

the Dominion Parliament to legislate in regard to fisheries, depended simply upon whether the British North America Act had transferred to the Dominion any proprietary rights in the waters which were the physical, tangible subject-matter of the fisheries. Neither the counsel for the Dominion and the Province, nor the Board itself, thought it worth while to deal with the case as if it were one in which the familiar rule of construction, that a grant of an express power carries with it all incidental powers which may be necessary to give it due effect, might possibly be applied so as to vest in the Dominion Parliament the capacity of creating or otherwise controlling such rights. The sole question handled was whether the Dominion Parliament had obtained legislative jurisdiction over certain proprietary rights as the result of a conveyance of such rights to the political entity of which that Parliament is the law-making agent. Such a question being extremely simple in its essence, it is neither extraordinary nor unnatural that a judge, in undertaking to expand the answer to it beyond a mere yes or no, should be led into language savouring more or less strongly of platitude. I own, therefore, that I am not very seriously staggered by the adroitness with which Mr. Lefroy, by paraphrasing my own paraphrase of the sentence under discussion, has tried to put me in the predicament of making Lord Herschel enunciate a jejune commonplace quite beneath the dignity of the Privy Council. Even those who might be prepared to allow some weight to this consideration, if it stood by itself, will, I imagine, agree with me that its importance fades away towards the vanishing point, when we advert to the alarming consequences which would follow, if we should regard his Lordship, not as the author of a mere platitude, but as the propounder of a doctrine which would completely overthrow the accepted theories as to the functions and distinctive characteristics of a constitutional legislature. Only the very clearest expression of opinion on the part of the Privy Council will suffice to convince Canadian lawyers that a body whose history, to say nothing of its very official style and title of "High Court of Parliament," exhibits it as a mere jurisdictional assemblage, regulating the investiture and divestiture of proprietary rights, and not as an entity posses-