

... it in no way interferes with the authority of the Legislature of the province of Ontario."

So far, then, as the Parsons' case is concerned, these two questions are left entirely open.

I think it suggestive that when the Department of Trade and Commerce was created, if it was considered that the business of insurance came within its scope, it was not put under the control of that department. This, of course, proves nothing, but it seems to me suggestive.

Because the whole Dominion may be interested in a subject, or because a business may be carried on in all the provinces of the Dominion, does not of itself bring it within section 91. This position seems to me to be conclusively shown in the legislation above referred to in reference to the trade in intoxicating liquors.

Insurance Contracts Held to be Local in Nature.

Not only am I of opinion that even if the insurance business could be called one of the trades of the country the Dominion Parliament has no power to regulate it in the way in which the act in question attempts to do, but I am of opinion that it cannot properly be classed with the "trade" or "trades" of a country.

Not only is the contract of insurance by its nature not a trading contract, but the contract is always a local one.

We speak of insuring a house, or a stock of goods, or animals, or a life, but, strictly speaking, these are not insured at all, it is the estate of the person having an interest in these things that is insured. There is nothing in the business that corresponds to those businesses included in what is called the trade of the country. There is no buying to sell again, either wholesale or retail. The contract in reference to a building, for instance, in one province, has no necessary relation to any building or contract in another province. There is nothing inter-provincial in the business, in the sense in which "works and undertakings" are declared to be so under sub-section 10 of section 92, and it is only in reference to "such works," not every kind of business, that the Parliament of Canada can declare them "to be for the general advantage of Canada." Consequently, if, from some points of view, it might be for the general benefit of Canada to declare that a company could not do business in one province, even without coming under conditions such as are imposed by the act in question, that would not give the Dominion Parliament power to make such conditions. If they are necessary or advisable the province only has power to ordain them, and we cannot presume that the provincial authorities would neglect to do so if they thought the interests of their citizens required it. The company or person through whom, or with whom, a man in Montreal may make a contract of indemnity, and the conditions of that contract so that his estate may not suffer by the loss of some of his property or of his life is, in my opinion, one entirely of property and civil rights within the province.

Case of C.P.R. vs. Ottawa Fire Ins. Co.

A case which was not cited at Bar decided in our own Supreme Court of Canada, appears to me to give an important side-light on this question. It is the case of The Canadian Pacific Railway Company and The Ottawa Fire Insurance Company, 39 Supreme Court Reports, 405. It was held in that case by a majority decision that a company incorporated under the authority of a Provincial Legislature to carry on the

business of fire insurance is not inherently incapable of entering into a contract of insurance outside of the boundaries of its Province of origin, relating to property also outside.

It was there held that the term "provincial objects" could not be interpreted territorially. If that is good law, then no fire insurance company at least is obliged to get a Dominion charter, even if the present Act is held good, for all they would have to do would be to be incorporated in a Province and get permission to do business under the Dominion Act. The deduction seems clear to me, that if the business of insurance is not one of those for which it is obligatory to be incorporated by the Dominion, it does not fall among those classes of subjects that are given exclusively to the Dominion, and if the true interpretation of the business of insurance is a Provincial object, then it seems to follow as a matter of course that such companies should be incorporated by the Provinces rather than by the Dominion.

Dismissal of Complaint.

A case that was cited at Bar, La Compagnie Hydraulique de St. Francois and the Continental Heat and Light Company, Appeal Cases, 1909, page 194, goes very far in supporting the powers of the Dominion Parliament as against those of the Provinces, (farther, I think, than anything in the report justifies, as it appears to me there must be something in the facts which does not appear in the report, as the report is very short) I do not think, however, that it affects the case in question, and I therefore do not further discuss it.

For the reasons given above, I have to dismiss the complaint, which I do with costs.

Charles Gaudet, E. Lafleur, Counsel for prosecution; Campbell, Meredith & Co., Aime Geoffrion, Counsel, for defence.

BANK ACT AMENDMENTS.

The annual meeting of the Canadian Bankers' Association was held in Montreal yesterday. While its members are rightly not given to talking for publication, reports from Ottawa have it that the Bank Act is likely to be renewed at this session of Parliament without change until 1911. And no very striking changes are likely even then.

Advocates of external examination by Government inspectors will have a hard task showing that the objections to a change in that direction would not outweigh the possible advantages. Something is to be said for changing provisions in regard to the chartering of new banks, so as to ensure the *bona fides* and financial stability of projected institutions.

In view of the publicity already required of the banks as to unclaimed deposit balances, there seems no real need for the amendment to the Bank Act proposed by Mr. S. Sharpe (North Ontario) which would provide that all unclaimed balances in chartered banks after a lapse of six years shall be transferred to the Government as trustees.

COBALTS GENERALLY have had a quiet week. The New York Curb's attention has been taken up with Coppers. La Rose touched a new low-level of \$4.20 yesterday in Montreal.