

For like reasons that make against the sale of part of a railway under execution, it was held that a mechanic's lien against part of a railway could not be enforced in Ontario, in *King v. Alford*, 9 O. R. 643. And that was the state of the law when the Mechanics' Lien Act was amended by extending it in terms to railways. But the machinery supplied by the Act does not provide for working out a sale of the entire undertaking. The remedy seems to be restricted to that part of the railway where the work was done, and if the right of relief to the wage-earner in respect of his lien was analogous to that enjoyed by a vendor of land in right of his lien for the price, relief might be given and worked out by the Court under the provisions of the provincial Act.

But we are precluded by the decision in *King v. Alford* from holding that the mechanic's lien is of like legal character with a vendor's lien. It was there held that the mechanic's lien was operative as a statutory lien issuing in process of execution, of efficacy equal to but not greater than that possessed by ordinary writs of execution. Under a writ of execution against lands the sheriff can only sell what is in his bailiwick, and this limited process is not applicable to the sale of a line of railway running through many counties of the province.

Even if the mechanic's lien was to be regarded as a vendor's lien, I question the competency of the province to put that burden upon the lands and property of a federal railway undertaking.

By Dominion statute 4 Edw. VII. ch. 81, the railway company in question was incorporated, and the undertaking was declared by sec. 11 to be a work for the general advantage of Canada. By this enactment it was brought within the exception as to local works and undertakings specified in the British North America Act, sec. 92, No. 10 (c), and thereby placed under the exclusive legislative authority of Canada by virtue of sec. 91, No. 29. Being thus a federal railway exclusively under the legislative control of the Dominion, it is not competent for the local legislature of Ontario to enact any law which would derogate from the status and rights and property enjoyed and held by the federal corporation under its constitution created by the Dominion of Canada. That result follows inevitably, I think, from what has been decided in the earlier case of *Bourgoin v. Montreal, etc., R. W. Co.*, 5 App. Cas. 381, and the more recent cases