

he shall not issue the license or certificate; and if he has reason to believe or suspect that the facts are not as so required he shall, before issuing the license or certificate, require further evidence to his satisfaction in addition to this affidavit prescribed by sec. 19."

"36. (1) Where a form of marriage has been or is gone through between persons either of whom is under the age of eighteen years, without the consent required by sec. 15, in the case of a license, or where, without a similar consent in fact, such form of marriage has been or is gone through between such persons after a proclamation of their intention to intermarry, the Supreme Court, notwithstanding that a license or certificate was granted or that such proclamation was made and that the ceremony was performed by a person authorized by law to solemnize marriage shall have jurisdiction and power in an action brought by either party who was at the time of the ceremony under the age of eighteen years, to declare and adjudge that a valid marriage was not effected or entered into;

"Provided that such persons have not after the ceremony cohabited and lived together as man and wife, and that the action is brought before the person bringing it has attained the age of nineteen years."

"(2) Nothing in this section shall affect the excepted cases mentioned in section 16 or apply where after the ceremony there has occurred that which if a valid marriage had taken place would have been a consummation thereof."

"(3) The Supreme Court shall not be bound to grant relief in the cases provided for by this section where carnal intercourse has taken place between the parties before the ceremony."

The Divisional Court, in *Peppiatt v. Peppiatt*, held that the provision in sec. 15, that "the consent of the father, etc., shall be required," meant "required by the issuer of the license," because by sec. 19 it is specified that an affidavit shall be made of the facts necessary to satisfy the issuer as to consent, and by sec. 21 the issuer is empowered to refuse a license if he has personal knowledge that consent has not been given, or to "require further evidence." But surely it cannot reasonably be maintained that it is the failure of an issuer to require a consent, not the marriage of minors without consent, which is a violation of sec. 15. For instance, if a penalty by fine or imprisonment were provided for a breach of sec. 15, would it be imposed on the issuer for failure to require the consent, or on the minor for failure to procure it? Sec. 19 says "the issuer may refuse a license if he has personal knowledge that the facts are not as required in sec. 15." Does that mean "if he has not required the consent," or "if the consent has not been given"? If the latter, is it not plain that sec. 15 means that the consent shall be necessary before a license is issued? Was sec. 15 enacted by the legislature as a direction to the issuers of marriage licenses as to their personal duty, or as imposing a condition upon minors to procure parental consent, or both? According to the interpretation by the Divisional Court, sec. 15 would be fully complied with if the issuer of licenses "required" a consent even if none were in fact given, the mere requisition would be sufficient without compliance; in fact, the judgment has made the section comparatively useless, for no penalty follows the infraction. Sec. 15 (2) says:—"No license shall be issued without the production of the consent,"