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## THE APPOINTMENT OF JUDGES—AND DELEGATION OF JUDICIAL DUTIES.

By the B. N. A. Act, s. 96, it is provided, that, "The Governor-General shall appoint the judges of the Superior, District, and County Courts, in each Province, except those of the Courts of Probate in Nova Scotia and New Brunswick." The effect of this enactment appears to be to repeal all pre-existing powers for appointing judges, and all prior enactments providing for the appointment of judges in any of the Courts named, and from and after the 1st July, 1867, to vest the sole power of appointment in His Excellency the Governor-General.

It will be noticed that the section is somewhat peculiarly worded, and the exception is of something which is apparently not included in the preceding part of the section, which is confined to judges of Superior, District, and County Courts. Division Courts and Surrogate and Probate Courts and Justices of the Peace are not included in the prior part of the section, and because they are not so included, the Province of Ontario claims and exercises the right to appoint judges of Surrogate Courts and Justices of the Peace and Police Magistrates in Ontario, and it might also, if it saw fit, appoint judges of Division Courts: see *Re Wilson v. McGuire*, 2 Ont. 118.

All courts and judges having jurisdiction in the various provinces at the time of Confederation continued to exist and exercise jurisdiction after the B. N. A. Act took effect; but it seems reasonably clear that any powers theretofore exercised or conferred by the former Parliament of Canada, in reference to the future appointment of judges, or the future delegation of judicial functions, necessarily came to an end if in conflict with any express provision of the B. N. A. Act. Any other interpretation