

rules, with geographical modifications. And, possibly, if the power rightly or wrongly assumed by the local Legislature had been exercised in a way useful, or at least not intolerable to the suitors, no question would even now have been raised as to the legality of their assumptions. But at the very end of 1880, two other Acts, "The Better Administration of Justice Act, 1878," and the "Judicial District Act, 1879," came into operation. Against both of these Acts, the Judges had made strong protests, on the ground of unconstitutionality in some of their chief provisions; but both of them had been left to their operation by the Dominion Ministry. That, of course, cannot give them any validity which they do not otherwise possess. The direct effects of these Acts was to split up the Supreme Court into four District Courts, to be conducted each before a Judge of the Supreme Court, banishable into remote districts, and removable from one district to the other at the dictation of the local Executive: exactly the contrary policy to that of the Judicature Act, 1879. And they cast upon the Supreme Court Judges, as an obligation, all the duties of the County Court Judges—all whose judicial duties we had from time to time assumed when necessary, in our discretion under the Ordinance of 1867 (passed before Confederation). But indirectly these Acts did much more. By virtue of the "Mining Act, 1873," the Supreme Court Judge in each district would have to perform all the duties of a Gold Commissioner, including the duty of collecting petty fees and payments, and accounting for the same to the Provincial Treasurer. For it seems clear that if the Local Legislature can arbitrarily impose on a Supreme Court Judge the duties of a County Court Judge, it can with equal autoeracy impose, and has imposed on a County Court Judge the duty of a Gold Commissioner; and if it can do this, I do not see why it has not equal authority to impose on a Supreme Court Judge any other duty in the Province, judicial or ministerial. By the "Minerals Act, 1878," it has equally imposed on every Supreme Court Judge in British Columbia (for gold mining is carried on in every "Judicial District") the duty of holding mining Courts daily throughout the year (Sundays and holidays excepted.) All these Acts or results seem logically to stand or fall together. If any one be constitutional they seem to be all constitutional, and to carry with them the above conclusions. But against these conclusions, or some of them, every Judge now on the Bench has protested, and flatly refused to obey. And the introduction of such laws here has compelled the Judges to look more closely than they were previously inclined to look into the authority for these usurpations.

Up to the year 1880, the constitutionality of Statutes created by derivative legislatures had been but little considered, at least in the British Courts of Justice; nor had it much engaged the attention of British text writers. But *Leprohon's case* in 1880, *Valin vs. Langlois* in 1880 and 1881, *Regina vs. Burah* in 1879, *Todd on Colonial Parliamentary Government*, and *Doutre* (both published 1880), and *Cooley's Constitutional Limitations* (4th edition 1880, the first which were brought to our notice) could not escape our attention; and compelled us, even had there been nothing unusual in the local statutes here to consider their validity in the light of these quite modern discussions. I should be ashamed to admit that these authorities have not enabled me to see more clearly distinctions which up to 1880 I had never been called upon to formulate and define. But I may say that ever since 1872