sons:—"The first step to be taken with a view to test the validity of an Act of the provincial legislature is to consider whether the subject matter of the Act falls within any of the classes of subjects enumerated in sect. 92. If it does not then the Act is of no validity. If it does then these further questions may arise, viz., whether, notwithstanding that it is so, the subject of the Act does not also fall within one of the enumerated classes of subjects in sect. 91, and whether the power of the provincial legislature is or is not thereby overborne."

B. N. A. ACT, SECT. 108.

The next case calling for notice, *Western Counties Ry. Co.* v. *Windsor and Annapolis Ry. Co.*, p. 178, is also a decision under the B. N. A. Act, but it appears only necessary to say that the principle it establishes is that though sect. 108, which enacts that the public works and property of each Province, enumerated in Sched. 3 to the Act, shall be the property of Canada, had the effect of transferring to the Dominion of Canada all railways which were the property of the separate provinces, yet it had not the effect of vesting in Canada any other or larger interest in those railways than that which belonged to the Province at the time of the statutory transfer.

AMENDING PROBATE -FROM AND AFTER DECEASE OF WIFE —VESTING.

The last case in this number, *Rhodes* v. *Rhodes*, p. 192, is a will case from New Zealand. Two questions arose in it, viz. (i.) whether the plaintiff was entitled to have the probate of the will amended by having certain words contained in it omitted; (ii.) as to the proper construction of certain clauses in the will. As to (i.) it appeared that the person who drew the will, on general instructiosn from the testator, inserted certain words in it for no particular reason, except that he thought they would come in an ordinary will. The effect of these words, it was said was to change the whole effect of the subsequent part of the will, and so defeat the testator's intentions. The will was afterwards read over to the testator, he being then of disposing mind, but very ill, and he executed it, having confidence in the draughtsman, though it was impossible to suppose that he had an intelligent appreciation of the effect of these words at all. Their Lordships, however, held that "there is no difference between the words which a testator himself uses in drawing up the will, and the words which are *bona fide* used by one whom he trusts to draw it up for him. In either case there is a great risk that words may be used that do not express the intention. There probably are very few wills in which it might not be contended that words have been so used. However this may be, the Court which has to construe the will must take the words as they find them." And they distinguish the case where a certain part of an instrument purporting to be a will has been inserted by fraud, and where this part, being "so distinct and severable from the true part that the rejection of it does not alter the construction of the true part, it has been held that, consistently with the statute of wills, the execution of what was shewn to be the true will, and something more, may be treated as the execution of the true will alone." (ii.) The point of construction in question was as follows:—The testator, after making certain dispositions in favour of his wife, and others, not affecting the question at issue, directed that *from and after the decease of his said wife* without leaving issue of his said marriage, his trustees should stand possessed of all the undisposed of residue of his real and personal estate in trust for his daughter for and during the term of her natural life, with further provision in case of her death or marriage. The daughter now claimed that it might be declared that she was entitled, under the will, to the *immediate* possession and enjoyment of the moneys arising and to arise from the residuary estate, though the wife of the testator was still living. As to this the Privy