

*WHAT CONSTITUTES A VALID MARRIAGE?*

In a case recently decided by the Supreme Court of Minnesota—*In re estate of N. Hulett*, Mitchell, J., expressed himself as follows as to what constitutes a valid marriage:—

The respondent had been for a long time prior to the execution of the marriage contract in the employment of Hulett as housekeeper, at his farm at Stoney Point, some miles out of the city of Duluth. Her testimony is that immediately after the execution of this contract she moved into his room, and that from henceforth until his death they occupied the same sleeping apartment, and cohabited together as husband and wife. But she admits that it was agreed between them that their marriage was to be kept secret until they could move into Duluth and go to housekeeping, in a house which Hulett owned in that city. While a feeble effort was made to prove that their marital relation had become known to one or two persons, yet we consider the evidence conclusive that their marriage contract was kept secret; that they never publicly assumed marital relations or held themselves out to the public as husband and wife, but, on the contrary, conducted themselves so as to leave the public under the impression that their former relations of employer and housekeeper remained unchanged. Upon this state of facts the contention of the appellants is that there was no marriage, notwithstanding the execution by them of the written contract; that in order to constitute a valid common-law marriage the contract, although *in verba de presenti*, must be followed by habit or reputation of marriage, that is, as we understand counsel, by the public assumption of marital relations.

We do not so understand the law. The law views marriage as being merely a civil contract, not differing from any other contract, except that it is not revocable or dissoluble at the will of the parties. The essence of the contract of marriage is the consent of the parties, as in the case of any other contract, and whenever there is a present perfect consent to be husband and wife the contract of marriage is completed. The authorities are practically unanimous to this effect. Marriage is a civil contract *jure gentium* to the validity of which the consent of parties able to contract is all that is required by natural or public law. If the contract is made *per verba de presenti* and remains without cohabitation, or if made *per verba de futuro* and be followed by