

international juridical bodies, and an early attempt at an international air convention had failed by reason (as I was told in Paris) of the denial by Great Britain that national sovereignty extended to the air, the proposition that every Power has complete and exclusive sovereignty over the air above its territory is now generally conceded.

In a country with a federal constitution it is necessary at the outset to consider whether the sovereignty so established is exercisable by the federal or by the provincial or state authorities, and this question has been much debated in the United States. It presents, however, little difficulty in Canada. The necessity for governmental interference on any cognate subject did not exist in 1867, and in the absence of any subject of exclusively provincial legislation expressed in section 92 and necessarily including the use of the airways, that subject would fall within the residuum of powers given to the Dominion. Even the residuary clause need not, however, be alone relied on. The tenth of the classes of subjects allotted to the Dominion, namely, navigation and shipping, seems clearly to include it. The air is like the sea in pathlessness. In its relation to land surface it perhaps approximates more closely to a navigable river, but control of the use of both has, so far as legislative jurisdiction in Canada is concerned, been confided to the Dominion. There appears to be no reason for refusing to extend the application of the words of the British North America Act to include everything comprehended within their common signification, and the common terms relating to navigation have all been applied to the navigation of the air with the same meanings as they bear in relation to the navigation of the waters of the earth. Even if neither the residuary powers of the Dominion nor the words "navigation and shipping" were sufficient to confer jurisdiction over the air on the Dominion, section 132 of the British North America Act, conferring upon the Dominion all "powers necessary or proper to performing the obligations . . . arising under Treaties between the Empire and . . . foreign countries," would, as it will appear later, in view of the ratification of the Convention relating to International Air Navigation, give wide powers to the Dominion.