

The divided jurisdiction between the Parliament at Ottawa and the local Legislatures does not lend itself to simplicity of treatment, and the matter is still further complicated by the relationship of the laws of the different provinces to the laws of England (depending in each case upon the date when the laws of England were introduced) and by the further fact that the civil laws of Quebec, founded as they are upon the laws of France, are fundamentally different on this subject from the laws of the other provinces.

No effort has, so far as known to the writer, ever been made to simplify and harmonize the marriage laws of Canada. For the most part they just grew, and as there were ten or a dozen gardens far removed from each other, it will not be surprising if the growth presents some forms of contrast and some features that are not in harmony with the generally received social standards.

Take, for example, the law with reference to the prohibited degrees of affinity and consanguinity. These were declared by the Parliament of England at the Reformation, and were introduced into this country with the laws of England. Under the statute of Henry<sup>1</sup> a marriage forbidden by these prohibitions was voidable at the suit of one of the parties in the lifetime of the other. This law remained unchanged in England until 1835, when by Lord Lyndhurst's Act<sup>2</sup> such a marriage was made "absolutely null and void." The preamble to this Act recites that "Whereas marriage between persons within prohibited degrees are voidable only by sentence of the ecclesiastical court pronounced during the lifetime of both the parties thereto, and it is unreasonable that the state and condition of the children of marriages between persons within the prohibited degrees of affinity should remain unsettled during so long a period and it is fitting that all marriages which may hereafter be celebrated between persons within the prohibited degrees of consanguinity or affinity should be *ipso facto* void and not merely voidable," etc.

1. 28 Henry VIII. c. 7.

2. Imperial Statutes, 5 & 6 William IV. ch. 54.