

Parliament to deal with such matters as part of a bankruptcy law, and the provincial legislature would doubtless be then precluded from interfering with this legislation, inasmuch as such interference would affect the bankruptcy law of the Dominion Parliament. But it does not follow that such subjects as might properly be treated as ancillary to such a law, and, therefore, within the powers of the Dominion Parliament, are excluded from the legislative authority of the provincial legislature when there is no bankruptcy or insolvency legislation of the Dominion Parliament in existence."

It will, of course, be remembered that as far back as the case of *L'Union St. Jacques de Montreal v. Belisle*,\* their lordships had said that a local legislature is not incapacitated from enacting a law, otherwise within its proper competency, merely because the Dominion Parliament might, under section 91 of the British North America Act, if it saw fit so to do, pass a general law which would embrace within its scope the subject-matter the local law, but they had stated that they were by no means prepared to say that if such a law were passed by the Dominion Parliament it would be within the competency of the provincial legislature afterwards to take the subject-matter of the local Act out of the scope of a general law of the kind so competently passed by the Dominion Parliament, but it is clear that they have now gone much further than the point thus reached, and perhaps we may best arrive at a correct understanding of what they have now said by considering first for a little what they have not said.

It is very clear that they have not confirmed the view expressed by Maclellan, J.A., in the court below, to the effect that "except so far as the Dominion chooses from time to time to occupy the field of bankruptcy and insolvency legislation the province may occupy it,"† a view which appears to be adopted by Mr. Clement in his recent able work on the law of the Constitution.‡

With very great deference, I submit that such a view is contrary both to the express words of the British North America Act, and to the teaching of the reported decisions upon it. As

\* L.R. 6 P.C. 31 ; 1 Cart. 63 (1874).

† 20 A.R., 4, p. 502.

‡ See Clement's Canadian Constitution, pp. 216-7, 393.