

XV. CONCLUSIONS.

The following conclusions are suggested with deference:—

1. The Supreme Court of Ontario has jurisdiction inherently to declare the nullity of void ceremonies, and sec. 16 (b) of the Judicature Act, 1914, authorizes such declarations of nullity even where no consequential relief is or could be claimed.

2. No Court in Ontario has inherent jurisdiction in relation to voidable marriages and consequently decrees as to them are not authorized by sec. 16(b) of the Judicature Act, 1914.

3. The legislature of Ontario has the constitutional power to confer jurisdiction upon the Supreme Court of the province to hear and determine actions for declarations as to both void and voidable marriages; and, therefore, the provisions of the Judicature Act and the Marriage Act, in this regard, are *intra vires*.

4. The common law of England as to void and voidable marriages (except as to jurisdiction to hear actions in relation to voidable marriages) is in force in Ontario, and, if jurisdiction were conferred by the legislature, the remedies pursued in England, as to voidable as well as to void marriages, could be applied here.

5. Section 15 of the Marriage Act does not make the prescribed consent essential to a valid marriage of minors, but, by the combined effect of secs. 35 and 36 a limited class of ceremonies may, within a stated time, be declared non-effective, *ab initio*. Sections 35 and 36 are *intra vires* the legislature of Ontario.

These suggestions are made with deference. The subject is of great interest and very complicated. The very difficult question as to the constitutional powers of Parliament and legislature respectively ought to be set at rest by some proper proceeding to test it. The jurisdiction of the provincial Courts should be placed beyond dispute. It is not creditable that it should be possible to say with great show of reason, as a majority of Judges who have discussed the matter have said, that there is no existing jurisdiction in the Courts of Ontario to deal with any proceedings for nullity, no matter how sad the circumstances may be.

MATRIMONIAL JURISDICTION.

A learned correspondent takes exception to our observations on p. 343 as to the want of matrimonial jurisdiction in the Supreme Court of Ontario. He says that the English Courts of law and equity, which had the like jurisdiction to that of our Supreme Court of Ontario, did declare marriages null and void.

We may concede that when the question of marriage incidentally arose in the course of an action in those Courts, they did decide the question as a matter of fact relevant to the issue to be