

Reasons for the Report of the Lords of the Judicial Committee of the Privy Council on the Appeal of La Compagnie Hydraulique de St. François v. The Continental Heat and Light Company and another, from the Court of King's Bench for the Province of Quebec (Appeal Side); delivered the 16th October, 1908.

Present at the Hearing :

LORD ROBERTSON.

LORD ATKINSON.

SIR ARTHUR WILSON.

SIR HENRI ELZÉAR TASCHEREAU.

[*Delivered by Sir Arthur Wilson.*]

A Statute, 60 & 61 Vict. c. 72, of the Parliament of Canada incorporated the Respondent Company and enacted that (s. 7) it might manufacture, supply, sell, and dispose of gas and electricity, with other powers.

Subsequent provincial Statutes of Quebec incorporated the Appellant Company, and granted it the exclusive privilege of producing and selling electricity within a radius of thirty miles from the village of Disraeli, in the Province of Quebec.

The Statute further enacted that :—

“ No Company shall exercise any privileges,
“ franchises, or rights of a like nature to those
“ conferred upon the St. Francis Water Power
“ Company by the Act 2 Edward VII., chapter 76, in
“ the territory designated in the said Act without
“ first obtaining the consent of the said St. Francis
“ Water Power Company, and that of the Companies
“ mentioned in the following clause.”

(22)56573. [59.] 100. --10/08. Wt. 213. E & S.

The Respondents took steps to act under their charter by establishing works within thirty miles from Disraeli. The Appellants applied for an injunction to restrain them from so doing. The Courts in Canada refused the injunction, and against that refusal the present appeal has been brought.

The contention on behalf of the Appellant Company was, that the only effect of the Canadian Act was to authorize the Respondent Company to carry out the contemplated operations in the sense that its doing so would not be *ultra vires* of the Company, but that the legality of the Company's action in any province must be dependent on the law of that province.

This contention seems to their Lordships to be in conflict with several decisions of this Board. Those decisions have established that where, as here, a given field of legislation is within the competence both of the Parliament of Canada and of the Provincial Legislature, and both have legislated, the enactment of the Dominion Parliament must prevail over that of the Province if the two are in conflict, as they clearly are in the present case.

For these reasons, their Lordships, on the 8th July last, agreed humbly to advise His Majesty that the Appeal should be dismissed, and directed the Appellants to pay the costs of it.
