A reference which will presently be made to reports of preceding Ministers of Justice on this and kindred subjects will show how necessary it seemed to the predecessors of the undersigned, in times past, to prevent encroachments by this means, upon the appointing power of the Federal Executive, and how necessary it was deemed to prevent the confusion and injustice which must ensue when a tribunal, to which suitors have resorted for justice, has been deciding upon the rights of parties without having had jurisdiction.

The Order in Council under review, in presenting to Your Excellency what is claimed to have been the law respecting District Magistrates in the Province of Quebec, before the passage of the disallowed Act, refers to a series of enactments, which are not unlike the class of Statutes which has last been adverted to.

In the year 1869, the Legislature of Quebec, by chap. 23 of that year, declared that the Lieutenant Governor in Council might appoint one or more persons to be District Magistrates, with the power of Justices of the Peace and Judges of Sessions of the Peace. Their salary was not to exceed $1,200, and their civil jurisdiction was limited to $25, excepting as to tithes, taxes, penalties and damages recoverable under the Lower Canada Municipal Act and under certain other Acts of Quebec. In these enumerated cases their jurisdiction was unlimited, provided the defendant resided within the county in which the Court was held, or that the debt was contracted therein and the defendant resided within the district.

The same Act purported to confer power on the Lieutenant Governor in Council to establish additional Magistrates in the District of Saguenay, with jurisdiction up to $200. This Act may be contended to have had validity as applying altogether to a Provincial Court of lower rank than any of the courts in respect of which the appointing power has been given to the Governor General in Council by the British North America Act; or it may possibly be sustained on other grounds, which it is unnecessary to seek for at present. It cannot be supposed, however, to have had validity from the fact that it was left to its operation by the Federal Executive, although this is almost the sole ground on which its validity is assumed in the Order in Council under review. No argument can be drawn from this Statute as to the validity of the disallowed Act, because the Act of 1888 differed from it in essential points, some of which have already been enumerated and may be referred to hereafter. The Act of 1869, however, contains provisions which clearly illustrate the remarks before made as to the disposition to encroach upon the powers of the Federal Parliament and Executive, in regard to the administration of justice. Some of its provisions would hardly be repeated by the Legislature now, in the light which has been thrown upon our Constitution by twenty years of experience. Such, for example, are the provisions of the 9th section, which conferred on each of the Magistrates, powers which the Parliament of Canada had declared should be exercised only by two Justices of the Peace, or by certain other specified officers, the District Magistrate not being one; and section 10, which undertook to extend to District Magistrates the provisions of an Act of the Parliament of Canada