

## REPORTS AND NOTES OF CASES.

### Dominion of Canada.

#### SUPREME COURT.

Ont.]                      HEWSON v. ONTARIO POWER CO.                      [Oct. 24.

*Constitutional law—Construction of statute—B.N.A. Act, 1867, s. 92, sub-s. 10 (c)—Legislative jurisdiction—Parliament of Canada—Local works and undertakings—Recital in preamble—Enacting clause—General advantage of Canada, etc.—Subject matter of legislation—Presumption as to legislation of Parliament being intra vires—Motion to refer case for further evidence.*

In construing an Act of the Parliament of Canada, there is a presumption in law that the jurisdiction has not been exceeded.

Where the subject matter of legislation by the Parliament of Canada, although situate wholly within a province, is obviously beyond the powers of the local legislature, there is no necessity for an enacting clause specially declaring the works to be for the general advantage of Canada or for the advantage of two or more of the provinces.

*Semble*, per SEDGEWICK and DAVIES, JJ., (GIROUARD and IDINGTON, JJ., contra).—A recital in the preamble to a special private Act enacted by the Parliament of Canada, is not such a declaration as that contemplated by sub-s. 10 (c) of s. 92 of the B.N.A. Act, 1867, in order to bring the subject matter of the legislation within the jurisdiction of Parliament.

A motion, made while the case was standing for judgment to have the case remitted back to the courts below for the purpose of the adduction of newly discovered evidence as to the refusal, of Parliament to make the above-mentioned declaration was refused with costs. Appeal dismissed with costs.

*Lafleur*, K.C., and *H. S. Osler*, for appellant. *W. Cassels*, K.C., and *F. W. Hill*, for respondents.