

only and not binding on Quebec Courts. However, in *Re Marriage Law of Canada*, 7 D.L.R. 629, [1912] A.C. 880, the Privy Council held that the power of the Provinces to legislate in regard to solemnisation covered the right to say certain ministers only should be competent to perform the ceremony of marriage for certain persons, and that non-compliance would render the marriage null and void. The matter has recently been before the Privy Council again, (*Tremblay Marriage* case, 58 D.L.R. 29, [1921] 1 A.C. 702, 27 Rev. Leg. 209), and it has been held that the marriage of two Roman Catholics or of a Roman Catholic and a Protestant by a properly authorised person other than a Roman Catholic priest is not a ground for a declaration of nullity.

3. Capacity. The English Common Law which says that a man under 14 and a woman under 12 cannot marry except to prevent illegitimacy is in force in Canada, except in Ontario, where the age limit is 14 for both. (R.S.O., 1914, ch. 148, sec. 16), and in Manitoba, where the age limit is 16 for both, (1906, (Man.) ch. 41, sec. 16). All Provinces have passed legislation to discourage marriage by very young people, but in most cases this legislation does not go so far as to affect legality once the contract has been entered into. In Quebec and Ontario the statutes go further. In the former, a marriage where the parties are under 21 years of age contracted without the consent of the parents can be attacked only by those whose consent was required, and then only within 6 months of the ceremony. In Ontario, by R.S.O., 1914, ch. 148, sec. 36, when a form of marriage has been gone through between persons either of whom is under 18 without the consent of the father if living or of the mother or other guardian if he is dead, the Supreme Court has jurisdiction in an action brought by either party who at the time of the marriage was under the age of 18 years to annul the marriage, provided that such persons have not after the ceremony cohabited together as man and wife and that the action is brought before the applicant is 19. These provisions came before the Courts in 1916 in *Peppiatt v. Peppiatt* (1916), 30 D. L.R. 1, 36 O.L.R. 427. It was the case of a marriage without consent on the part of her parents of a girl under 18, and came on for trial before Meredith C.J., C.P., 34 D.L.R. 121, who held that the section of the Ontario Marriage Act R.S.O. 1914, ch. 148, requiring consent was *ultra vires*, and who sent the case on to the Appellate Division, it being the first of such cases to