to the local Legislature enabling them to exercise either judicial or executive powers or functions in respect of any of the enumerated topics.

In defining, asserting, ascertaining and protecting civil rights,—in administering justice, the share of the Legislature is probably the most important. But the Legislature has only a share in the work. A very important share in all this business belongs to the judiciary; a very important share to the executive alone; and it could not have been intended to give to the Legislature power to perform both judicial and executive functions; and at all events it has not been expressly given. No part of the administration of justice, probably, is more important than the safe custody of alleged criminals and the punishment of persons convicted. For these purposes the Legislature have authority to legislate—to provide that prisons shall be built and constables appointed. But they cannot carry out their own commands; they cannot contract for the building of a lock-up, or appoint a constable, or determine whether an accused person is guilty or whether a constable does his duty. These matters are clearly left to the Executive and to the Courts. The gift of power to legislate in relation to the administration of Justice, therefore, does not give to a legislature power to interfere in every particular involved in that subject; but only in those particulars which are the proper subjects of legislation. This may perhaps be made a little clearer by supposing a converse case. Suppose that the Courts of Justice in each Province were by the British North America Act charged expressly (as they are indeed most clearly charged impliedly) with the care of civil rights and the administration of Justice, would it for a moment be contended that that authorized them to *legislate* in reference to civil rights or the administration of justice? And still less would such a power be implied if they were directed to render all such judgments and exercise all judicial authority as may be required for the maintenance of civil rights and in reference to the administration of Justice. Nothing but judicial powers would be conferred thereby on the Courts. And so, I think, nothing but essentially legislative functions are conferred by section 92, which grants to a legislative body power "to make laws" in relation to civil rights and the administration of Justice. There might be somewhat to be said against this view if it reduced section 92 to a barren grant; if there were nothing left upon which the grant could operate. But this is by no means the case. The argument leaves to the local Legislature, fully and unimpaired, all essentially legislative functions in respect to all the matters enumerated in section 92; all matters of substantive law; all, surely, that could have been intended to be given to the Legislature of the Province. The management of public lands and works, a large part of taxation, the whole law of inheritance to real and personal property, the rights of creditors against the person and property of their debtors, of husband and wife, the law of juries and attorneys and numberless other matters are left to the local Legislature; executive and judicial functions, however, are not given, and therefore are expressly forbidden to them, even in regard to these topics.

The necessity, especially in a constitutional Government, of distinguishing between the functions of the Legislature, of the Executive and of the Judiciary, requires no comment. It is a necessity indeed which may be said only to exist in a constitutional Government; for if these functions be allowed to be usurped by any one branch, the Government will cease to be constitutional, and will be in reality a despotism;