

of that Act would lead to an apparent conflict of jurisdiction, as to the appointment of judges.

The effect of s. 96 therefore appears not only affirmative of the jurisdiction of His Excellency the Governor-General to appoint judges of the courts referred to in that section, but also exclusive or extinctive of any other jurisdiction so to do.

At the time of Confederation certain statutes of the former Parliament of Canada were in force in Ontario, whereby authority was given enabling judicial powers to be conferred on persons who were not judges, *e.g.*, C.S.U.C., c. 11, s. 2, enabled commissions of assize to be issued to judges of the County Court and any of Her Majesty's Counsel learned in the law of the Upper Canada Bar; and 29-30 Vict., c. 391, which enabled sittings of the Court of Chancery to be held by "any one of Her Majesty's Counsel learned in the law of the Upper Canada Bar upon such counsel being requested by the Chancellor or one of the Vice-Chancellors to attend for the purpose; and such counsel while holding such sitting shall possess, exercise and enjoy all the powers and authorities of a judge of the said Court," and his decision was to be subject to appeal.

But those powers granted by the former Parliament of the Province of Canada seem to have come to an end on the passing of the B.N.A. Act for this reason; it is obvious that the Parliament of the Province of Canada on Confederation taking effect, ceased to have any power to appoint judges, or to confer judicial power—and it therefore seems to follow that if it could not itself exercise a power to appoint a judge neither could any person to whom it had delegated such power do so. The appointment of a person to act as a judge for a temporary purpose is none the less an appointment of a judge, and though his jurisdiction may be limited both as to time and duties, yet within those limitations he is to all intents and purposes a judge.

The commissions of assize referred to in C.S.U.C., c. 11, s. 2, were formerly issuable by the Crown as represented by the Governor-General of the former Province of Canada. But the right to issue commissions of assize as was determined in *Reg v.*