

"And any matter coming within any of the classes of subjects enumerated in this section shall not be deemed to come within the class of matters of a local or private nature comprised in the enumeration of the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces."

This clause, alone, is very indefinite, and it is not singular that in many cases, it has been misunderstood. As a matter of relief from an excess of heavy discussion, which we will have directly, one difficulty in it might be illustrated by

THE SMART BOY'S JOKE.

"How many legs has a horse?" he asked of his less brilliant companion.

"Four," was the reply.

"Suppose you called its tail a leg, how many would it have?"

"Why five, to be sure!"

"No, it wouldn't, you goose! *Calling its tail a leg, wouldn't make it a leg, would it?*"

When the clause says then, that matters arising within the classes of subjects in the 91st section, shall *not be deemed* to come within the classes of matter in the 92nd section, they do so, notwithstanding, whether "deemed" to do so or not. And it is the very fact that they *do* come within them, that makes all the difficulty. And in what sense, when they actually do so come within those classes, they are not to be *deemed* to come within them, the clause leaves indefinite, and open to construction, or—misconstruction! There are two senses in which the language may be taken: one, that they shall not come within the classes of subjects named in the 92nd section, so as to interfere with the right of the Legislatures to legislate with reference to the subjects-matter in that section. This is the view taken of it by Mr. Justice FISHER in the two cases, *Robertson v. Steadman*, 3 Pugs., at p. 637, and in *Steadman v. Robertson*, 2 P. & B., at p. 594. But if this were the meaning, the words "*be deemed to*" would not have been inserted in the clause at all, and the language then expressly would have been, "shall not come within," &c. And, in fact, Mr. Justice FISHER in quoting the language from the Act in the cases above named, does misquote the language in that way,—"*Shall not come within,*" &c. If this had been the language, and there had been nothing else in the Act to have modified it, the Act, then, *would* have been perfectly clear and simple, and the absurdities which now fill up Mr. *Loranger's* pamphlet, would not