

words, the Company may by its acts make the Dominion Act valid or the reverse. That is, if they had constructed a telephone line to connect Ottawa with the eastern bank of the Ottawa River, this would have been within the charter, and that therefore the Dominion Act is good to some extent. Such an interpretation would be of no use to the defendant, for it does not appear that he was engaged in a work of the kind, and furthermore, I think such a mode of interpreting the B. N. A. Act would lead to an evasion of the law, and therefore wholly inadmissible. I may also add that I think there is great room to question whether as a general proposition a law can be partly within the powers of a legislature and partly beyond. I do not mean to say that where a statute affects to grant two separate powers, one of which is within the jurisdiction of the legislative body and the other without, that the former may not be maintained although the latter is rejected; but where a legislature mixes up matters over which it has jurisdiction with those over which it has none, in such a manner that the object of the law cannot be attained by reason of the lack of those dispositions the legislature had not power to enact, I am inclined to think the whole law is inoperative, otherwise the intention of the legislature might be completely frustrated. I throw this out more as a possible rule of interpretation suggested by this case rather than as one applicable to this case, for I do not think Parliament had jurisdiction over any part of the subjects coming under our consideration in this case. I would therefore maintain the conviction.

DORION, C. J. In the distribution of the powers assigned respectively to the Dominion Parliament and to the legislature of each province by the B. N. A. Act, 1867, the intention is throughout made apparent, not only by the classification of the subjects, but also by express enactments, that to the Dominion Parliament should appertain the right to legislate on subjects which from their nature affect the interest of the whole Dominion, and that all matters of a local nature affecting but one of the Provinces, or a portion of a Province, are within the control of the whole Legislature of the Province affected thereby, unless excepted from this general rule by a special enactment. The powers so conferred

by Sections 91 and 92 of the Act are exclusive, so that within the limits assigned to the Dominion Parliament and to the legislature of each Province, these powers are exclusive, and as free from the control of the one over the other, as they are from the control of each of the other Provinces.

The power conferred by Sec. 92 on each Province to make laws concerning the different subjects therein enumerated, comprises municipal institutions in the Province, local works and undertakings generally, without any limitation as to whether such works constitute a commercial undertaking or not, the incorporation of companies with provincial objects, that is, whose objects are to be carried on within each Province, property and civil rights in the Province; and to leave no doubt as to the intention of the Act, Sec. 92 closes with this comprehensive declaration, "generally all matters of a merely local or private nature in the Province." These general powers are limited in certain cases, and S. S. 29 of S. 91 provides that the exclusive legislative authority of the Dominion of Canada extends to such subjects as are expressly excepted in the enumeration of the classes of subjects exclusively assigned to the legislature of the Province, as, for instance, Marine Hospitals, which are specially excepted by S. S. 7 of S. 92; Lines of steam or other ships, Railways, Canals, Telegraphs, and other works and undertakings connecting the Provinces with any other or others of the Provinces, or extending beyond the limits of the Province; Lines of steamships between the Province and any British or foreign country. Such works as, although wholly situate within the Province, are before or after their execution declared by the Parliament of Canada to be for the general advantage of Canada, or for the advantage of two or more of the Provinces, are also excepted by S. S. 10 of S. 92. Therefore all works wholly situate within one Province, whether the undertaking to which they appertain be for a commercial purpose or otherwise, no distinction being made in that respect, are within the control and subject to the legislation of the Province in which they are made, unless they are by the Parliament of Canada declared to be for the general advantage of Canada, or of two or more of the Provinces. The power of the Provincial legislature is further limited by S. 91 in matters relating to the