

But when the Civil Code, adopted in Quebec in 1866, is examined it contains enough to indicate that, even if it were true up to that time the ancient law permitted the annulment of the sacrament of marriage by the Roman Catholic ecclesiastical authority, such a right has been done away with. In addition to this, it is quite clear that, even if the French law at the conquest and cession preserved its vitality, the enforcement of it by courts or authorities, whether civil or ecclesiastical, must reside in the courts and authorities which received their power from the King of England, whose supremacy was explicitly acknowledged by the treaty. The authority of the Pope disappeared and the power of courts established by the French King necessarily ceased at the cession in the conquered provinces.

In the *Guibord case*, *Brown v. Cure de Montreal*, L.R. 6 P.C. 157, Mr. Mathews, Q.C., counsel for the Roman Catholic Church, arguendo, said: "The old ecclesiastical law of France cannot apply to Canada after the conquest. The root of it was in the ecclesiastical jurisdiction and supremacy of the Church of Rome;" and Mr. Westlake, K.C., his associate, said: "The ecclesiastical law existing among members of the Roman Catholic body is no longer, since the cession, the law of the land in any respect whatever, it is the law existing among them solely by contract." And in the judgment (p. 211) it is stated that, "It is no doubt true . . . that there are now in Canada no regular ecclesiastical courts such as existed and were recognized by the state when the province formed part of the dominions of France." Hence no ecclesiastical authority could validly adjudicate upon the status of couples united under civil authority, nor indeed upon any other aspect of marriage tie than that of a sacramental one, if that can, in law, exist apart from the civil contract.

The Civil Code, the present law of Quebec, is copied largely from the Code Napoleon and is explicit as to the formalities to be observed in marriages and as to the rights of the parties to a marriage to seek its annulment. By Article 128 it is provided that "marriage must be solemnized by a competent officer