

INTRODUCTION.

So much confusion and contradiction have grown up in connection with the Constitutional Law of Canada, that it has become very desirable that some attempt were made to overcome and remove it.

On the one hand, we have the extreme views of Mr. *Blake*, Mr. *Mowat*, Judge *HENRY*, the Supreme Court of New Brunswick, and others, laying down principles of construction, which, carried to their logic result, would virtually deprive Parliament of all legislative power; while, on the other hand, we have judgments from Justices *STRONG*, *TASCHEREAU* and *GWYNNE*, and from the Supreme Courts of British Columbia and New Brunswick, which, carried to their ultimate consequence, would denude the Local Legislatures of all legislative power. Neither of these sets of views is right. It was to demonstrate this fact, and to make an attempt to bring Order out of Chaos, that this treatise has been written.

The Author had previously, for another purpose, made an exhaustive analysis of all the Constitutional cases in the Supreme Court of Canada, and of all decided by the Judicial Committee of the Privy Council, down to the *Citizens' Insurance Co. v. Parsons*, inclusive; and felt that he was prepared to grapple with the difficulties of construction that were in his way. With this view, at the beginning of the treatise, he confronted himself with three questions, covering the whole ground, which he proposed making the whole discussion answer. In proceeding with the discussion, at quite an advanced stage of the work, he was astounded to find, in two later cases decided by the Privy Council; viz, *Dobie v. The Temporalities Board*, (the Presbyterian case); and *Russell v. The Queen*, (The Canada Temperance Act case); principles of construction laid down, which, as he looked upon them, if logically applied as sound principles—if, from their peculiar unsoundness, it were not really impossible to practically apply them as governing principles—would sweep away the whole legislative power of the Local Legislatures.

As this fact forced itself more and more strongly on his mind, three questions as to his course arose, viz :—

First,—In this new element of confusion being introduced, should the work be abandoned as impracticable?

Second,—Should the original design of the treatise be carried out, and be confined to meeting only the difficulties that were then foreseen? or