

Act of 1867. But it was held that the Imperial Acts overrode the Colonial Act and were not impliedly repealed by the Act of 1867." And on p. 449: "How far the Imperial Parliament should pass laws framed to operate directly in the colonies is a question of policy, more or less delicate, according to circumstances. No doubt has been suggested that if such laws are passed they must be held valid in colonial courts of law."

The above quotations may be supplemented from Maxwell on the Interpretation of Statutes, 2nd ed., pp. 168, 169, 170, and by Mr. Clements' work on the Canadian Constitution at pp. 55, 56. The case of *Reg. v. Schram and Anderson*, which arose in 1864, may be referred to as illustrating our want of appreciation of our subjection to the supremacy of the Imperial Parliament. In that case the defendants were charged under the Foreign Enlistment Act, 50 Geo. 3, c. 69 (Imp.) with having tried to procure inhabitants of Ontario to enlist in the American army. In spite of express words making the Act applicable to all parts of the empire, it was seriously argued that it was not in force in Canada, because we had, at the time it was passed, a local legislation. The judgment of the court was however that the Act was in force here in Canada.

Munro in his work on "The Constitution of Canada," at p. 266, thus refers to the case mentioned at the beginning of this article: "It is true that in *Holmes v. Temple* the judge of the Quebec Sessions held that 'Exclusive' meant 'exclusive of the Imperial Parliament,' and dismissed a prosecution for persuading a soldier to desert, brought under the Imperial Army Act of 1881, on the ground that the Dominion Parliament had 'exclusive' jurisdiction in matters relating to militia, military and naval service and defence, but the Ontario Court of Queen's Bench in another case (*Reg. v. College of Physicians and Surgeons of Ontario*, 44 U.C.Q.B. 564) laid down the true principle, viz.: that the word 'exclusive,' as applied to Dominion power of legislation in the Act meant exclusive of provincial legislatures. A similar view was expressed in *Smiles v. Bedford*, 1 Ont. App. 436, in regard to the Dominion power of legislating on copyright, which by section 91 of the Act of 1867 is placed within the exclusive jurisdiction of the Dominion Parliament, and yet was affected by Imperial Acts (38 & 39 Vict., c. 53, and 49 & 50 Vict., c. 33), passed after the Union. In Hassard's Canadian Constitutional History and Law, reference