

The course that ought to have been taken would be to enforce it upon them, either by the Queen's Bench in Canada, which has the same powers as the Queen's Bench in England, or by the Dominion Court, which is constituted in this very British North American Act, or, in the last resort, if there was any difficulty, I have always understood that this Court stood to the Province in the same relation as the Queen's Bench stands to England, and I think I can cite to your Lordships, with a little looking up, many cases in which orders have been granted by this Court to the Colonies to do certain things. And if there be a great public duty resting upon a man I cannot conceive that there is any difficulty, because he happens to be in a Colony and not in England, in enforcing upon him the performance of that duty.

LORD SELBORNE:—Do I understand you to suggest that the Court of Queen's Bench in this country would grant a mandamus?

MR. BOMPAS:—The Court of Queen's Bench in the Colony, as I understand; an individual is subject to the Court of which he is domiciled.

THE LORD CHANCELLOR:—But assuming that, could the Court of Queen's Bench in the case of a similar Act of Parliament to this in this country grant a mandamus?

MR. BOMPAS:—I apprehend beyond all question.

THE LORD CHANCELLOR:—Compelling the Referee to attend.

LORD SELBORNE:—Yes; I apprehend so. I do not conceive there being a mo-

MR. BOMPAS:—The whole of the precedent have upon that subject?

THE LORD CHANCELLOR:—The whole of the Quarter Sessions and the Recorder seem to me, as I understand—

LORD SELBORNE:—This is not a Court constituted for the Administration of Justice.

MR. BOMPAS:—There is the case of *Fletcher v. Penison* under the Clergy Discipline Act.

LORD SELBORNE:—If your argument is not right, that his presence was necessary, there is nothing to prevent the arbitration going on in his absence. How could the Court give a mandamus to compel him to be there if his presence was not necessary?

MR. BOMPAS:—Of course I am not urging that if he is a man who had no statutory duty to attend, that is to say, if this tribunal was a corporation, and it was sufficient for two out of the three to be present and there was no duty on the third, then I should see great difficulty in holding that a mandamus would lie. I am answering the argument, as I understand it to be on the other side, that two must be sufficient, because otherwise the third could defeat the whole object of the Act by keeping away. I say it is not necessary to hold the whole object of which, I submit, is contrary to *Grindley v. Barker* and *Ex parte Rids*, in *7 Cowen* and to the *dicta* in one or two of the other cases which were cited by my learned friend. It is not necessary to hold it, because if your Lordships were to hold that this was a tribunal appointed, of which the three must meet to perform the acts of the tribunal, then it would follow that the power of enforcing the attendance is, as I pointed out to your Lordships, exercised constantly in ordinary arbitrations by the French courts and was by the Roman courts under the Roman law, and is not only in the courts of justice of which the Court of Queen's Bench may be considered to be the head, but in the case of inferior tribunals which certainly, I submit, differ little from a tribunal constituted by Act of Parliament, that the power exercised by the English Court of Queen's Bench in such cases would be equally exercisable by the Court of Queen's Bench in whatever Province the arbitrator was domiciled. It would be a statutory duty which he having accepted is cast upon him and a statutory duty which I apprehend could without difficulty