

1774 up to 1792, therefore, the French or Canadian law as to property and civil rights prevailed in the territory which now constitutes Ontario. Under the authority of the Imp. Stat. 31 Geo. 3, c. 31, Upper Canada was constituted a separate Province having, at that time, as we have seen, the French civil law in force. One of the first Acts passed by the Legislative Assembly of the new Province of Upper Canada was to enact (32 Geo. 3, c. 1) that in all matters of controversy relative to property and civil rights resort shall be had to the laws of England as they stood on the 15th October, 1792 (R.S.O. c. 111, s. 1). This enactment had the effect of displacing the French civil law in Upper Canada and substituting therefor the English law. Now the laws relating to marriage appear to be plainly laws relating to civil rights, and it would hardly seem open to argument that the English law relating to marriage was not effectually introduced by that enactment.

It may be noticed that both the Imp. Act, 14 Geo. 3, c. 83, establishing, or re-establishing, French law in Quebec, and the Provincial Act (32 Geo. 3, c. 1) are in almost identical terms, the one introducing Canadian or French law, the other English law. If the French law of marriage was re-introduced by the 14 Geo. 3, c. 83, then the English law of marriage must also have been introduced by the Provincial Act of 32 Geo. 3, c. 1. But even if it could be maintained that neither Act covered the law of marriage, it would, nevertheless, be untrue to say that no law existed on the subject of prohibited degrees. At the time of the cession of Canada to Great Britain, Canada was not without law on this subject. The French law provided for it, and until altered by Great Britain, or by some power properly constituted by Great Britain, the French law would continue in force. So that if the French law of marriage was superseded by the English law of marriage prior to the Quebec Act (1774), then that law, i.e., English law, was in force in Upper Canada when it was constituted a separate Province, and still so continues the law of the Province of Ontario, even if marriage is not to be deemed to come within the term "civil rights," and if, on the other hand, the French law of marriage remained in force from the time of the cession, it must have remained in force throughout Upper Canada at the time it became a separate Province. But, as already intimated, the French law, equally with the English law, prohibits marriage within certain