

themselves passed provincial laws requiring their own Courts to answer questions not in litigation, in terms somewhat similar to the Dominion Act which they impugn. If it be said, as it was said, that Section 101 of the British North America Act forbids this being done by the Dominion Parliament, that argument cannot apply to the Provincial Legislatures, because Section 101 does not apply to the Provinces. Either, then, these Provincial Acts are valid, while a similar Act passed by the Dominion is invalid, which seems very strange, or the Provincial Acts as well as that of the Dominion are *ultra vires* upon the general ground already dwelt upon, that a Court of Justice ceases in effect to be a Court of Justice when such a duty is laid upon it. Certainly it is remarkable that for 35 years this point of view has apparently escaped notice in Canada, and a contrary view, now said to menace the very essence of justice, has been tranquilly acted upon without question by the Legislatures of the Dominion and Provinces, by the Courts in Canada, and by the Judicial Committee ever since the British North America Act established the present Constitution of Canada. It is difficult to resist the conclusion that the point now raised never would have been raised had it not been for the nature of the questions which have been put to the Supreme Court. If the questions to the Courts had been limited to such as are in practice put to the Judicial Committee (*e.g.*, must Justices of the Peace and Judges be re-sworn after a demise of the Crown?) no one would ever have thought of saying it was *ultra vires*. It is now suggested because the power conferred by the Canadian Act, which is not and could not be wider in its terms than that of William IV., applicable to the Judicial Committee, has resulted in asking questions affecting the Provinces, or alleged to do so. But the answers are only advisory and will have no more effect than the opinions of the Law Officers. Perhaps another reason is that the Act has resulted in asking a series of searching questions very difficult to answer exhaustively and accurately without so many qualifications and reservations as to make the answers of little value. The Supreme Court itself can however either point out in its answer these or other