able them and the judges thereof effectually to exercise such jurisdiction, not only with reference to principles, but also to rules especially by which they should be governed and act in dealing with election petitions. The object of the two Acts being then precisely the same, the accomplishment of the desired result being by instrumentalities substantially much the same, if, as I understand, it is generally conceded by those who hold the Act of 1874 *ultra vires* that the Act of 1873 established an independent Dominion Court, and was within the power of the Dominion Parliament, I am somewhat at a loss to understand how it can be said that the tribunals established by the Act of 1873 are not equally within the power of the Dominion Parliament. The judges cannot sit in controverted election matters under the general jurisdiction of their respective Courts, for those Courts have no jurisdiction in such cases, and therefore in discharging duties imposed by the Act they do not, cannot, do as judges of the respective Courts to which they belong, but they act as election judges appointed by and under the Act, outside of and distinct from the jurisdiction they exercise in their respective Provincial Courts, which is left untouched by this Act.

Without relying too much on the statute of 1873, which, though a repealed statute, being *in pari materia* with that of 1874, might properly be referred to for the purpose of construing the latter,—see *ex parte Copeland*, 2 De. G. M. & G. 920, 1 Burr. 44, where Lord Justice Knight Bruce says :—

"Although it has been repealed, still, upon a question of construction arising upon a subsequent statute on the same branch of law, it may be legitimate to refer to the former Act."

Lord Mansfield, in the case of the *King* v. *Lozdale*, thus lays down the rule :—

"Where there are different statutes *in pari materia*, though made at different times, or even expired, and not referring to each other, they shall be taken and construed together as one system and as explanatory of each other."—

I think a careful and critical examination of the Act of 1874 will exhibit an evident intention that as the first did, so does the last establish an independent Dominion Election Court. This is more especially noticeable with reference to the enactments under the headings "Interpretation Clauses," "Procedure," "Jurisdiction and Rules of Court," "Reception and Jurisdiction of Judge," "Witnesses," and the provision as to who may practice as agent or attorney or as counsel in such Courts in case of such petitions, and all matters relating thereto, before Court or Judge. I will only notice more particularly some of them :—(1) The power given to make rules. It provides that Judges of the several Courts in each Province respectively, or a majority—which in Ontario would include Judges of the Court of Error and Appeal, Queen's Bench, Common Pleas and Court of Chancery—shall make such rules; and until such rules are made the principles, practice and rules on which the petitions touching the election of members of the House of Commons in England are at the passing of this Act dealt with, shall be observed, &c. (2) As to the reception, expenses and jurisdiction of the Judge: The Judge is to be received, not as a Judge of the Superior Court in that character but as a Judge of the Election Court, in like manner as if he were about to hold a sitting at *Nisi Prius*, or a sitting of the Provincial Court, of which he is a member, showing that the Legislature did not contemplate that he was then actually about to sit as a member of the Provincial Court, but as being about to try an election petition, and when about to do this, he is to be treated as if he were about to hold a sitting of the Provincial Court of which he is a member. And when his powers in such a trial and in other proceedings under this Act are defined, he is not treated simply as a Judge of one of the Superior Courts, upon whom, as such, further jurisdiction is conferred, but similar powers as such Judge are given him. He is declared to be a Court of Record, indicating, I think, very clearly that the Court was treated by the Legislature as distinct from a Provincial Court, and required this statutory declaration to make it a Court of Record, and that the the Judge was not to be considered as then acting as a Judge of a Provincial Court, nor the trial as a trial in such a Court. The words of the clause are these :—

"Sec. 48.—On the trial of an election petition, and in other proceedings under this Act, the Judge shall, subject to the provisions of this Act, have the same powers, jurisdiction and authority as a Judge of one of the Superior