after referred to—the legislative powers of the Dominion and Provincial Parliaments, and will thus be the means of building up a constitutional jurisprudence peculiar to the system of government in Canada. Part of its ordinary duty as an appellate court will be the interpretation of the laws enacted by the several legislative bodies, which will, in many cases, necessarily involve the determination whether the particular law to be construed is within the power of the enacting legislature. Questions common to all the provinces will be settled upon a principle of uniformity, which heretofore, amongst the seven co-ordinate and independent tribunals, could not have been expected to exist. It is alleged that in some instances a Provincial or the Dominion Legislature has passed laws which clash with the powers of the other, or are *ultra vires;* and the legal light of provincial courts, though luminous with judicial experience, has not altogether satisfied the legal or public mind, nor has it shone with a uniform light on the jurisdiction of the local legislatures.* Were this want of uniformity to be continued, the legal disorganisation of the federal and local powers under the Confederation Act, and of their parliamentary enactments, would soon land us in legislative chaos.

It is satisfactory to learn that, save in one or two instances, no very violent conflict of decision has appeared amongst the provincial courts. But although as yet "no bigger than a man's hand," this conflict of decision must increase, owing to the diversities of legal judgments, and the influence of local or peculiar institutions and habits of thought.

The Supreme Court will find a series of well-reasoned decisions on constitutional questions by the Supreme Courts in the United States, which will be useful as furnishing general principles of constitutional interpretation applicable in a great measure to the federal system of Canada. Two elementary principles governing the constitutional jurisprudence of that country may be referred to. One is that the ordinary rules for the interpretation of written instruments are not conclusive in defining the proper construction of a written constitution; but that a history and evidence, not recognized by ordinary case-lawyers, may be made auxiliary to the judicial materials used in construing the constitutional powers, as is thus in part stated by Mr. Justice Story in his learned Commentaries (vol. 1, sec. 405): "In examining the constitution, the antecedent situation of the country and its institutions; the existence and operation of the state (local) governments; the powers and operations of the confederation; in short, all the circumstances which had a tendency to produce or to obstruct its formation and ratification, deserve a careful attention. Much also may be gathered from contemporary history and contemporary interpretation to aid in just conclusions." Another principle is, that political decisions are recognised in the construction of treaties and the determination of individual rights thereunder, and may be illustrated by the following decisions: "It is the duty of the Courts in controversies between nations to decide upon individual rights according to the principles which the political departments of the government have established:" *Foster* v. *Neilson*, 2 Peters, U.S., 253. "However individual judges might construe the treaty, we think it is the province of the Court to conform its decisions to the will of the Legislature and Government, if that will has been clearly expressed:" *United States* v. *Arredondo*, 6 Peters, U.S., 691. Another peculiar rule

* See, for example, *Slavin* v. *Corporation of Orillia*, not yet reported, and *The Queen* v. *Taylor*, in our Court of Queen's Bench, the latter being now before the Court of Appeal, and *Regina* v. *Justices of King's County*, post p. 249.