

may be void, or a marriage may be voidable—that is, capable of being made void.

HON. MR. KAULBACH—No; there is no such rule. There is no inchoate or voidable marriage.

HON. MR. DICKEY—I have no hesitation in agreeing also with my hon. friend that the marriage in the present case was not a void marriage. I admit that fully, but I am bound to say that it was a voidable marriage. And why? Because it was a marriage by two minors.

HON. MR. POWER—That does not appear from the evidence.

HON. MR. DICKEY—It is quite clear from the evidence that the petitioner was not of age, and it is clear to my recollection, from hearing the evidence, that the other party was not of age. But let me state the proposition that if the parties to that contract were minors they were not capable of making that contract without the consent of their parents or guardians, and that element constitutes what I call a voidable marriage, though the hon. gentleman from Lunenburg seems to think there is no distinction.

HON. MR. KAULBACH—There is not in law.

HON. MR. DICKEY—Why and how? For example, suppose that marriage is consummated, the parties cohabit together and live as man and wife? In that case I take it the marriage cannot be interfered with, except for the cause which I have mentioned. These are plain principles with regard to marriages, and I content myself by stating that there are two or three things perfectly clear which cannot be disputed in this case. One of these is, that this was a marriage, not only without the consent of the parents of this young lady, a minor, but against their expressed will, as far as we know, and we have that from the testimony of the girl herself; and her sister clearly demonstrated, without contradiction, that it was a marriage entirely without the consent or knowledge of the father or mother. And that that was true is evidenced by the fact that months afterwards, when for the first time the unfortunate survivor of these two parents first heard that her daughter had gone through the ceremony of marriage with this man, she

was struck down with a fit of paralysis. There is no dispute about the facts; the marriage was never consummated. They never lived together as man and wife. There was no cohabitation, and as far as that goes, the marriage is a voidable one, though it has never been made void. I do not wish to go into the evidence, because there are other gentlemen on the committee, I presume, who may not be in favor of the report, and they will speak for themselves; but I have yet to learn that I can be contradicted in my statement of the facts by any member of the committee. Reference has been made to the Lavalle case. That was a case something like this, but unlike it in this respect, that it was an application by the so-called husband to get rid of the marriage with his wife, who was a minor. The cases are reversed. I do not wish to go into the whole history of it, but it was a marriage made as this was, without the consent of the parents, and concealed from the parents, as it was in this case, and some considerable time afterwards this girl, who was then 17 or 18 years of age, naturally, under the feelings which animated her sex, became attached to another person who offered her marriage, and she went to her husband and told him that she must take steps to have the marriage ceremony that had been between them set aside. A correspondence took place, and the result was that it appeared by the preamble of that Bill that she lived with another man. The evidence was brought before this House and the report of the Select Committee recommended the passing of the Bill, but with an amendment that carried the implication that the respondent was guilty of adultery. This seemed to shock the feelings of some hon. gentlemen, especially of one hon. member who is absent, Judge Gowan, and Mr. Vidal, and they raised certain objections, and the result was, as I find it laid down in Mr. Gemmill's work on Divorce: "The Bill was accordingly amended in Committee of the Whole House, and parts of the preamble charging adultery by respondent were eliminated, and the character of the Bill was completely changed from an ordinary Bill of divorce into a Bill declaring the first marriage void," as in this case. The operative clause being the same as in the Stevenson case, namely, "The said marriage between the parties is and shall be henceforth null