Denton *vs.* John Daley, in regard to the Canada Temperance Act, clearly understood the limited nature of Provincial rights in this respect. He says:

"But the second point is the more important one. Under our former constitution, except in an action of trespass against the acting Justice, it is difficult to conceive how it could be raised, so strong would be the assumption that gentlemen sitting as magistrates were clothed with the legal authority. It would be absurd to require them to produce their commission on each occasion, and equally preposterous to suggest a doubt that the august personage representing Sovereign power, had Her Majesty's authority for making such appointments."

Judge Savary went on to say, in his elaborate decision:

"Finally we have Section 96 of the Act ordaining that the Governor General shall appoint the Judges of the Superior and County Courts, except the Judges of Probate of Nova Scotia and New Brunswick * * * * We find, therefore, in the Act nothing inconsistent with the retention of this prerogative in Her Majesty's hands, and the exercise of it by her duly constituted representative, the Governor General, alone."

He was only a layman, but, from what he could judge, this appeared the common sense view of the matter. He did not think the Provincial Governments, if not granted those powers by the Constitution, had any right to assume them. The Provincial Legislatures were rather inclined to be aggressive and assume powers not belonging to them. The Dominion Government had had frequent occasion to disallow bills passed by the Provinces. He hoped the Government of the Dominion would see that this case was brought before the Supreme Court which was established more particularly to settle grave questions of constitutional law. He believed the Provincial Appeal Courts were far better for the trial of most important commercial cases than the Supreme Court. At any rate this question should be finally settled and the rights of the Provinces and the Dominion respectively explained beyond doubt.

Mr. ROBERTSON (Hamilton) said he agreed, in a great measure, with what had fallen from the last speaker. The appointment of justices of the peace in Ontario had become a matter of very great importance, as many of those appointments had given very grave dissatisfaction. Certain ignorant persons could now act as such justices by virtue of the commission issued by the Lieut.-Governor of Ontario. Such commissions having been issued, the only way in which the matter could be decided was by bringing any cases that might arise, in consequence of improper acts of such justices of the peace, before the Supreme Court. It so happened, however, that they were generally of such trifling importance, so far as the wrong done was concerned, that it was impossible to reach the Supreme Court in that way. Therefore it devolved on the Dominion Government to take the matter into their serious consideration, and adopt some means of securing a decision on the question, as to whether the Provincial Governments have power to make those appointments. The question should be easily solved, and if those Acts were passed, it was the duty of this Government to ascertain whether they were really constitutional or not. If it was to be left till the question could be decided by the Supreme Court, we might go on for years and have no satisfaction whatever. He had just been informed by an hon. friend that in the case of a person charged with an assault and battery before one of those new magistrates in Ontario, the magistrate, after looking into the matter and hearing the evidence, acquitted the accused of the assault, and found him guilty of the battery. That was the kind of law administered by some of those justices appointed by virtue of the Act passed by the Ontario Legislature, and of the commission issued by the Ontario Government.

Mr. MILLS said the hon. gentleman who made the motion observed that the Supreme Court did not enjoy the confidence of the country, that its only utility consisted in its being a Court for the decision of constitutional questions. He did not agree with that view, believing, on the contrary, that the Supreme Court had proved, on the whole, satisfactory, and enjoyed, in the main, the confidence of the country. If the course recommended by the hon. gentleman was adopted, little as he thought of the Supreme Court now, he would think still less of it in the future. It was a Court of appellate jurisdiction that had to review the decisions of the other tribunals, and had to deal with cases already argued in the Provincial Courts. The hon. gentleman proposed that instead of having cases brought before it in this way, it should have them submitted to it in the first instance and decided previous to the decisions of other Courts. He did not think there was any room for the doubt the hon. gentleman expressed. Who were the magistrates of the country? Ministerial officers who brought offenders before the Courts of the country. Those officers had certain judicial functions, but you could not constitute a Court without also adding the power to create a magistracy. No doubt the Government here may appoint magistrates in connection with the Supreme Court as ministerial officers; and if they were to exercise the powers given by the British North America Act, and establish Courts of original jurisdiction, they might also appoint magistrates in the various Provinces to assist in the administration of justice in those Courts. But so long as the administration of justice was vested in the Governments of the various Provinces, the power to appoint magistrates would be vested in them also. Upon whom devolved the maintenance of law and order, and of the peace? In what Government and Legislature was vested the police functions that necessarily should lodge somewhere, either in the Local or General Government? All knew where they lay. It would be absurd to suppose it possible for the Local Legislature and Government to discharge the duties devolving upon them without the power to appoint the ministerial officers in connetion with such duties. The 14th sub-section of the 92nd section of the British North America Act of 1867, thus defines the powers of the Provincial Governments in this respect:

"The administration of justice in the Province, including the constitution, maintenance and organization of Provincial Courts, both of civil and of criminal jurisdiction, and including procedure in civil matters in those Courts."

So there was here not only the constitution, organization and maintenance of the Courts vested in the Governments of the Provinces, but the administration of justice as well.

Mr. McCUAIG. The Provincial Parliaments have no right to appoint any man to deal with the criminal law.

Mr. MILLS said, why should they not have that right? Why was it that the administration of the ordinary criminal law, dealing with the most serious offences in the country was vested in the Superior Courts of which the Judges were appointed by the Government here? It was not because this section was not broad enough to include the appointment of Judges, but because notwithstanding this section there was a special provision in a prior section giving the power of appointing Judges to the Governor General on the advice of his Ministers. The principle which applied in a case of that kind was that where they had a general provision of law, and a special provision excepting something with regard to the general provision, then they were to interpret the exceptional provision strictly, and so interpreted the law did not give the power of appointing magistrates to this Government. If the hon. gentleman would look into the matter, he would see that if it were a prerogative of the Crown to appoint magistrates, and if the functions ordinarily discharged by magistrates were vested in tribunals created by another body, that prerogative must remain in abeyance in so far as such districts were concerned where those functions were so performed. The Governor General would have no more power to appoint a magistrate to assist in the administration of justice in a provincial court than Her Majesty would have; and hon. gentlemen knew that the creation of responsible government in this country had