

appellant, and that it is not to be restrained in the doing of it by interlocutory injunction.

"At the outset, it is to be observed that the act constituted the respondent a private company for the purpose of engaging in trade for its own profit. It has no object of public benefit or public service. The grant of power to carry on the business of life insurance is permissive, and is given in the same terms as are its powers to open stock-books and regulate its internal concerns. Such an act would be regarded as a private act, even if it contained a clause declaring it to be a public act, for its real and legal character is to be determined by the actual purport of its dispositions and clauses: *R. S. C., cap. 1, secs. 13 and 17*; *La Cie pour l'Eclairage au Gaz de St-Hyacinthe vs. La Cie des Pouvoirs Hydraulique de St-Hyacinthe*, 25 *S. C. R.* 168.

"Counsel for the respondent appears to have failed to distinguish between the legal capacity to do certain things or engage in certain business, conferred upon the respondent by its special act, and the legal obstacles and hand-rances which may prevent the legal capacity from being exercised in certain circumstances or in certain places. The necessity of making this distinction may be illustrated by reference to decided cases.

"Thus, in a case of controversy between the Dominion and the province respecting legislative power, it was pointed out in *Citizens Ins Co. vs. Parsons* (7 *App. Cas. at p. 117*): "Suppose the Dominion Parliament were to incorporate a company with power, among other things, to purchase and hold lands throughout Canada in mortmain, it could scarcely be contended, if such a company were to carry on business in a province where the law against holding land in mortmain prevailed (each prov-