

It is to be observed that in the *Hebert* case the court gave effect to an ecclesiastical decree dissolving the marriage tie, and in the *Laramée* case the Court referred the matter to the Bishop to pronounce the nullity of the marriage and reserved only the right to pronounce such decree as would give effect to that decision in regard to the civil rights affected by it.

This brings into strong relief the Roman Catholic aspect of marriage as solely a religious and not a civil tie. Archbishop Bruchesi puts it that the state can only legislate and adjudge "provided that its laws do not affect the marriage tie, neither that which necessarily concerns that tie."

But while this is unquestionably the doctrine of the Church of Rome, acted upon by its ecclesiastical authorities, the important question remains, has it become and is it the law of the Province of Quebec, and under what authority do the bishops of that denomination of Christians acquire jurisdiction to nullify marriages solemnized pursuant to Article 128 of the Quebec Code, which enacts that "marriage must be solemnized openly, by a competent officer recognized by law."

It would be to beg the question in issue to assume that the marriage tie is entirely a sacrament of religious institution and that only the effects of it are civil, e.g., the right to dower, to an estate by the courtesy and the legitimacy of the children. That view is certainly contrary to the belief prevailing in Ontario.

The case in hand is a decision that a marriage between two Roman Catholics is void because not celebrated by their own curé and in their church. If the status obtained by a marriage of Roman Catholics is an ecclesiastical one only and not a civil one then the ecclesiastical courts, if existent and legal, may well have jurisdiction, if conferred on them by their church, over its members and their rights. But, if marriage is a civil contract, though sanctioned by religious ceremonies, then no ecclesiastical court could dissolve it unless expressly empowered so to do by civil authority. Blackstone (Vol. 1, p. 433), states that "Our law considers marriage in no other light than as a civil contract." Lord Hardwicke's Act, 26 Geo. II. c. 33, which