altogether may be considered as far from a conclusive authority, without disrespect for the eminent tribunal which pronounced the decision. The decision, whatever its value, only had in view the District Magistrates Court as it existed in 1876.

Having put forward these two cases as the only ones which could be relied on as judicial confirmation of any Act of the character of that which has been disallowed, the Order in Council proceeds to set up the contention that similar laws are in force in all the Provinces of the Dominion. If that contention were correct, in point of fact, it would hardly have much bearing on the question of constitutionality. But it is not correct. One instance given in the Order in Council is a Statute of the Province of New Brunswick which provides for the establishment of "Parish Courts" with civil jurisdiction up to $40. This New Brunswick Statute, it must be admitted, is similar to a number of other Provincial Statutes, but it differs in all the points to which importance has been given in the previous parts of this report, from the disallowed Statute.

Reference is made in the Order in Council under review, to a decision of the Supreme Court of New Brunswick, in the case of *Gaynong vs.* Bayley, (1 Pugsley and Burbidge 321), as sustaining the "Parish Courts" Act.

The undersigned desires not to be understood as undertaking to discuss here the legality of Statutes like the New Brunswick Statute just referred to. The wide difference which has been already pointed out between those Statutes and the disallowed Act, as to criminal jurisdiction, as to the extent of the civil jurisdiction, and as to the attempt to transfer certain of the powers of the Superior Court Judges to Provincially appointed Judges, makes it unnecessary to enter upon such a discussion, but it may be proper that he should notice the New Brunswick decision just mentioned, because it may be supposed that although the Statutes were different, the principles affirmed by the Court may have been sufficiently wide to cover the disallowed Statute, as well as the Statute of New Brunswick, which was then being considered. The question before the Court was whether the New Brunswick Act, (39 Vic. chap 5), intituled. "An Act to establish Parish Courts", was *ultra vires* of the Local Legislature, as to the section which provided that the Commissioners, (who are the Judges in those Courts), should be appointed by the Lieutenant Governor in Council.

As already stated, the Parish Court was a Court for the recovery of debts under $40. Two of the Judges of the Supreme Court of New Brunswick, out of five, denied the validity of the enactment. Two of the Judges who affirmed the validity of the enactment did so on the ground that all the powers of the Provincial Legislature and Executive which existed before the Union of the Provinces remained to the Provincial Legislature and Executive, after the Union, except is so far as altered by the provisions of the Union Act.

This principle, without which there would not have been a majority of the Court to uphold the provision of the Parish Court Act, would not now be affirmed, since the Judicial Committee of the Privy Council, (as well as other tribunals), has so clearly established that no powers are possessed by the Provincial Legislatures except such