

Provinces, or the right of the Local Legislatures to deal with such property and civil rights in the Provinces, and the administration of justice in the Provinces, including the constitution, maintenance, and organization of the Provincial Courts, both of civil and criminal jurisdiction, and including procedure in such civil matters in those Courts, as Local Legislatures have a right to deal with, leaving, of course, those matters to be dealt with as subject and subordinate to the superior powers and authority of the Dominion Parliament over all subjects not assigned exclusively to the Legislatures of the Provinces, of which subjects pre-eminently prominent, as beyond the jurisdiction or control of the Local Legislatures, stands the "privileges, immunities, and powers to be held, enjoyed, and exercised by the Senate and by the House of Commons and by the members thereof respectively," and all rights connected with the qualifications and disqualifications of persons to sit or vote as members of the House of Commons, the voters at the election of such members, the returning officers, proceedings at elections, and trial of controverted elections and all proceedings incident thereto. Transferring this new and peculiar jurisdiction, vested in the House of Commons, to the Supreme and Superior Courts—in other words, substituting these Courts in place of the House of Commons in relation to these matters, with which the Local Legislatures have nothing whatever to do—can, in no way that I can perceive, militate against or derogate from the right of the Local Legislatures to make laws in relation to all subjects or matters exclusively reserved to them.

Nor can I discover that in so substituting the judges of the Supreme and Superior Courts the Parliament of the Dominion has in any way transcended its legislative powers. These Courts are surely bound to execute all laws in force in the Dominion, whether they are enacted by the Parliament of the Dominion or by Local Legislatures respectively. They are not mere local Courts for the administration of local laws passed by the Local Legislatures of the Provinces in which they are organized. They are Courts which were the established Courts of their respective Provinces before Confederation, existed at Confederation, and were continued with all laws in force, "as if the Union had never been made," by the 129th section of the

British North America Act, and subject, as therein expressly provided, to be repealed, abolished, or altered by the Parliament of Canada, or by the Legislatures of the respective Provinces according to the authority of Parliament, or of that Legislature under this Act. They are Queen's Courts, bound to take cognizance of and execute all laws, whether enacted by the Dominion Parliament or the Local Legislatures, provided always that such laws are within the scope of their respective legislative powers. If it is *ultra vires* for the Dominion Parliament to give these Courts jurisdiction over this matter, which is peculiarly subject to the legislative power of the Dominion Parliament, must not the same principle apply to all matters which are in like manner exclusively within the legislative power of the Dominion Parliament; and if so, would it not follow that in no such case could the Dominion Parliament invoke the powers of these Courts to carry out their enactments in the manner they, having the legislative right to do so, may think it just and expedient to prescribe? If so, would it not leave the legislation of the Dominion a dead letter till Parliament should establish Courts throughout the Dominion for the special administration of the laws enacted by the Parliament of Canada—a state of things, I will venture to assume, never contemplated by the framers of the British North America Act, and an idea to which I humbly think that Act gives no countenance. On the contrary, the very section authorizing the establishment by Parliament of such Courts speaks only of them as "additional Courts for the better administration of the laws of Canada." It cannot, I think, be supposed for a moment that the Imperial Parliament contemplated that until an Appellate Court or such additional Courts were established, all or any of the laws of Canada enacted by the Parliament of Canada, in relation to matters exclusively confided to that Parliament, were to remain unadministered for want of any tribunals in the Dominion competent to take cognizance of them.

Whether, then, this Act is to be treated as declaring the Courts named as Dominion Election Courts, or whether it is to be treated as merely conferring on particular Courts already organized a new and peculiar juris-