

" general laws affecting railroads impose on whomsoever holds it. Should it pass into the hands of individual proprietors, it is nevertheless to a great extent subject to the general laws enacted for the government, control, and inspection of railways."

These observations strongly suggest that the legislation which the Court of Lower Canada had to consider, in that case, differs in material respects from legislation upon the same matters in this country. The learned judge was speaking, in the year 1879, with reference to provincial statutes, which it is now unnecessary to examine, because the undertaking of the South Eastern Company had become a Dominion railway, before the respondent's writ of *Fi. fa.* was issued. Sect. 92 (10 c.) of The British North America Act 1867, excludes the authority of provincial legislatures in regard to local works and undertakings which are, before or after their execution, declared by the Parliament of Canada to be for the general advantage of Canada. On the 25th of May an Act was passed by the Dominion Parliament (46 Vict., cap. 24) further to amend "The Consolidated Railway Act, 1879," and to declare certain lines of railway to be works for the general advantage of Canada; and the enumeration of these lines in Sect. 6 includes the whole system of the South Eastern Company. Sect. 14 of the same Act provides that "if at any time any railway or any section of a railway way be sold under the provisions of any deed of mortgage thereof, or at the instance of the holders of any mortgage bonds or debentures, for the payment of which any charge has been created thereon, or under any other lawful proceeding, and be purchased by any person or corporation not having any corporate powers authorizing the holding and operating thereof," the purchaser must, within ten days from the date of his purchase, transmit to the Minister of Railways and Canals an intimation of the fact, describing the termini and line of route of the railway, and specifying the charter under which it had been constructed and operated. Sect. 15 provides that, until such intimation has been made and all information furnished which the Minister may require, it shall not be lawful for the purchaser

to operate the railway; but that he may thereafter continue, until the end of the then next session of the Parliament of Canada, to work the railway and to take tolls, upon the terms and conditions of the previous owner's charter, unless these are varied by a letter of license, which the Minister is authorized to grant. Sect. 15 makes it the duty of the purchaser to apply to Parliament, during the next session after the purchase, for an Act of incorporation or other legislative authority to hold, operate, and run the railway. If the application proves unsuccessful, it is in the discretion of the Minister to extend his license until the end of the next following session of Parliament, and no longer. Should the purchaser, during the extended period, fail to obtain an Act of incorporation or other legislative authority, then the railway must be closed, or otherwise dealt with by the Minister of Railways and Canals, as shall be determined by the Railway Committee of the Privy Council.

Comment upon these enactments would be superfluous. They do not suggest that, according to the policy of Canadian law, a statutory railway undertaking can be disintegrated by piecemeal sales at the instance of judgment creditors or incumbancers; but they clearly show that the Dominion Parliament has recognized the rule that a railway or a section of a railway may, as an integer, be taken in execution and sold, like other *immeubles*, in ordinary course of law. They justify the statement of Chief Justice Dorion, in the present case, that "it is now well settled by the jurisprudence prevailing in this country, and recognized by the Act of 46 Vict., cap. 49, that a railway can be seized and sold for the debts of the company who owns such railway."

For these reasons, their Lordships have come to the conclusion that their judgment must be for the respondents. They are not affected by the Act of 1880, and must, therefore, be placed in no worse, and at the same time, in no better position than they would have occupied if the Act had never passed. On the one hand, the railway taken in execution by the respondents must, for all the purposes of these proceedings, be deemed to be still the property and in the possession of