The change of name is so easy of accomplishment as not to present any difficulty, especially as the device just described made the terms "Judge" and "Magistrate" interchangeable.

The undersigned deems it unnecessary to advert at any length, in this place, to the provisions of the disallowed Act abolishing the Circuit Court, as affecting its constitutionality.

Reference to that point would seem wholly unnecessary, excepting for the assumption indicated in the Order in Council under consideration, that every kind of Provincial Legislation which has not been distinctly questioned is admitted to be correct; and but for the fact that the power to abolish is stated by the Order in Council to have been "not even questioned by the Minister of Justice." In passing, it may therefore be proper to say that instances may perhaps be suggested in which the power of Your Excellency and of Parliament to remove Judges might be usurped by Provincial Legislatures in the exercise of their authority as to the constitution and organization of the Courts. Cases may be suggested in which in the exercise of this power, a Court might be abolished for the purpose of removing one or more Judges, and, no doubt, in such a case, the control of the Federal authority would be called for, and the power of disallowance would be exercised.

In the consideration of the Act which is at present the subject of discussion, it has been assumed by the undersigned, and is still assumed, that the abolition of the Circuit Court was not for the purpose of usurping the power of removing Judges, but was done to accomplish the setting up of a new tribunal. He does not therefore deem it necessary to place undue stress on the fact that the disallowed Statute had the effect of abolishing the Circuit Court.

It seems necessary, however, to call attention to the important misconception, which seems to prevail throughout the reasoning presented by the Order in Council of the Quebec Government, that the allowance of Provincial Legislation is, in all cases, an admission of the validity of such legislation, and an admission which has the effect of depriving the Federal authority of the right or power of disallowing Statutes similar to those which have been permitted to go into operation.

No such inference can properly be drawn. It is apparent to any person conversant with the subject that many Provincial Statutes which have been left to their operation contained provisions beyond the powers of the Provincial Legislatures, and that many others which have been left to their operation contained provisions of very doubtful validity.

The reasons for this are not difficult to find. In the early history of Confederation the Provincial Legislatures were naturally inclined to follow the lines of legislation which had, for so many years, been pursued in the Parliament of the Provinces. The provisions of the British North America Act were novel. Its operation had not been illustrated by the precedents which have since marked out with greater distinctness the difference between the authority of Parliament and the authority of the Legislatures, and in the early years of the Union, interference with Provincial Legislation was perhaps