

'civil right in the Province'? I submit he has a civil right in the Province whenever and so far as he can invoke the aid of the Courts of the Province by way of action or by way of defence, quite irrespective of where that civil right arose, and quite irrespective of whether the same state of facts gives him also a civil right which he can enforce, by way of action or by way of defence, in any other jurisdiction. What is a civil right, except the right to invoke the aid and put into operation the machinery of the civil Courts, directly or indirectly? In other words, my submission would have been that when the Imperial Parliament gave our Provincial Legislatures exclusive jurisdiction over 'civil rights in the Province,' it was simply giving them complete control of their own Provincial Courts. And this is entirely consistent with the power given them in the very next clause of the British North America Act, namely, over 'the administration of justice in the Province, including the constitution, maintenance, and organization of Provincial Courts.' . . . My contention is, that just as the Imperial Parliament can entirely control the action of the Courts in Great Britain, and nullify any existing rights of action or defence, so can our Provincial Legislatures, so far as their own Courts are concerned, do the same thing, by virtue of their power over 'civil rights in the Province' and 'the administration of justice in the Province,' saving always matters coming under Federal control."

Similar views are embodied in the following passages of the learned author's work on Canada's Federal System (p. 506):—

"It might have been thought, disregarding as *obiter* the dicta in the *Dobie Case* [(1882) 7 App. Cas. 136], that No. 13 of section 92 has the effect of giving Provincial Legislatures complete control of what rights can be enforced by way of action, or by way of defence, in the Provincial Courts, just as No. 14 gives them complete control over the administration of justice in the Province. But their lordships now distinctly hold, in this Alberta case, that this is not so in the case of a right which has arisen and is enforceable outside the Province. Provincial Legislatures cannot direct their own Courts to refuse to recognize such a right in an action brought in them. . . . What the writer would have liked to have seen submitted to the Board is, that a civil right in a Province or anywhere is nothing else than a right to invoke the assistance of the civil Courts of that Province, or other place, to give effect to some claim of a party to litigation, whether by way of action, or by way of defence to an action; that so far as anyone has such a right, he has 'a civil right' in that Province, or other place, whether he has or has not a similar right, under the same set of facts, elsewhere or not; and over such a civil right in a Canadian Province the Provincial Legislature has plenary power, saving always the powers of Parliament."

The essence of the doctrine set forth in these statements seems to be simply this: A Provincial Legislature, being invested by