

national power, but its exercise, which is incompatible with the exercise of the same power by the States."*

So far, indeed, as their lordships in the above part of their judgment have stated that provisions affecting matters otherwise within the jurisdiction of provincial legislatures may be enacted by the Dominion Parliament as ancillary to a system of bankruptcy legislation, they are merely repeating the principle laid down by them in 1880 in *Cushing v. Dupuy*† that: "In assigning to the Dominion Parliament legislative jurisdiction in respect to the general subjects of legislation specified and referred to in section 91 of the British North America Act, the Imperial statute by necessary implication intended to confer on it legislative power to interfere with matters otherwise assigned to provincial legislatures under section 92, so far as a general law relating to these subjects so assigned to it might affect them," a principle which has been illustrated in a great number of cases. But it will be seen that the matter has now been carried further by the statement that the provincial domain having been thus legitimately invaded by the Dominion Parliament, "the provincial legislature would, doubtless, be then precluded from interfering with this legislation, inasmuch as such interference would affect the bankruptcy law of the Dominion Parliament"; and the important thing, it seems to me, is to attach the proper weight, and no more than the proper weight, to the words "interfering" and "affect" in this passage.

It will be remembered that in their other recent decision in *Tennant v. The Union Bank of Canada*‡ their lordships observed that "section 91 expressly declares that, 'notwithstanding anything in this Act,' the exclusive legislative authority of the Parliament of Canada shall extend to all matters coming within the enumerated classes, which clearly indicates that the legislation of that Parliament, so long as it directly relates to those matters, is to be of paramount authority." But now they are dealing, not with legislation by the Dominion Parliament strictly relating to the enumerated classes of subjects in section 91, but to legislation invading the provincial domain by provisions merely incidental and ancillary to the former. Now, there can be no doubt, I sub-

* See also Bryce on the American Commonwealth, vol. 1, at p. 321.

† 5 App. Cas., at p. 415; 1 Cart., at p. 258 (1880).

‡ 10 T. L. R., at p. 150 (1893).