

South Wales, under a charter not wider than the B.N. A. Act had power to repeal a Statute of James I (21 James, c. 16, s. 6), and had impliedly done so by 11 Vict., c. 13, s. 1, of that colony.

The late Sir John Thompson, referring to the opinion of Lord Carnarvon as to this Act, says that the latter's opinion "seems to have been based on a strict view taken of the Imperial Statute, which declared that Colonial Statutes should be void and inoperative if they should be repugnant to the provisions of any Act of Parliament extending to the colonies or repugnant to the provisions of any order or regulation made under the authority of such Act, and having in such colony the force and effect of such Act." "There may be grounds for argument," continued Sir John, "that, as the B. N. A. Act was passed subsequently to the statute, it confers a constitution more liberal than those to which the statute applied. Another view which may be urged is, that the repugnancy, in order to have the effect indicated, must exist in relation to some statute passed after the creation of the legislature of a colony. The statute does not seem, certainly, to have been construed by the judicial decision in the manner indicated by Lord Carnarvon. If the view which his Lordship takes is correct, it will be impossible for the Parliament of Canada to make laws in regard to any of the twenty-one subjects which constitute the "area" of the Canadian Parliament (to adopt the phrase used in the decision of *Hodge v. The Queen*, in relation to the Ontario Legislature), when such legislation was repugnant to any legislation which existed previously, applicable to these subjects in the colonies. There, undoubtedly, did exist Imperial legislation as regards all those subjects in the colonies, at a time long anterior to the gift of representative institutions, and it was never supposed to be necessary that Canada, or the provinces now constituting Canada, before the Union should obtain the repeal of that legislation by the Imperial Parliament before they proceeded to adopt such measures as became necessary from time to time, in the government of the country. It is respectfully submitted, that, in respect to all these subjects, the Parliament of Canada must be considered to have the plenary powers of the Imperial Government (to quote the words of the Judicial Committee) subject only to such control as the Imperial Government may exercise from time to time, and subject also to Her Majesty's right of disallowance, which the B. N. A. Act reserves to her, and which, no doubt,