

14 of the British North America Act, s. 92, whereby provincial legislatures can make laws in relation to "the constitution, maintenance, and organization of provincial courts, etc.," carries with it the power to appoint any judges at all. But the later case of *Regina v. Bush** would seem to show a change of view, for Armour, C.J., there concurs with Street and Falconbridge, J.J., of the Ontario Court of Queen's Bench, in holding that the provincial legislatures have, by virtue of No. 14 of s. 92, not only the power, but the exclusive power, to pass laws providing for the appointment of justices of the peace, subject to the royal prerogative power of appointment which still exists, though he says that such prerogative power has not been exercised in Ontario since the passing of the British North America Act. He says:† "Having regard to the purposes for which and the circumstances under which the British North America Act was passed, it cannot, I think, be doubted that the power was thereby conferred either upon the Parliament of Canada or upon the legislatures of the Provinces to pass laws providing for the appointment of justices of the peace, and this Act, having been assented to by the Crown, was in derogation of the prerogative right of the Crown to appoint justices of the peace, although it did not deprive the Crown of that right. . . . It is under this power (s-s. 14 of s. 92), given to the provincial legislatures to make laws in relation to the administration of justice in the Province, that those legislatures have, if at all, the power to pass laws providing for the appointment of justices of the peace. Laws providing for the appointment of justices of the peace are, it is contended—and, I think, rightly—laws in relation to the administration of justice, for the appointment of justices of the peace is a primary requisite to the administration of justice; and, if this contention be correct, the passing of such laws is exclusively within the power of the provincial legislatures." And he cites the cases of *Regina v. Reno* and *Regina v. Bennett*, which we have above referred to.

And in the previous case of *Richardson v. Ransom*,‡ Wilson, C.J., expresses the view that local legislatures can provide for the appointment of justices of the peace, but he evidently was not so clear as the judges who decided *Reg. v. Bush*§ that they had the

* 15 O. R. 398, 4 Cart. 690 (1888).

† 15 O. R., at p. 400, 4 Cart., at pp. 692-3.

‡ 10 O. R. 387, 4 Cart. 630 (1886).

§ 15 O. R. 398, 4 Cart. 690 (1888).