

an authoritative declaration of law be enunciated, so it enhances the responsibility of those called on in the midst of such a conflict of opinion to declare authoritatively the principles by which both Federal and Local legislation are governed.

Previous to Confederation, the Governor or Lieutenant-Governor, Council, and Assembly, in the respective Provinces of Canada, Nova Scotia, and New Brunswick, formed the legislative body of the Provinces, subordinate, indeed, to the Parliament of the Mother Country, and subject to its control, but, with this restriction, having the same power to make laws binding within the Province that the Imperial Parliament has in the Mother Country, and the propriety and necessity of such enactments were within the competency of the Legislature alone to determine. As the House of Commons in England exercised sole jurisdiction over all matters connected with controverted elections except so far as they may have restrained themselves by statutory restrictions, the several Houses of Assembly always claimed and exercised in like manner exclusive right to deal with and be sole judges of election matters, unless restrained in like manner, and this claim or the exercise of it I have never heard disputed. On the contrary, it is expressly recognized as existing in the Legislative Assemblies by the Privy Council in *Theberge v. Landry*, L. R. 2 App. Cas. 102.

When the Provinces of Canada, Nova Scotia, and New Brunswick sought "to be federally united into one Dominion under the Crown of the United Kingdom of Great Britain and Ireland, with a constitution similar in principle to that of the United Kingdom," it became absolutely necessary that there should be a distribution of legislative powers, and so we find the exclusive powers of Provincial Legislatures very specially limited and defined, while legislative authority is given to the Parliament of Canada to make laws for the peace, order, and good government of Canada in relation to all matters not coming within the classes of subjects by the Act assigned exclusively to the Legislatures of the Provinces; and for greater certainty, but not so as to restrict the generality of the foregoing terms, it is declared that notwithstanding anything in the Act the exclusive legislative authority of the Dominion of Canada shall extend to all matters

coming within the classes of subjects next hereinafter enumerated.

It will be observed that in the classes of subjects thus enumerated, either with respect to the powers of the Provincial Legislatures or those of the Parliament of Canada, there is not the slightest allusion, direct or indirect, to the rights and privileges of Parliament or of the Local Legislatures, or to the election of members of Parliament or of the Houses of Assembly, or the trial of controverted elections or proceedings incident thereto. The reason of this is very easily found in the statute, and is simply that before these specific powers of legislation were conferred on the Parliament and on the Local Legislatures, all matters connected with the constitution of Parliament and the Provincial constitution, had been duly provided for, separate and distinct from the distribution of Legislative powers, and of course overriding powers so distributed; for until Parliament and the Local Legislatures were duly constituted no legislative powers, if conferred, could be exercised. Thus we find that immediately after declaring that there shall be one Parliament for Canada consisting of Queen, Senate, and House of Commons, the Imperial Act provides for the privileges of those Houses in these terms:—

"The privileges, immunities, and powers to be held, enjoyed, and exercised by the Senate, and by the House of Commons, and by the members thereof respectively, shall be such as are from time to time defined by Act of the Parliament of Canada, but so that the same shall never exceed those at the passing of this Act held, enjoyed and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland, and by the members thereof."

After declaring what the constitution of the House of Commons shall be, and defining the electoral districts of the four Provinces, it makes provision for the continuance of existing election laws until the Parliament of Canada otherwise provides, in these words:—

"Until the Parliament of Canada otherwise provides, all laws in force in the several Provinces at the Union relative to the following matters or any of them, namely, the qualifications and disqualifications of persons to be elected or to sit or vote as members of the