

side of the line can be affected by any Provincial legislation, and *vice versa*. But a careful consideration of the Act will convince any one that it could not be worked at all if it were to be construed on any such plan.

The critics who adopt this view appear to think that the British North America Act is to be construed in a similar manner to that in which Portia construed the bond of Shylock; but, however such a mode of construction may serve the purposes of poetical justice, we need hardly say that, if applied to the actual affairs of men, it would not do at all.

The fact is that he who would construe the British North America Act aright must come to its consideration, not in the spirit of a mere case lawyer, but in that of a lawyer and a statesman. It must be dealt with as Marshall dealt with the Constitution of the United States. The object of every judge who has to construe our Constitutional Act ought to be to so frame his decision as to carry out the true spirit and intention of that Act, and, in doing so, he ought to strive to avoid any construction that will lead to a virtual deadlock in the legislative machinery, or deprive the people of this Dominion of the fullest rights of self-government, which it was the very object of the Act to secure them.

Mr. Clement, in his valuable work on ... "Law of the Canadian Constitution" (p. 206), very justly observes that a perusal, the most cursory, of the classes of subjects enumerated in the various subsections of ss. 91 and 92 reveals that if, in every case, the full meaning is to be given to the words employed, the classes must inevitably overlap. There is therefore, plainly, an apparent dilemma created by these two sections, which it became the duty of the judges to surmount, and the Judicial Committee have done it by the exercise of a broad and statesmanlike view of the Act, in a way which is entitled, not only to respect, but to admiration.

In the case of *Russell v. The Queen*, the Act was supported as being one for the peace, order, and good government of Canada, and also as regulating trade and commerce. It was contended that it was *ultra vires* because it interfered with property and civil rights, which, by s. 92, is a subject within the exclusive control of the Provincial Legislature. But, on many subjects enumerated in s. 91, it would be impossible to frame any effective