

alone has jurisdiction to legislate on the subject of interest, then the Province can deal with it as a civil right, only within the lines and subject to the limitations and restrictions laid down and imposed by Dominion legislation. [Reference to *Attorney-General v. Mercer*, 3 Cart. at p. 107.]

This is one of the cases in which the jurisdiction of the Province and the Dominion overlap. Lending money upon real estate or chattels and taking mortgages therefor is a question of property. Money is seldom lent except at interest, and, next to getting security for its repayment, interest is the most important thing connected with the loan, and interest is one of the subjects reserved for the Dominion. The Dominion Parliament has dealt with it in passing the statute under consideration, and there is the general presumption that the Legislature does not intend to exceed its jurisdiction.

It is argued for the defendants that the right of the Dominion to legislate is only as to rate, as to usury, leaving details and matters affecting contracts to the Province. On the other hand, it is argued by plaintiffs that the Dominion was intended to have and has power to deal with interest as to rate, and also when it shall and shall not be payable, even if in so dealing with it, in concrete instances, there is an apparent interference with property and civil rights.

The following cases and other cases establish that subjects, apparently within Provincial jurisdiction, may be dealt with, to a greater or less extent, by the Dominion, when necessary "to complete by ancillary provisions the effectual exercise of the powers given to the Dominion by the enumerated subjects in sec. 91:" *Lefroy*, p. 432: *Citizens Ins. Co. v. Parsons*, 4 S. C. R. 330; *Edgar v. Central Bank*, 15 A. R. 207; *Tennant v. Union Bank*, [1894] A. C. 31.

[Reference also to the following cases: *In re Parker*, 24 O. R. 373; *Lynch v. Canada North-West Land Co.*, 19 S. C. R. 204; *Regina v. Wason*, 17 A. R. 231.]

After the best consideration I can give the matter, my conclusion, contrary to first impression, is, that sec. 7 is within the competence of the Dominion Parliament. In so holding I do not overlook the argument that, as a logical result, the Dominion can legislate to limit any contract to the shortest duration where interest is involved: nor do I overlook the decision in *Parsons v. Citizens Ins. Co.*, 7 App. Cas. 96, that, "property and civil rights" in sec. 92 "include rights arising from contract, and are limited to such rights only as flow from the law." It is, however, one thing to legislate where the contract has sole reference to security for