

PRIORITY OF PROVINCIAL GOVERNMENT OVER OTHER SIMPLE CONTRACT CREDITORS—PREROGATIVE OF CROWN.

In *Maritime Bank v. Receiver-General of New Brunswick* (1892), A.C. 437, the Judicial Committee of the Privy Council affirm the judgment of the Supreme Court of Canada, holding that the Provincial Government of New Brunswick, by virtue of the royal prerogative, is entitled to priority of payment of simple contract debts in priority to other simple contract creditors of the debtor. As to Ontario, see observation of Armour, C.J., *Attorney-General v. Clarkson*, 15 O.R. 632, at p. 639. This case decides that the connection between the Crown and Province is not severed by the B.N.A. Act, but that the same connection exists between the Crown and the various Provinces as between the Crown and the Dominion; and consequently all prerogative rights affecting matters under the control of Provincial Governments may be claimed and exercised by such governments on behalf of the Crown; and the Lieutenant-Governors of the Provinces are as much representatives "of Her Majesty for all purposes of the Provincial Government as the Governor-General himself is for all purposes of the Dominion Government."

MANITOBA SCHOOLS ACT, 1890, VALIDITY OF.

In *Winnipeg v. Barrett* (1892), A.C. 445, the Judicial Committee uphold the validity of the Manitoba School Act, 1890, abolishing the denominational system of public education in that Province. This case has been so much canvassed and discussed that further reference to it here seems unnecessary.

FRAUD—NEW ISSUE AS TO NEGLIGENCE CANNOT BE RAISED IN APPEAL.

Connecticut Fire Ins. Co. v. Kavanagh (1892), A.C. 473, was an action brought by the insurance company against the defendant, who had acted as their agent, charging that the defendant had fraudulently transferred an insurance in his books after a fire had occurred from another company of which he was also agent to the plaintiff company. At the trial, the plaintiffs failed to prove the charges of fraud and deceit. On appeal to the Privy Council, the plaintiffs contended that the evidence disclosed such negligence on the part of the defendant as would make him liable to indemnify the plaintiffs against the loss they had incurred under the policy in question. But the Judicial Committee was of opinion as fraud was the essence of the plaintiffs' claim that the evidence of the defendant directed to that issue could not be regarded as conclusive against him as regarded the charge of negligence, or as being all that he could have brought forward to rebut such a charge, and that therefore it was not open to the plaintiffs to take that ground on appeal, although it might have been otherwise if the question had been raised at the trial.

WIDOW'S RIGHT OF ACTION FOR CAUSING DEATH OF HER HUSBAND—QUEBEC CODE, s. 1056—(R.S.O., c. 135, ss. 3, 5).

Robinson v. Canadian Pacific Ry. Co. (1892), A.C. 481, was an appeal from the Supreme Court of Canada. The action was brought under s. 1056 of the Quebec Code by a widow to recover for damages for causing the death of her husband. The injury from which the deceased ultimately died was sustained on Aug. 27,