

to be wholly irreconcilable with the principle that the legislative powers granted by the British North America Act are "as plenary and as ample within the limits prescribed as the Imperial Parliament in the plenitude of its power possessed and could bestow."

I am not unmindful of the unpleasant consequences which a controversy with an expert upon his own ground is apt to entail. *Impar congressus Achilli*. But after a perusal of the ingenious arguments which Mr. Lefroy has adduced in support of his position, I own that I cannot help feeling very strong doubts whether the sentence quoted can, when construed reasonably and with due reference to the context, be regarded as fraught with the very grave significance which is ascribed to it. A brief recital of some of the considerations which have given rise to these doubts will form the subject of the following article.

The effect of the principle laid down by Lord Herschel may, if I understand Mr. Lefroy's position aright, be stated thus: The Dominion and Provincial Legislatures may be said to "possess" the property vested in the Crown as represented by the Dominion and Provincial, but neither legislature possesses the property of individuals. Therefore the Privy Council, in declaring that the power to confer proprietary rights exists only where such rights are possessed by the legislature itself, virtually renounces the principle laid down in several of its earlier decisions, that the powers of the Canadian legislatures are plenary.

The vice of this reasoning would seem to consist in the assumption that, under any circumstances, which it is here necessary to take into consideration, a legislature can be said, in the strict technical sense of the word, to "possess" any property whatever. Normally the control exercised by a legislature over property is not accompanied by that present and subsisting *physical* power which, according to the authorities, is an essential element of possession: See Sweet's Law Dictionary, sub voc. "Possession." In this regard I cannot see that there is any distinction between the property of the Crown and the property of individuals. The dominion wielded