judicial decision from all parts of the Dominion, tempered and corrected by the Supreme Tribunal, before its true form and features will become perfectly developed, and therefore every question concerning its construction should be carefully considered, and amongst the many questions that may be raised none, perhaps, will be more important than those concerning the distribution of Legislative power. Now it seems to me that if this Island had been a new country, or one, on its entry into the Dominion, possessed of no Legislative power, a grant of power to make laws in relation to property would be understood to apply to regulations respecting property still continuing vested in its owners, and would confer only a limited jurisdiction as contended for by Mr. Hodgson, a jurisdiction amply sufficient for securing to them the full enjoyment of it, for regulating the manner in which it should be held, transferred, or devolve, and at the same time of imposing such restraints on the use of it as the public good might require, and also the further power of depriving owners of their property for *public* uses, but for *public* uses only, when and only when some "great "public emergency, which could reasonably be met in no other way," rendered it necessary to do so, but would not confer that omnipotent sovereign power which acknowledges no restraint but its own discretion, and whose acts (unlike these of a body with limited power) can never be "*ultra vires*," and therefore cannot be questioned before any tribunal. But this Island had a constitution similar to that of the other B. N. A. Provinces when it entered the Confederacy, and the powers of its Legislature over property and civil rights were as sovereign as those of the British Parliament itself, save only where its enactments happened to conflict with the Imperial Statutes, or were repugnant to the established law of England, though this last restriction seems to be abolished or greatly modified by the Imperial Acts 26 & 27 Vict. c. 48 & 28, and 29 Vict. c. 63. The B. N. A. Act of 1864 does not abrogate these Provincial constitutions, but merely withdraws from them the power of making laws regarding certain matters enumerated in the 91st section, over which they previously had jurisdiction. But as to all matters not so withdrawn, the Provinces remain in —— of their "old "dominion," and retain their jurisdiction over them in the same plight as it previously existed, and therefore I think we cannot hold this Act to be "*Ultra Vires*."

*Stewart's Deeds to Children.*

I must now turn to points applicable to the particular case of R. B. Stewart. His Counsel, while insisting on all these objections, states that he does not desire to have the award quashed, but only to have the injunction continued until legal money be paid to the Treasurer in his case; and secondly, that the Public Trustee be entirely restrained from including in his conveyance to the Commissioner of Public Lands certain parcels of land conveyed to his children. The facts, so far as I can gather them from the very loose and uncertain statements of his affidavit, are these, that before the case came before the Commissioners for hearing, he conveyed 1,499 acres of land on Lot 7, 500 of which were leased, and 999 unleased, to his son, James F. Stewart. That he also conveyed 4,000 acres on Lot 30 to his son, Robert Stewart, or to his sons. This would make 5,500 acres, but in the affidavit of Mr. Davies, the Plaintiff's Solicitor, he says he has conveyed 7,000 acres, but the affidavits are so confused that one cannot ascertain what the exact quantity is, and, what in my view of the case is more important, with the exception of the 500 acres of leased land conveyed to James F. Stewart, I cannot find how much of what he did convey was *leased*. I can, therefore, only state generally what in my opinion Mr. Stewart's right and power over his property was, between the service of the notice of intention to purchase and the hearing of his case, and in this point my opinion, and that of my learned brothers, is entirely different.

The notice of intention to purchase, in my opinion, does not, so far as any *provision in the Act is concerned* (except as regards the arrears of rent), in any way interfere with the proprietor's dominion over his property. The 49th Sec. enacts that, "after the "Commissioner of Public Lands shall have given notice to any proprietor under the "2nd Sec. of this Act, no such proprietor to whom any such notice shall have been "given, shall maintain any action at law for the recovery of more than the current year "and subsequent accruing rent due to him." There is not a word in the Act which prevents his selling, leasing or disposing of it. When the case comes before the Commissioners, proof of perception of the rents and profits by the proprietor named in the notice, or of his right to them, makes a *primâ facie* case giving the Commissioners jurisdiction to proceed, but if during the trial it appeared that the proprietor had sold or conveyed portions (not in trust for himself) but to actual settlers, and that they were then the *bonâ fide* owners, then (as to the portions so sold) the case would fall within