ters coming within any of the classes of subjects enumerated in section 92 of the B. N. A Act, 1867, over which the Provincial Legislature has exclusive jurisdiction to make laws

By the 14th subsection of section 92 of the B. N A Act, 1867, the administration of justice in the Provinces, including the constitution, maintenance and organization of Provincial courts, both of civil and criminal jurisdiction, is conferred upon the Provincial Legislature.

The declaration in this case sets forth that the conviction referred to, as made by the defendant, the return of which he ought to have made, was the imposition of a fine for an assault and battery; and inasmuch as that cannot be in any sense considered as what the statute means by "the administration of justice," it is in my opinion in every sense to be regarded as appertaining to the criminal law and the procedure in criminal matters. A summary proceeding before a justice of the peace is authorised for a common assault or battery (when it is requested by the prosecutor), *i.e.*, for what would otherwise be triable by indictment as a misdemeanor and be ranked as a criminal offence No authority other than the Dominion Parliament could deal with it. The procedure and forms for the prosecution and conviction of offenders in such cases are laid down, a return of the conviction by a given time is prescribed, and a certain consequence is to follow a neglect of making that return We find the whole subject, from the complaint to the return of the conviction dealt with by the criminal Acts of 1869, passed by the Dominion Parliament (*Vide* 32-33 Vic. cap. 20, sec 43, and cap. 31) I can only regard an assault and battery as a criminal offence, although triable summarily; and therefore, by the 27th subsection of the 91st section of the B. N. A. Act, 1867, anything connected with the prosecution or its consequences must belong to the exclusive authority of the Parliament of Canada, and could not be dealt with by the Provincial Parliament.

By the Law Reform Act of 1868 (sub-section 4 of section 9), the Con. Stat. U. C. cap 124, was only amended, not repealed: the returns of summary convictions and fines by justices of the peace were required to be made quarterly to the clerk of the peace, instead of to the Courts of General Sessions of the Peace. I therefore consider the reasonable construction to be placed on that amendment, as expressive of the intention of the Legislature, to have been to confine the 4th subsection of the 9th section of the Law Reform Act of 1868 to convictions and fines for the classes of subjects enumerated in sub-section 15 of section 92 of the B. N. A Act, 1867, as to cases, not criminal, over which the Provincial Legislature has control, and that that Legislature did not thereby assume to act beyond the scope of its powers, or to legislate concerning returns of convictions in criminal cases.

If it were competent for the Dominion Parliament to legislate concerning the summary trial of criminal offences, and lay down the procedure therefor, I apprehend it was also competent for them to deal with the return of the convictions and its results, to prescribe their legitimate conclusions, and to affix or impose any penalty for non-observance of what was laid down. With that power, as a necessary consequence, must follow the jurisdiction to alter, amend or repeal any existing law affecting the same subject, for the purpose of assimilating the criminal laws of the whole Dominion. I cannot therefore understand that the Dominion Legislature has jurisdiction over a given subject up to a certain point, and that the Provincial Legislature has the right to step in and begin legislation where the Dominion Parliament has left off The jurisdiction to legislate and deal with any given subject must be entirely under the control of the one or the other, and not under the piecemeal authority of both. If it were otherwise, the statute law of the country would assume such a fragmentary character that in a few years we should find it difficult to wend our way through its perplexities.

By referring to the Dominion statute of 1869, 32, 33 Vic cap 36, schedule B, we find cap. 124 of the Con. Stat. U C. wholly repealed, except section 7 (which section 7 relates to returns to be made by sheriffs): with this saving, however, in the second paragraph of section 1, "such (repeal) shall not extend to matters relating solely to subjects as to which the Provincial Legislatures have, under the B N. A. Act, 1867, exclusive powers of legislation, or to any enactment of any such Legislature for enforcing, by fine, penalty or imprisonment, any law in relation to any such subject as last aforesaid." So that until the passing of 32 & 33 Vic. caps. 31 and 36, by the Dominion Parliament, the Con. Stat. U. C. cap. 124, for all purposes of the subject in controversy in this suit, remained unrepealed and unchanged, in so far as any return of a conviction or fine for a *criminal* offence was concerned, or for any offence dealt with by the criminal law of the Dominion Parliament, or whereby the procedure in criminal matters was prescribed. None but the Dominion Parliament could amend, alter or repeal it, and that for all purposes set forth in the 15th subsection of the 92nd section of the B. N. A. Act. 1867; and as to any subject referred to in the second paragraph of section 1 of the Dominion statute 32 & 33 Vic. cap 36, the Con. Stat. U. C. cap. 124, and the Law Reform Act, 1868, remained unrepealed.

The Con. Stat. U. C. cap. 124, required the return of the conviction to be made to the next ensuing General Quarter Sessions of the Peace, and the 76th section of the Dominion statute, cap 31, prescribed that a return of convictions should be made by the justices of the peace to the next ensuing "General Sessions of the Peace;" and as the Law Reform Act, 1868, limited the number of sessions of the Court of General Sessions of the Peace to two in each year, instead of four, as formerly, I think the defendant was only bound by law to make a return to the General Sessions of the Peace next after the conviction, which would be the 14th day of June, 1870; and as the allegation in the declaration is that he did not make the return before the second Tuesday in March, 1870, and as there was no allegation made which would bring the case within the provisions of the Dominion statute of 1870, 33 Vic cap 27, sec 3, I think the judgment should be arrested.

The defendant was not bound to return the conviction or fine so soon as the second Tuesday