoid a marriage, or to declare it annullable or avoidable, but merely to declare that the ceremony was in fact null and void; therefore, a declaration of right was all that was required.

X. Power of the Legislature.

As to the jurisdiction of the legislature to enact the Marriage Act, Meredith, C.J.C.P., says:—"My conclusions are that the provincial legislation in question is *ultra vires*, and that this Court has no power under it, nor has it power otherwise, to consider the matters in question in this action."

The Divisional Court asserted jurisdiction, under the Judicature Act, to make a declaration of nullity, and did not question the constitutionality of the Marriage Act in that respect, but Meredith, C.J.O., expressed doubt as to the right of the legislature to enact sec. 15 of the Marriage Act, con-