

Canada as a Dominion, there are various sentences of the Board's judgement in the aviation case which might be literally transcribed to this. The idea pervading that judgement is that the whole subject of aeronautics is so completely covered by the treaty ratifying the convention between the nations, that there is not enough left to give a separate field to the Provinces. The same might at least very easily be said on this subject, but even supposing that it were possible to draw a rigid line between inter-Provincial and Dominion broadcasting, there is something more to be said. It will be found that the argument for the Provinces really depends on a complete difference being established between the operations of the transmitting and the receiving instruments. The Province admits that an improper use of a transmitting instrument could by invasion of a wave-length not assigned by international agreement to Canada bring into effect a breach of a clause of the convention. But it says this view does not apply to the operation of a receiving instrument. Now it is true that a dislocation of a receiving instrument will not in usual cases operate a disturbance beyond a comparatively limited circular area; although their Lordships understand that a receiving instrument could be so manipulated as to make its area of disturbance much larger than what is usually thought ~~of~~.

The argument of the Province really depends on making, as already said, a sharp distinction between the transmitting and the receiving instrument. In their Lordships' opinion this cannot be done. Once it is conceded, as it must be, keeping in view the duties under the convention, that the transmitting instrument must be so to speak under the control of the Dominion, it follows in their Lordships' opinion that the receiving instrument must share its fate. Broadcasting as a system cannot exist without both a transmitter and a receiver. The receiver is indeed useless without a transmitter and can be reduced to a nonentity if the transmitter closes. The system cannot be divided into two parts, each ~~dependent~~ of the other.

Upon the whole matter, therefore, their Lordships have no hesitation in holding that the judgment of the majority of the Supreme Court was right, and their Lordships will therefore humbly advise His Majesty that the appeal should be dismissed. No costs will be awarded, this being a question to be decided between the Dominion and the Provinces.

Although the question had obviously to be decided on the terms of the statute, it is a matter of congratulation that the result arrived at seems consonant with common sense. A divided control between transmitter and receiver could only lead to confusion and inefficiency."

The second excerpt to which I should like to direct your attention is from a dissenting judgement of Mr. Justice Holmes in 1919, after the Supreme Court of the USA had confirmed sentences of twenty years imprisonment on the two appellants for