

exclusively assigned to the Dominion Parliament; and what would happen then if such provisions conflicted with the provisions of a Dominion Act? There has been, I think, no decision or *dictum* either of the Privy Council or of the Supreme Court of Canada to the effect that provincial legislatures have any such power incidentally to legislate upon matters assigned to the Dominion Parliament, but unquestionably Osler, J., in *Jones v. The Canada Central Railway Co.*,* asserts that they can do so, and that in this respect the powers conferred upon provincial legislatures must receive a no less liberal construction than those conferred upon the Dominion Parliament. And the same has been asserted by the Quebec Court of Queen's Bench (appeal side) in the case of *Bennett v. Pharmaceutical Association of the Province of Quebec*,† and by Cross, J., in the same court in the case of *Regina v. Mohr*,‡ and other cases in provincial courts might be cited upon the same point. But conceding this to be so, I submit that since Dominion legislation is to prevail, even when it has invaded, though legitimately, the provincial domain, *a fortiori* it must prevail over any provincial Acts when it is legislating strictly in its own domain, and the words "notwithstanding anything in this Act" may be appealed to in support of this view.

In short, if it is allowable to relieve the tedium of a long legal article by being a little frivolous, it may be said, I think, with truth, that this decision in respect to the Assignment for Creditors Act (notwithstanding that the provincial enactment in question has been held to be *intra vires*, and though interpreting the *dicta* in the modified sense above indicated), and the other recent case of *Tennant v. The Union Bank*, are almost the first instances of the Dominion Parliament "scoring" before the Privy Council. The "scoring" has hitherto been, for the most part, on the side of the provincial legislatures. But now, when we consider how much of the provincial domain might be incidentally invaded by the Dominion Parliament when legislating upon the broad general subjects enumerated in section 91, their lordships seem to have left it, in its relation to the provincial legislatures, almost in as happy a position as a man occupied towards his wife in the good old days, when he could say, "What is yours is mine, but what is mine's my own."

* 46 U.C.R. 250, 1 Cart. 777 (1881).

† 11 Dor. Q.A. 336, 2 Cart. 250 (1881).

‡ 7 Q.L.R., at p. 191, 2 Cart., at p. 268 (1881).