all this special legislation is implied in the few direct and unambiguous words of the 142 Sec. of the B. N. A. Act why insert it in such minute detail in another Act of the same Legislative body, dealing with a cognate subject matter, between the same Provinces?

But there is another piece not of perfected but of intended legislation which may be consulted with profit upon this question. I allude to the Canada Bill, for effecting the Union of 1841, which, after several modifications, became law. In that Bill, as at first prepared by able hands in England and submitted, it was proposed (Sec. 58) to appoint five Arbitrators to establish electoral divisions, two of them to be appointed by each Government, and these to appoint an Umpire; and on their failure to do so within a certain time, the appointments were to be made by the Crown. By Section 60 of the Bill, each Arbitrator was liable to removal by the party appointing him; or (Sec. 61) if his place was vacated by death, resignation or refusal to act, provision was made for filling the vacancy. By Section 64 it was declared that all questions should be decided by a majority of votes. Here, also, is a special provision for compelling appointments—for filling vacancies, and for decision by a majority. But one of the most distinguished judges of Upper Canada, the late Ch. J. Robinson, in his remarks upon the Bill, contained in a pamphlet elaborately prepared and published at that time, objects to the 64th clause, that it is defective inasmuch as it does not fix the number of Arbitrators who must be present when a question was to be decided. "The absence," he says, "of one or two from illness or other cause, might cause the "Board to be unfitly constituted for the peculiar duties it has to perform." Thus, in his opinion, although special powers were given by the clause to a majority to decide, it would nevertheless be necessary that all should be present, unless a *quorum* were fixed by the law. This opinion is coincident with the view under which the special provision already mentioned is made in the Canada Trade Act, that two may proceed in the absence of the third, and is the undoubted rule of both the Civil and Common Law on the subject.

Canada and the Canada Bill, Ch. J. Robinson, pp., 169, 197, 220, 221.

I am convinced that a careful consideration, on the foregoing grounds, of this question of the right of two Arbitrators only under the authority given in the B. N. A. Act to proceed in the absence or even against the dissent of the third Arbitrator, will lead to the conclusion that it cannot be sustained; and, without carrying this investigation further, that no validity can attach to their proceedings and award.

I should be content to leave the whole case here; but it is easy to shew that these proceedings and the award are utterly without foundation of right even upon the narrow technical rules upon which they purport to be based.

If the words of the Statute are to be overridden by the rules of some municipal law, the first question which presents itself, is: in what system of municipal law are these rules to be looked for? The authorities cited have been chiefly those applied in the construction of powers in cases before the Courts in England upon instruments executed there; but no reason or precedent has been produced or can be found, to justify the position that upon a Statute of the Imperial Parliament which merely embodies a convention between two Provinces, to be executed within, and for the