

of certain Churches ; but I am of opinion that there is a way of calming these apprehensions without its being necessary to include similar enactments in a law of this nature emanating from the Federal Parliament. This is the proposition which I shall at once endeavour to prove in as brief a manner as possible. In the case I have supposed, when commencing, I would not at all desire to concur in the adoption of a measure proposing to legalise marriage between the brother-in-law and the sister-in-law, or no matter what marriage, without providing at the same time the necessary conditions in order to give recognition to its character as a religious contract, a character essential to its remaining in conformity with the spirit of christianity and to ensure the happiness of families as well as the stability of society. But, since the perfection of Confederation, our new Constitution has placed us in as unique position in this matter, by enacting that the law of marriage shall be under the jurisdiction of the Dominion Parliament while its celebration shall be under the jurisdiction of the Provincial Legislatures. At first sight, the distinction would appear somewhat finely drawn, and the division line between these two authorities difficult to follow. Without doubt the letter of the Constitution on this point, as on others, is vague. To comprehend perfectly its spirit, it is necessary to discover what idea was uppermost in the minds of its authors when they established this division of jurisdiction between the Federal Parliament on the one side and the Provincial Legislatures on the other. This is what, on my part, I have humbly endeavoured to find out before forming a settled opinion upon certain details in the law as proposed by my hon. friend. It is a known fact that our present Constitution had its origin in the Quebec Conference, made up of representatives from the greater number of the Provinces which to-day form part of the Confederation. Now, let us see with what intent "marriage" was included among the number of subjects upon which the Federal Parliament might legislate :—

"The word 'marriage' has been placed in the draft of the proposed Constitution to confer upon the Federal Legislature the right of declaring what marriage shall be considered as

valid throughout the whole extent of the Confederation, without affecting, however, in the least degree the dogmas or ceremonials of the religious bodies to which the contracting parties belong."

What guarantee would there have been that the Federal Parliament would never touch upon these religious dogmas and rites, if it had not been understood that they would never be called upon to decide upon them. Unless they had recognised and confirmed the principle that to the Provincial Legislatures must be left the exercise of the constitutional right to take cognisance of the dogmas and rites in conformity with which marriage ought to be contracted, the guarantee would be of none effect. While citing these opinions of the Quebec Conference, I may state that, during the debates of Parliament upon the scheme of Confederation, the hon. the Solicitor-General for the Lower Canadian section, whose opinion, I presume, ought still to agree, to some extent, with that of the present hon. Minister of Public Works, inasmuch as it was he himself who then gave utterance to them, commented upon them in the name of the Government of the day, after it had been formally communicated to the House :

"The hon. gentleman has asked the Government what meaning was to be attached to the word 'marriage,' where it occurred in the Constitution. He desired to know whether the Government proposed to leave to the Central Government the right of deciding at what age, for example, marriage might be contracted. I will now answer the hon. gentleman as categorically as possible, for I am anxious to be understood, not only in this House, but also by all those who may hereafter read the report of our proceedings. And, first of all, I will prove that civil rights form part of those which, by article 43 (paragraph 15) of the resolutions, are guaranteed to Lower Canada. This paragraph reads as follows :—

"15. Property and civil rights, excepting those portions thereof assigned to the General Parliament."

"Well, among those rights are all the civil laws of Lower Canada, and included in these latter are those which relate to marriages. Now it was of the highest importance that it should be so under the proposed system, and therefore, the hon. members from Lower Canada at the Conference took great care to obtain the reservation to the Local Government of this important right ; and in consenting to allow the word 'marriage' after the word 'divorce,' the delegates have not proposed to take away with one hand from the Local Legislature what they had reserved to it by the other. So that the word 'marriage',