been mooted, yet it is very probable that duly consecrated colonial bishops of the English Episcopal Church had the privilege of granting dispensations from banns and directing the issue of marriage licenses, with respect to members of their own church and within the boundaries of their own dioceses, so long as Church and State were united in Upper Canada. But we apprehend that since the time our legislature declared in memorable words the desirableness of removing "all semblance of connection between Church and State" (18 Vic. cap. 2, 1854) and did in fact by that statute abolish such connection, the episcopal power to grant the marriage license reverted to the Governor as representative of the Crown. The Church of England in Upper Canada then became a mere voluntary association, and its bishops were shorn of any spiritual privileges or dispensing powers which otherwise they might have claimed. (See *Re Bishop of Natal*, 11 Jur. N. S. 353; *Murray* v. *Burgess*, L. R. 1 P. C. App. 362; *Lyster* v. *Kirkpatrick*, 26 U. C. Q. B. 225.) So that the conclusion is manifest, as to all Protestant bodies, that they come within the marriage act as consolidated, and their members can only properly contract marriage after publication of banns, or, without banns, by Governor's license.

Under Con. Stat. U. C. cap. 72, sec. 2, the celebration of marriage without banns or license, or under banns, where the names of either of the parties were incorrectly stated, would be no more perhaps, than an irregularity; but under Lord Hardwicke's Act, such marriage would be an absolute nullity, both as to the contracting parties and their issue. Neither lapse of time nor mutual consent however express, can validate what the statute directly avoids. Such a union would be not merely voidable, but void *ab initio;* it would be in the eye of the law, not a matrimonial, but a meretricious union, the issue whereof would be bastardized from their birth. (See *Elliott* v. *Gurr*, 2 Phil. p. 19; *Wright* v. *Elwood*, 1 Curt. p. 670; *Chinham* v. *Preston*, 1 W. Blac. 192; *King* v. *Inhabitants of Tibshelf*, 1 B. & Ad. 190; *Reg.* v. *Chadwick*, 11 Q. B. 173.) And this appears to be our marriage law in Ontario, so far as Protestants are concerned.

The inquiry now presents itself, upon what footing are Roman Catholics in this respect? Is their situation in this status as unsatisfactory as that of the Protestants, or can they claim privileges beyond those of any other religious body in this Province? The consideration of these questions will involve the necessity of going over some portions of the early history of Canada, when that country was passing from under the French to the English dominion.

Another letter on the important, and, to many of our readers, very interesting subject of Division Court fees, will be found under "Correspondence." The letter supports the view taken by the gentleman who communicated the article in the July number of the *Local Courts' Gazette*. Mr. Agar, in a very well written letter, put the case of the officers of Division Courts very strongly. We are glad to see the subject so well discussed as it has been in the letters above mentioned, and by "Novice," in the August number.

SELECTIONS.

AN ESSAY

ON THE IMPORTANCE OF THE PRESERVATION AND AMENDMENT OF TRIAL BY JURY.

THE institution of trial by jury has been ascribed by different authors to various persons and nations. Sir William Blackstone is of opinion that it originated with the Saxon and other northern nations.

"Some authors," writes Sir William, "have endeavoured to trace the original of juries up as high as the Britons themselves, the first inhabitants of our island; but certain it is, that they were in use among the earliest Saxon Colonies, their institution being ascribed by Bishop Nicholson to Woden himself, their great legislator and captain. Hence it is that we may find traces of juries in the laws of all those nations which adopted the feudal system, as in Germany, France, and Italy; who had all of them a tribunal composed of twelve good men and true, *boni homines*, usually the vassals or tenants of the lord, being the equals or peers of the parties litigant; and, as the lord's vassals judged each other in the lord's courts, so the king's vassals, or the lords themselves, judged each other in the king's court. In England we find actual mention of them so early as the laws of King Ethelred, and that not as a new invention. Stiernhook ascribes the invention of the jury, which in the Teutonic language is denominated *nembda*, to Regner, king of Sweden and Denmark, who was contemporary with our King Egbert. Just as we are apt to impute the invention of this and some other pieces of juridical polity to the superior genius of Alfred the Great; to whom, on account of his having done much, it is usual to attribute everything; and as the