

been intended, when assuring to the Provinces exclusive legislative authority on the subject of property and civil rights, to exclude the Parliament from the exercise of this general power whenever any such incidental interference would result from it." On these grounds the Judicial Committee decided in favour of the constitutional character and validity of the Scott Act.(a)

In the first ten years of the Confederation there was a tendency in the Courts, as well as in Parliament, to minimise the jurisdiction of the provincial legislatures, and to claim that they were only practically municipal corporations of large powers. It was even claimed that the Crown is not represented in the provincial governments. In one memorable case it was practically decided by a mere majority of the Supreme Court of Canada that the Dominion Government alone has the right to appoint Queen's Counsel as a prerogative right of the Queen, who is represented directly by the Governor-General. (b) With the progress of Confederation, however, there has been a steady assertion of provincial rights; a determination, in fact, on the part of the provincial governments to stretch to an extreme degree both the express and the implied powers of the provinces, and the general result of recent decisions has been to strengthen the claims of the advocates of "provincial rights." It is now generally admitted, or more strictly speaking, the weight of authority goes to show, that the Crown is represented in the person of the Lieutenant-Governor as the head of the provincial executive, so far as concerns the performance of

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(a) 7 App. Cas. 829.

(b) *Lenoir v. Ritchie*, Can. Supreme Court Rep., vol. iii. pp. 575-640. The opinions expressed in this case by three judges with respect to Queen's Counsel have never been considered satisfactory by eminent lawyers in Canada and England, who have looked into these legal questions. The provincial governments continue to appoint such counsel concurrently with the Dominion Government, by virtue of provincial statutes; and the consequence so far has been a multitude of counsel, and a lessening of the estimation in which the honour should be held. General opinion favours a test case before the Judicial Committee of the Privy Council.