Judges in British Columbia, or any one of them, holding his or their Commissions and appointments antecedent to the local Judicial District Act, 1879, to reside in any specially assigned District of the Province, and consequently any order to that effect made under such advice would be unconstitutional.

A judgment to this effect was given in this Court in December last, in the case of The Queen ex relatione the City of Victoria *vs.* Vieux Violand, from which the counsel engaged declined to appeal.

As to this Judicial District Bill, it may be urged, the Judges are interested, for if legal, it affects their position and tenure of office. That objection, however, where all are concerned, cannot be sustained, for if so the suitor would be denied access to any Court of competent jurisdiction in the Province. In such a case it is held that the hearing becomes a matter of necessity and is unimpeachable as if "An action were brought "against all the Judges of the Court of Common Pleas in a matter over "which they had exclusive jurisdiction." Per Lord Cranworth, C., Ranger vs. Great Western Railway, C., 5 House of Lords Cases, 88. See also Broom's Legal Maxims, Edn. 1874, and the cases there cited.

I think, therefore, that the objections taken by the learned Counsel, Mr. Theodore Davie, for the plaintiff, must be sustained,—that the legislation restricting him from being heard is unconstitutional and void, and the Rules of Procedure alleged to have been promulgated by the Lieut.-Governor-in-Council for the governance of this Court are inoperative, and that this Court is bound in duty to exercise the authority it possesses to afford him an opportunity of bringing the plaintiff's case at as early a day as possible before the Court, in order to test the validity of the points raised by him at the trial of this cause. And I may add that the conclusions at which I have arrived have been materially confirmed by the fact that every conceivable and almost inconceivable argument has in a lengthy, most careful and able contention by the Attorney-General as *amicus curiæ* been brought forward against such conclusions without any effect other than to strengthen them.

The following are the conclusions at which it may be briefly said the Chief Justice, Mr. Justice Crease and myself, who have heard and considered the argument, have arrived, (Mr. Justice McCreight whose assistance would have been most valuable, having since July last been absent at Cariboo, and not having had any opportunity of conferring with his brother Judges on the important legal questions constantly coming before the Court:)

1st. That the Supreme Court is not a Provincial court within the meaning of the 14, subsection of section 92 of the British North America Act 1867.

2nd. That the Local Legislature has no control over its procedure, and cannot legislate so as to prevent suitors having access to that court, and having their causes heard, and carried on to final adjudication, so as to have an appeal to the Supreme Court of Canada.

3rd. That the Local Legislature cannot itself make Rules to govern the procedure of the Court or delegate the power to the Lieut.-Governor in council to do so.

4th. That the application of the Judicial District Act to Judges appointed and holding their commissions prior to its enactment is unconstitutional and void.

5th. That the Judges are Dominion, not Provincial officers.