

one or both of the parties are mentally defective, provided only that the deficiency falls short of what the Courts would recognize as insanity or idiocy, in which latter case the marriage would be void *ipso facto*.

### PART III.

#### I. THE MARRIAGE CEREMONY.

(1) *The three main classes of marriage ceremonies.*—(a) The purely civil ceremony, characteristic of France and Germany, and permitted in Great Britain, the United States, and Western Canada. (b) The purely religious, characteristic of Russia and other countries under the sway of the Greek Church. (c) The mixed civil and religious ceremony, characteristic of Great Britain, Canada, and many other parts of the British Empire.

By the canon law, the intervention of a priest was not essential to the validity of a marriage.<sup>59</sup> It has been held, however, though not without much dissent, that the English common law requires the presence of a priest.<sup>60</sup> Whether or not, on account of our different local conditions, this requirement of the common law is applicable to Canada, was for some time a subject of debate. It was finally held that, in the absence of legislative provision, this rule is to be followed, except where the country is so barbarous that a proper ceremony is impossible.<sup>61</sup>

In Ontario marriages irregularly celebrated are valid at the end of three years from the date of the ceremony, or on the death of either party within that period, if they have cohabited as man and wife. This is subject to the proviso that there was no legal disqualification to marry, and that neither party was lawfully married within the three years to anyone else.<sup>62</sup> Manitoba and other Provinces have similar provisions.

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59. *Renton v. Phillmore*, *supra*, at p. 177.

60. *The Queen v. Millis* (1844) 10 C. & F., p. 534.

61. *Connolly v. Woolwich* (1867) 11 Lower Canada Jurist, p. 197.

62. R.S.O. (1914) ch. 148, sec. 35.