

status of husband, wife, and issue and this interpretation would appear to be correct, for Solicitor General Langerrin in his speech during the debates on confederation at the Quebec Conference said: "The word 'marriage' has been placed in the draft of the proposed constitution to invest the Federal Parliament with the right of declaring what marriages shall be held and deemed to be valid, throughout the whole extent of the Confederacy. . . ." The law officers of the Crown in England in 1870 also pointed out that the Provincial Legislatures had power to legislate upon such subjects as the issue of marriage licenses, while the Dominion had power to legislate on all matters relating to the status of marriage—e.g., between what persons and under what circumstances it could be created. The same interpretation is supported by Lefroy in The Canadian Federal System when he points out that the Privy Council have held in *Re Marriage Law of Canada*, 7 D.L.R. 629, [1912] A.C. 880, that 92-12 is by way of exception to 91-26. The jurisdiction of the Dominion Parliament is well illustrated by R.S.C., c. 105, which enacts that a marriage shall not be invalid merely because the woman is the sister of a deceased wife, and by the Criminal Code which defines bigamy and polygamy and constitutes it a crime to solemnise marriage contrary to the provincial law. The question of provincial powers in regard to legislating on marriage will be returned to in the chapter on annulment of marriages.

Another section of the B.N.A. Act indirectly concerned with the subject of divorce is 129: "Except as otherwise provided by this Act, all laws in force in Canada, Nova Scotia, or New Brunswick at the Union and all Courts. . . existing therein at the Union, shall continue as if the Union had not been made; subject nevertheless (except with respect to such as are enacted by or exist under Acts of the Parliament of Great Britain . . . ) to be repealed, abolished or altered by the Parliament of Canada, or by the Legislatures of the respective Provinces, according to the authority of the Parliament or of that Legislature under this Act." It is under this section that the Courts of Nova Scotia and New Brunswick get their authority to continue to deal with cases of divorce, no repeal of their prior authority having been made by the Dominion Parliament, which is clearly (91-26) the body having authority to alter or repeal jurisdiction in regard to divorce.

The last section of the B.N.A. Act which concerns divorce