nal jurisdiction of the Courts of Queen's Bench and Common Pleas, as those courts existed before the Judicature Act, still remained vested exclusively in the Queen's Bench and Common Pleas Divisions of the High Court of Justice. But the case of the *Queen* v. *Fee* seems to show that this opinion may not be well founded, and that it is possible that the Chancery Division has now co-ordinate jurisdiction with the other Divisions, in criminal, as well as civil proceedings. This point, it is true, was not distinctly adjudicated upon in the *Queen* v. *Fee*, for in that case it appears to have been assumed by both counsel and the Court that the Chancery Division was entitled to exercise jurisdiction in criminal matters. It appears to us, however, to be a question not altogether free from doubt.

The impression to the contrary has probably to some extent arisen from a perhaps too cursory consideration of certain passages in the Judicature Act and Rules. Section 87 of the Judicature Act enacts that "nothing in this Act or in the Schedule thereto affects, or is intended to affect, the practice or procedure in criminal matters, or matters connected with Dominion controverted elections, or proceedings on the Crown or revenue side of the Queen's Bench or Common Pleas Divisions." Rule 484 further provides that "nothing in these Rules shall be construed as intended to affect the practice or procedure in criminal proceedings, or proceedings on the Crown or revenue side of the Queen's Bench or Common Pleas Divisions." The expression "Queen's Bench and Common Pleas Divisions," in both these enactments appears to be a slight anachronism for *qua* "Divisions" that had no previous existence. Its use seems rather to suggest the idea that these two Divisions are still to exercise exclusive jurisdiction in the matters specified. If it is intended to apply to the future practice of the High Court, instead of Queen's Bench and Common Pleas Divisions, the proper expression to have used was "the High Court of Justice."

It will be observed, however, that both the section of the statute and the rule cited above are in terms confined to "practice or procedure." The constitution or jurisdiction of the court does not appear to come under either of those heads; and it seems therefore clear that the section and rule above cited do not really affect the question we are considering. (See per Strong, J., *Mitchell* v. *Cameron*, 8 S. C. R. 135.)

By the British North America Act, s. 92, ss. 14, "the administration of justice in the Province, including the constitution, maintenance and organization of Provincial Courts, both of civil and criminal jurisdiction, and including procedure in civil matters in those courts" is vested in the Provincial Legislature. It is clear from this that the Provincial Legislature has power to constitute, maintain and organize Provincial Courts of criminal jurisdiction; but the power to constitute a court of criminal jurisdiction does not appear necessarily to include the right explicitly to define the particular criminal jurisdiction to be exercised by it. This proposition may seem to savour of paradox, but a little consideration will show that it is perfectly tenable. There is no necessary inconsistency in saying, that though true it is that the Provincial Legislature has the power to constitute, organize and maintain a court of criminal jurisdiction, yet that the power to determine the precise nature and limits of the criminal jurisdiction which the court so constituted is to exercise, rests with the Dominion Government, and this we think, it may not unreasonably be argued, is the real effect of the B. N. A. Act.

Were it otherwise, it would be possible for the Provincial Legislature to make