

the use of the Superior Courts of the Provinces for Dominion purposes, and to the further undoubted right of regulating procedure in those Courts, so far as was essential for those purposes, but it was not necessarily then to consider, or to decide, whether the entire control of the procedure in those Courts was not withdrawn from the local Legislature by the effect of the 91st section, and the words of limitation in the 92nd section and sub-section 14 of the 92nd section and of the 129th section, and that though the Local Legislature might have the undoubted right to legislate as to all matters relating to the Administration of Justice constitutionally coming within their control under the 92nd section, yet whether the mode or procedure for carrying out that legislation, when suits were instituted in the Superior Courts, must not be left to the Courts themselves to regulate, under their Common Law powers, or statutory powers, existing at the time of the Union, or under such Rules as the Dominion Parliament might prescribe or authorize to be made for their governance. Whether in fact such Courts could be considered as coming within the exclusive term "Provincial Courts," designated in that sub-section over which the local Legislature, it is not questioned, has the absolute control, and also the exclusive power and privilege of constituting, organizing and maintaining.

There is yet another point to be considered. Among the objections raised is one to the constitutionality of the application of the "Judicial District Act 1879" under which the power is claimed by the Local Government of dislocating the Judges and enforcing through the operation of the Dominion Government their compulsory residence in certain assigned Districts. Coinciding to the fullest extent in the views expressed by the Chief Justice and Mr. Justice Crease, as to the injurious tendency of such a measure upon a uniform administration of Justice throughout the Province, and in the absence of any adjudication, admitting for the sake of argument, that the power to divide the Province into judicial Districts falls within the legislative power of the Local Legislature under the 14, subsection 92, it may nevertheless be questioned how far a restriction as to residence, in the absence of any Imperial or Dominion legislation on the subject can be constitutional or legal or morally obligatory even upon Judges appointed after that Act was passed, but clearly it cannot be retrospective in its operation as to judges holding their appointments and Commissions in and to British Columbia long antecedent (ranging from nine and ten to twenty years,) to its enactment, and any action of the Imperial or Dominion Government thereon would be governed by that principle. Their Commissions were restricted to no locality in British Columbia, their tenure of office under those commissions was during "good behaviour" a statutory protection under Imperial Legislation not only to themselves, but to the suitor in the courts and to the public at large against undue Government pressure of any kind or from any quarter, a provision absolutely necessary to secure the independence of the Bench and impartial administration of Justice.

It is idle to say that a power to send a Judge into comparative exile and to inflict expense and ruin on himself and his family will not produce a disastrous influence on his conduct. It must become servile obedience or forced resignation. If that be an incident of the office he holds it should be one attached by Law at the time of his appointment, and a risk which he should have the opportunity of accepting or refusing—but to force it upon him in the decline of life, and after years of Judicial

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