

## CORRESPONDENCE.

the sweeping force of section 91, is reserved exclusively to the authority of the Dominion Parliament." In fact, the pith of the whole contention is involved in this enquiry.

This surely is a question upon which a difference of opinion is allowable. If so, I fail to see what objection can be reasonably entertained to the expression of the views which I hold upon it. Free discussion is helpful to the elucidation of truth, so long as it is conducted with propriety and forbearance on both sides. This rule I have sought to follow. Whether it has been equally respected by my opponent I leave your readers to decide.

The brevity of my remarks upon the point at issue has been complained of. But I must say in answer to this, that I took pains to state the substance of my argument with the utmost possible conciseness. By general consent the whole question turns upon the query above stated, and this is one of fact as well as of law. Abstractly considered, the expediency of relegating matters of such high import as the provincial administration of justice to the exclusive jurisdiction of the Local Legislatures of Canada, might reasonably admit of dispute. But the fact that Lower Canada was unwilling to enter Confederation unless secured against the possibility of outside interference with her juridical system is notorious, and will serve to explain this, as well as some other peculiar features in the British North America Act. Upon the constitutional question I was careful to urge whatever occurred to me as being material in support of the opinions expressed, as a slight contribution towards the final determination of this important issue. I now gather from "Your Reader's" letter, that the *Thrasher Case* is about to be submitted to the Supreme Court of the Dominion, a tribunal of acknowledged competency to decide upon it. Under these circumstances it would be superfluous and unbecoming in me to attempt to prolong the controversy.

I cannot refrain, however, from noticing two or three statements in "Your Reader's" letter. He says, "the change of [my] opinions in the Letellier case should have taught [me] a lesson." I am at a loss to imagine what your correspondent means by this assertion. For it is well known to all who care to ascertain the fact, that I have never altered my published opinions on the Letellier question in the slightest particular.

Again, "Your Reader" insinuates that I "may possibly have received communication, perchance at Ottawa, perchance at Victoria, or elsewhere, which has, may be unconsciously, had an influence in biasing [my] mind." Really this supposition is a poor substitute for argument, and a very unworthy weapon of attack. I might content myself with the assertion that this assumption is utterly untrue. But I will go further, and say that my opinions, be they sound or unsound, are exclusively my own, and that I have purposely refrained from inviting discussion with any one upon the matter. I know nothing of the sentiments of any person, either in Ottawa, Victoria or elsewhere, upon the merits of the *Thrasher* judgment, save only what I have seen in print, with the solitary exception of the opinions voluntarily expressed to me by two leading lawyers of Ontario, who both concurred in endorsing the position taken in my letter of May 1st to your journal. One of them added that he should have been disposed to press my conclusions still further. Were I at liberty to mention the names of these gentlemen, they would be recognized by common consent as two of the most able and experienced constitutional lawyers in Canada.

I have only to add, in reference to "Your Reader's" expressed surprise at my assertion that the British Columbia Judges had in vain appealed for support against the Local Legislatures to the Imperial as well as to the Dominion Governments - a statement which he declares I must have gathered from some source outside of the judgment, - that I find my warrant for it in Mr. Justice Crease's remarks (pp. 37, 38 of the *Thrasher Case*), where he refers to a protest, signed by all the Judges of the Court, addressed "to the Minister of Justice, and (it being ultimately possibly an Imperial matter) to the Secretary of State." But, it is added, "their most urgent representations to both Governments failed to elicit one single legal reason in answer to their respectful protests."

It is undoubtedly a subject for regret that the Dominion Government has not, so far as we know, seen fit as yet to authorize an investigation into the grievances complained of by the British Columbia judiciary. For while the jurisdiction of the Provincial Legislatures in all matters assigned to them in the distribution of powers, by the 92nd section of the B. N. A. Act,