

powers of legislation for the future as they pleased, without respect to the "rights" of the past. There were no rights in the question which a court of law can recognize. The people of the four provinces, united together in the new form, were endowed with even greater rights and larger powers than before, but the legislative control and direction of affairs were placed under two distinct legislative bodies. The greater power was that of the Dominion. The full and complete exercise of that power was vested in the Parliament of the Dominion, but certain geographical distinctions were retained, and the provinces were allowed, under the machinery provided in the Act, to legislate upon certain specified local subjects as a matter of convenience. Now, I cannot understand what the learned judge means when he talks about political rights which remained in, or belonged to the Province of Ontario. What rights could Ontario have had? There was no such political entity or corporation; there was no such province in a legal sense. It was a geographical expression. It is true you will find that our statutes from 1840 down, were applicable, some to Lower, and some to Upper Canada. The old distinction was kept up to limit the operation of certain statutes in consequence of local laws that had previously existed in the provinces. So far as the people of Lower Canada are concerned, I admitted on Saturday and I admit to-day, that from the peculiar circumstances under which the French inhabitants of Quebec were dealt with after what the English call the "conquest," and they call the "cession," certain privileges and rights were reserved or secured to them by a so called treaty. But those rights were not secured to Quebec according to her present liminary lines. They were conceded to the French population who were scattered at that time over the whole northern part of this continent. The cession was not restricted to the Province of Quebec as bounded at present. These boundaries were established under English jurisdiction; the French never bounded their province on the north; therefore, when rights were reserved to the French inhabitants of this colony, they extended to the *people*, and not to any geographical or territorial circumscription or boundary. So, the pretence that there ever was any grant or reservation of particular rights to British immigrants who came to Canada since the cession, and are now living within territory formerly part of the Province of Quebec, is altogether unwarranted in the history or reason of the case. But starting out with that wrong assumption—that mistake as to the very origin and foundation of the legislative power of the provinces and of the Dominion—I am not surprised that his lordship falls into error in that, as well as in other respects. He says:—

"The term 'all lands' must be held to include any interest which the province then held, or was entitled to in the lands, including any reversionary interest, or interest incident to the tenure." What lands? Those which belonged to the province "at the union." Did Mercer's lands belong to the province in 1867? Certainly not. The learned judge admits that if he is mistaken on this point, then "no disposition whatever is made of such interest, and it will remain in Her Majesty."

His lordship would seem inclined to adopt the *role* of legislator, and not of judge, in this part of his judgment. However, he refuses to follow the Court of Queen's Bench in the reasons and grounds of their judgment. He says:—

"I prefer to place my judgment on the ground I have indicated above, rather than that adopted by the Court of Appeal in Quebec."