

anything, was declared by Parliament. It did not come under (b), because it was not a line of steamships between Manitoba and any British or foreign country unless we call it a line of steamships by analogy, the original means of transport in Manitoba, the Red River carts, having been termed "prairie schooners." Nor does it come under that portion of (a) which excepts "lines of steam, or other ships, railways, canals, telegraphs, and other works and undertakings, connecting the province with any other or others of the provinces. That was a useful provision to prevent one province from trespassing upon the jurisdiction of another or others; but, as the Red River Valley Railway, whatever horrible things it was to do, did not propose to touch in or upon any other province, that portion of (a) does not apply to it. The only question is, what was meant by that other portion of (a), which excepts railways, etc., "extending beyond the limits of the province," from the local undertaking in relation to which the provinces "may exclusively make laws?" Was the Red River Valley Railway as projected a railway "extending beyond the limits of the Province?" It certainly was not; it was to go to the boundary, and no farther. But, it is said, it transgresses the spirit of the B. N. A. Act, because the section "expressly applies to railways connecting one province with another, and could hardly be intended to apply to a railway connecting, as this was avowedly intended to do, a province with a foreign country." Why not? The object in preventing one province from incorporating a railway to run over another province seems to have been to render it impossible for one province to trespass upon the jurisdiction of another. What could be the object in providing that a province may not "exclusively make laws" in relation to a railway passing from a province into a foreign country? Could the Dominion Parliament itself make laws in relation to railways extending into foreign countries? Evidently not. But, it is added, "sec. 91 of the B. N. A. Act expressly subjects ferries between a province and any foreign country to the exclusive jurisdiction of the Dominion Parliament," and from this it is argued that any railway connecting with a foreign country comes within the jurisdiction of the Dominion Parliament. On the contrary, the very fact that (b) expressly refers to "lines of steamships between the province and any British or foreign country," shows that when "lines of steam, or other ships, railways," etc., are mentioned in (a), no reference is intended to be made to connections with foreign countries which are provided for in (b). As a matter of fact, or rather of law, this whole question was decided in the Supreme Court of New Brunswick, in 1871, in the case of the *European and North American Railway Company for the extension from St. John's westward v. Thomas*, when Chief Justice Ritchie, now Chief Justice of the Supreme Court of Canada, held that just such a railway as the Red River Valley Railway, which was being built to the International boundary, there to meet an American line, was within the powers of New Brunswick to construct. The judgment, which was concurred in by Allen, Weldon, and Fisher, JJ., was as follows:—

"But it is claimed to have been shown by evidence outside the Act that, at the time it was passed, and also at the time of the passing of 32 Vict. c. 54, it was contemplated and intended by the promoters of the undertaking to connect