powers between the Dominion Parliament and the Local Legislatures, at page 107, says :—

"The scheme of this Legislation, as expressed in the first branch of section 91, is to give to the Dominion Parliament authority to make laws for the good government of Canada in all matters not coming within the classes of subjects assigned exclusively to the Provincial Legislatures. If the 91st section had stopped here, and if the classes of subjects enumerated in section 92 had been altogether district and different from those in section 91, no conflict of legislative authority could have arisen. The Provincial Legislatures would have had exclusive legislative power over the sixteen classes of subjects assigned to them, and the Dominion Parliament exclusive power over all other matters relating to the good government of Canada. But it must have been foreseen that this sharp and definite distinction had not been and could not be attained, and that some of the classes of subjects assigned to the Provincial Legislatures unavoidably ran into and were embraced by some of the enumerated classes of subjects in section 91 ; hence an endeavour appears to have been made to provide for cases of apparent conflict, and it would seem that with this object it was declared in the second branch of the 91st section 'for greater certainty but not so as to restrict the generality of the foregoing terms of this section,' that, notwithstanding anything in the Act, the exclusive legislative authority of the Parliament of Canada should extend to all matters coming within the classes of subjects enumerated in that section. With the same object, apparently, the paragraph at the end of section 91 was introduced, though it may be observed that this paragraph applies, in its grammatical construction, only to No. 16 of section 92.

"Notwithstanding this endeavour to give pre-eminence to the Dominion Parliament in cases of a conflict of powers, it is obvious that in some cases when this apparent conflict exists, the Legislature could not have intended that the powers exclusively assigned to the Provincial Legislature should be absorbed in those given to the Dominion Parliament. Take as one instance the subject of 'marriage and divorce' contained in the enumeration of subjects in section 91 : it is evident that solemnization of marriage would come within this general description. Yet 'solemnization of marriage in the Province' is enumerated among the classes of subjects in 92, and no one can doubt, notwithstanding the general language of section 91, that this subject is still within the exclusive authority of the Legislatures of the Province."

Probably the learned Judge could not have selected out of the classes and powers enumerated in sections 91 and 92 any one class or power of more apparent comprehension within and identity towards each other, or seemingly more likely to create a conflict of legislation. Yet which, when read by the light of the causes that led to the division and separate assignments of the power of legislation thereon, exclusively to the general Parliament on one branch and to the Local Legislature on the other, could more conclusively have proved not only the reason but the wisdom of the distribution, and that, by "this sharp and definite distinction," conflict of legislation would be avoided ; and that there is not the slightest occasion for torturing the Act to reconcile its, at first view, apparently different parts. The assignment on the first branch arose from a determination in the framers of the constitution that on this important subject of the *contract* of marriage and its dissolution or divorce there should be throughout the whole Dominion unity of legislation. That there should not be polygamy or Mormonism in one Province, and in another incidents attached to the contract or facilities for its dissolution inconsistent with a healthy moral tone or the regulations of well organized society. This power, therefore, was limited *exclusively* to the Parliament of the whole, but the mode or ceremony by which you might enter into the contract was entirely a different matter. Throughout the different Provinces, on that subject, the sentiments were essentially different. In some it was regarded by the main body of the people, in Quebec for instance, as of a religious character ; in others by large numbers as of a civil characted ; and in all the right was claimed to have the ceremony celebrated as they themselves determined. Yet the time had been in those Provinces when the law only permitted that ceremony to be performed by the ministers of the Church of England or of the Roman Catholic Church. Years of successive legislation had given to the ministers of other Churches and other denominations the power, and in some instances, to such extent was it carried, that individual ministers of newly formed and previously unknown and unrecognized congregations were authorized by name, by personal legislation, so to do. Sir Wm. Ritchie, C.J., can recall the legislation of this nature in the Provinces of Nova Scotia and New Brunswick to which reference is now made.

This was a power, therefore, the separate Provinces did not choose to forego or place in any other hands whatever ; each Province was to speak for itself, and legislate for itself *exclusively* as to the solemnization of marriage. Thus it is impossible there can be any conflict and reversing the words of Sir Montague Smith, it was "foreseen that this sharp and definite distinction had been and could be attained, and that none of the classes of subjects assigned to the Provincial Legislatures unavoidably ran into or were embraced by some of the enumerated classes of subjects in section 91." A similar analysis will show that with reference to every other class of subjects and assignment of powers in the two sections, the same rule will apply. The word "exclusively" was intended to prevent conflict, and was intentionally used. It was, moreover, intended to give to the general Parliament the great preponderance of power. Whether that was wise or not, or whether the