

bound by a Provincial statute, unless that Provincial statute was passed in pursuance of powers conferred on the Legislature by the British North America Act. In the case of a statute passed by this Parliament, or passed by the Imperial Parliament, the result would be different. Her Majesty would be bound, and her prerogative would be yielded by the fact of her giving assent to the Act, irrespective altogether of the powers which the Parliament itself possessed. Now, to show that I am right in supposing that that was the view taken by the Supreme Court of Canada, and that, therefore, the hon. gentleman (Mr. Amyot) was hardly right in impugning that decision, as being erroneous in that respect, I will call his attention to a passage from the judgment of Justice Henry, in which he says:

"The Local Legislatures are now simply the creatures of a statute, and under it alone have they any legislative powers. The Imperial Parliament, by the Union Act, prescribed and limited their jurisdiction; and, in doing so, has impliedly and virtually and effectually prohibited them from legislating on any other than the subjects comprised in the powers given by that Act. The right of the Imperial Parliament, when conferring legislative power on the Local Legislatures, to limit the exercise of them, cannot be questioned; and any local Act passed beyond the prescribed limit, being contrary to the terms of the Imperial Act, must necessarily be *ultra vires*."

A little further on, and toward the conclusion of his judgment, Justice Henry deals directly with that question, of Her Majesty being a portion of the Legislature, in these terms:

"If the Imperial statute has not given the necessary legislative power to the Local Legislatures, an Act of theirs would be of no higher value than a city ordinance, such as I have stated. The argument of this question, however, is unavailable, for the Queen has not signified her assent to the local Act in question. By the provisions of section 90 of the Imperial Act, the Governor General, and not the Queen, assents to local Acts made in his name, as provided. The Lieutenant Governors are appointed, not by the Queen, but by the Governor General in Council. It cannot, therefore, be successfully contended that the Queen has assented to the Local Act in question; nor can it be with greater success contended that by assenting to it the Governor General had any power, in doing so, to interfere with the Royal prerogative."

One other extract from the decision of Mr. Justice Taschereau indicates the same conclusion:

"But, said the appellants, Her Majesty has assented to this Act of the Nova Scotia Legislature. This, in my opinion, is a grievous error. Her Majesty does not form a constituent part of the Provincial Legislatures, and the Lieutenant Governors do not sanction their Bills in Her Majesty's name."

Then he goes on to show that the Bills are not sanctioned by Her Majesty at all. The hon. gentleman, therefore, I think, will see that the heresy which the Supreme Court of Canada was aiming at in the decision of *Lenoir vs. Ritchie* was not at all, in fact, the proposition that the statutes of a Province cannot bind the Crown; but that the Crown is not necessarily bound by the provisions of a Provincial statute by the fact of its being allowed to go into operation, and the Act for its validity and effect on the Crown, must depend on the single consideration whether it is within the powers conferred on the Provinces by the British North America Act. Then the court proceeded to the next step, to consider whether it was within the range of the subjects entrusted to the Provincial Legislatures, and came to the conclusion that the appointment of Queen's Counsel was simply the conferring of a title of honor carrying rank and precedence, and, therefore, was not within the exclusive powers given to the Local Legislatures. Now, the hon. gentleman read to the House a summary of several decisions of Her Majesty's Privy Council, in which the position was laid down, that the Provincial Legislatures have, as the hon. gentleman asserted, a plenitude of powers. I do not for a moment question the force of the decisions referred to. They by no means take the view, that the Provincial Legislatures have any powers, plenary or otherwise, beyond those given to them by the British North America Act. The single effect of all that line of decisions is, that within the powers conferred upon them by the British North America Act, the Provincial Legislatures are supreme in their legislation; but the fundamental question which lies at the base of this whole controversy with regard to the appointment of Queen's Counsel, is, whether it is within Provincial powers or not. If it is within Provincial powers, I admit that those powers are so plenary, that they may supersede the powers which may be vested in the Central Govern-