Act, for, if jurisdiction be inherent, that Act, if *intra vires*, may limit the jurisdiction by implication, and, if *ultra vires*, jurisdiction is left as it was: whereas, if there be no inherent jurisdiction, the Judicature Act may have conferred and the Marriage Act have limited it, or the Judicature Act may not have conferred it, and the only jurisdiction may be under the Marriage Act.

The trial Judge in *Peppiatt* v. *Peppiatt* said that, as he held the opinion, in opposition to the judgment of Boyd, C. (*Lawless* v. *Chamberlain*), that no jurisdiction existed, he made no findings as to the facts, but referred the question of jurisdiction to the Divisional Court. That Court asserted that the Judicature Act gave jurisdiction, but, unfortunately, gave no reasons for its finding. That omission was regrettable, in view of the opinions expressed on the point in the cases cited above. With deference, it is submitted that the jurisdiction of the Court should have been exhaustively discussed and established before any interpretation was placed on the provisions of the Marriage Act as to consent, for without such jurisdiction the Court manifestly had no right to interpret the Act; and also, because if there be jurisdiction outside the Marriage Act, it is important that its extent should be known; does it extend, for instance, to the power to annul voidable marriages as well as to declare the nullity of ceremonies void because of civil impediments?

VII. Inherent Chancery Jurisdiction.

Upon the point of the inherent jurisdiction of Chancery Courts to deal with actions for nullity, Boyd, C., in *Lawless* v. *Chamberlain*, referred approvingly to certain judgments by Kent, Sanford and Walworth, respectively Chancellors of New York State. Carefully examined, they do not much strengthen the proposition that such jurisdiction exists here, except possibly as to marriages void *ab initio*. In *W.* v. *W.* (1820), 4 Johns Ch. R. 343, a declaration was sought that a marriage with a lunatic was void. Jurisdiction was asserted by Kent, C., on the ground that as the Court had authority over lunatics, and by statute to grant divorces for certain causes, it also had power to declare nullity, because no other Court had it. Incidentally he admitted that Chancery Courts in England had never exercised such a power, but he gave as a reason the fact that Ecclesiastical Courts which had the power existed there. In *F.* v. *G.* (1825), Hopk. Ch. 541, a decree of nullity was sought because the marriage had been brought about by abduction, terror and fraud and Sanford, C., granted the decree on the ground that a Court of Chancery had power to vacate all contracts induced by fraud, and why not this? He admitted that this was a new application of an old principle as to fraud, vitiating all contracts, and that there was no precedent in England for such a decree by a Court of Chancery. But in *B.* v. *B.* (1825), Hopk. Ch. 628, a case not mentioned by Boyd, C., a decree of nullity on the ground of the impotency of one of the parties was refused by Sanford, C., who said that for such a canonical disability a marriage was voidable only, that the English Chancery Courts had never exercised jurisdiction over such a matter, that the powers of English Ecclesiastical Courts had not been conferred on any Courts in New York State, and that "this