

courts of criminal jurisdiction, but including rules of procedure in criminal cases. If I am not mistaken, that paragraph signifies that the General Government may establish judicial tribunals in the several Confederate Provinces. I should much like to be enlightened on this head by the Hon. Attorney General for Lower Canada.

HON. MR. CARTIER—I am very glad that the honorable member for the County of Quebec has put this question, which I shall answer as frankly as that of the hon. member for Montmorency. My hon. friend will find, if he refers to the paragraph which he has cited, that it gives the General Government simply the power of providing for the execution of the laws of the Federal Government, not of those of the local governments.

HON. MR. CAUCHON—I have listened to the explanations of my hon. friend the Attorney General for Lower Canada, and I find them perfectly satisfactory, as they regard criminal law; for that is the same or nearly the same in all the provinces. For my own part, I infinitely prefer the criminal law of England to that of any other country. It affords more protection to the party accused, than, for instance the criminal code of France does. The civil laws of the latter, by the way, have my warm admiration, as have also their administrative talent and their aptness for civilizing influences. (Hear, hear.) If the English criminal law gives the criminal too great a chance of escaping, it at least saves society the stigma of condemning the innocent. The accused is tried for the single act for which he is indicted, and is not questioned concerning his whole past life and conversation. The laws of commerce are nearly the same in all countries, and those which rule the trade of two continents may be said to be founded on an ordinance of a king of France. Accordingly, there will be no inconvenience in bringing commercial causes, as well as others, for adjudication before the Court of Appeals mentioned in the scheme of Confederation. I am convinced that if ever that tribunal comes into existence, it will be composed of the most eminent men in the several provinces, who will devote their whole energies to the causes brought before them, but the majority of whom will have studied and practised a code different from ours; although the laws of Upper Canada, for instance, have a constant tendency to coincide with our civil code:

BLACKSTONE, with his national common law which he aimed at establishing, being no longer the great authority which he was in former days, and England, like Germany, drawing rather from the pure spring of Roman law, as the most perfectly rational code in existence. We have not, however, yet come to this position of things in our provinces, and, up to the present hour, English law consists rather of precedents and decisions of eminent judges, like Lords MANSFIELD, COKE, and others; and as the scheme of a Constitution makes an exception in favor of our civil laws, it would be most prudent, in my opinion, to leave the decision of our causes to those judges who have studied and practised them. Nothing is as yet written in the Constitution concerning them, and nothing stands in the way of the desired exception. (Hear.) I am aware that it may be attended with some inconveniences and that in this behalf concessions may have been, perforce, submitted to in order to obtain others; but I think that on reflection it will be found best for all concerned to have the laws enforced rather by those who understand them than by those who do not. (Hear, hear.) I now come, Mr. SPEAKER, to the question of marriage and divorce. The word divorce has sounded strangely upon Catholic ears through the length and breadth of Lower Canada; for the Catholic, whether he live in Rome, in London, Paris, New York, Halifax or Quebec, does not recognize any authority on earth with power to sanction or legalize divorce. Such is what the Catholic believes, whether he be the Sovereign Pontiff, ruling spiritually over 200,000,000 souls, or the humblest or poorest of the faithful, with nothing to shelter him from the fury of the elements but the thatched roof of his cabin. (Hear, hear.) That is what I believe, in common with all the Catholics of the world; but here, in this House, composed of Catholics and Protestants, I feel that I need, in order to be understood, to speak in another language, which will be understood by all, because it is based upon principles anterior to Christianity and universally admitted. What is marriage, considered as a natural contract? It is the social formula; it is, as I had occasion to write elsewhere, the natural mode of transmitting property, which is the fundamental base of society, and, to go farther, society itself in its constitution. (Hear,