

followed from the fact that it was undertaking to confer proprietary rights in regard to a subject matter which the British North America Act did not authorize it to control *to this extent*. It is clear that, as the power of Provincial Parliaments to make laws respecting property and civil rights is exclusive under that Act (sec. 92, sub-sec. 13), the Dominion Parliament can possess a like power only in cases in which it has been expressly given by section 91, or some other power has been conferred which is of such a nature that its exercise necessarily involves the creation of proprietary rights in favour of the Dominion. For example, the former predicament arises under sub-sec. 1, the latter under sub-secs. 9, 11, 24, 28. All that the Privy Council now decides is that sub-sec. 12 is not one of those which fall into the second category.

The principle announced by Lord Herschel therefore, so far from being inconsistent with the doctrine as to plenary legislative powers, applies that doctrine in the only form in which it can be applied in a country of co-ordinate legislatures, both deriving their authority from the same source, and each supreme within the jurisdictional domain allotted to it. Obviously the legislative powers conferred upon any of the Canadian Parliaments, whether Dominion or Provincial, can be regarded as plenary only in so far as their exercise will not derogate from or trench upon the exclusive powers reserved to some other Parliament. In other words, that totality of plenary legislative power which must be lodged somewhere in every self-governing state is in Canada portioned out among several law-making bodies. Whether the Dominion Parliament, or one of the Provincial Parliaments, is to exercise any given part of that totality of power, is a question to be settled, as in the case under review, by a reasonable construction of the organizing statute. It is manifest, in fact, that, under any other theory of the constitution, the effect of the section of the Act which declares certain powers to be lodged exclusively in one or other of these Parliaments would be completely nullified.

This conception of the distribution of the entire sum of legislative jurisdiction among several bodies is, we imagine,