

thinks such a limitation of its power would not savour of the criminal law; but if the legislature not only limits the right of operation to six days, and at the same time, imposes penalties for breach of the limitation, it is rather difficult to see how the legislation differs from that in question in the *Attorney-General v. Hamilton St. Ry.* (1903), A.C. 524, which was held to be *ultra vires*.

The Chancellor holds that the scheme of two-fold legislation which the Dominion Parliament has adopted is not to be regarded "as a delegation of legislative power in a matter of criminal law to a body having no capacity to legislate criminally, but rather the designation by the Dominion of a legislative agency to decide whether it is expedient to enact a law for the regulation of the Lord's Day in its secular aspect, as to railways entirely within the province; and a legislative report being made by an appropriate enactment, then to give full legal force and efficiency to such provincial action by accepting it and assuming responsibility for it as if it were a Dominion Statute." This is an ingenious way of putting the matter.

But, it may be asked, is it constitutionally competent for the Dominion Parliament to designate such "a legislative agency?" We should be inclined to think it has no power to confer on Provincial Legislatures a jurisdiction which the B.N.A. Act assigns exclusively to the Dominion. Could it, for instance, give Provincial Legislatures a general legislative jurisdiction to deal with matters which the B.N.A. Act provides shall be exclusively reserved for the Dominion Parliament? The learned Chancellor seems to concede that this could not be done. Such a delegation or abrogation of its own legislative powers would, we are inclined to think, be *ultra vires* of the Dominion Parliament. If any such alteration in the relative powers of the Dominion and Provincial Parliaments is desired we should think it must be sought by an amendment of the B.N.A. Act. To alter that Act directly or indirectly is, we take it, in view of the Colonial Laws Validity Act (28-29 Vict. c. 63) beyond the power of the Dominion Parliament.