U. C. M. CONVENTION (Continued).

before their gates this great power corporation with its poles and wires, declaring "we propose to enter your city, not by leave of, nor under the conditions imposed by, the Municipal Council, but of our own volition."

The argument of the power group was simply "vested rights." Mr. J. M. Beck almost shed tears at the prospect of the alleged jeopardising of $29,000,000, the amount of the bonds of the Toronto and Niagara Power Company, which is the holding concern of the Toronto Electric and the Electrical Development Companies.

But this is the point at issue. When the charter was granted in 1902 the City of Toronto asked whether its wording gave the company the right to go on the streets of municipalities without their consent. The chairman of committee and other members of Parliament declared that there was no such intention. The Official Debates show this. The bill was passed by Parliament on that understanding.

Canadian courts took the view that Parliament had granted no rights beyond what it intended to grant. The judicial committee of the Privy Council found otherwise. The bill now before Parliament simply provides for carrying out Parliament's expressed intention, and for eliminating the extraordinary and dangerous powers conferred on the company, not by Parliament, but by the Privy Council.

Of all the twists and turns which clause 374 took later on I need not speak at length. Mr. Mowat achieved a notable victory when at a late hour on a sweltering summer night in June and in a thin house, he succeeded by a majority of 4 votes in securing the adoption of the following amendment:

> Strike out subsection five (the subsection inserted by the Senate) and substitute therefor the following subsections:
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> (5) "The provisions of the last preceding subsec-"tion shall apply to and restrict the powers of any "company heretofore incorporated by Special Act, "or other authority of the Parliament of Canada, "notwithstanding that such provisions may be in-"consistent with the provisions of such Special Act "or other authority, and notwithstanding the pro-"visions of section three of this Act.
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> (6) "If any company heretofore incorporated by "Special Act or other authority of the Parliament "of Canada has acquired, or shall acquire assets or "any part thereof, or the right to the possession or "use of the assets or any part thereof, of any com-"pany or person operating a system for the dis-"tribution of light, heat, power or electricity, in any "town, city, village or township, then in every such "case the company so acquiring such assets shall "carry out with the municipality all the obligations "in respect to the said assets whether arising under "contract or in any other manner, of the company "from which the said assets have been or shall be "acquired."

Tossed from Commons to Senate and from Senate to Commons, in the dying days of the Session, when it looked as if the whole bill would go overboard, owing to the differences of opinion between the two Houses, especially on this clause, an "ancient and honorable formula" was dug up. "Managers" of the Senate and House of Commons were appointed and met in solemn conclave to endeavour to reach an agreement. However, the conference was abortive, and then it was that the Minister of Railways hit upon the device of lifting the contentions clause 374 from the bill entirely and introducing it as a separate measure, so that the consolidated bill might become law. Of the new bill (No. 168) "respecting electric and power companies," I have only to say that it passed the Commons unanimously, but, as predicted by many Commoners, promptly received its quietus in the Senate, so that the power issue is still unsettled.

The withdrawal of section 374 would have left the municipalities in a worse position than they were under the old act, had not Parliament at the last moment embodied in the new law section 247 of the old Railway Act in so far as that section applies to any person or company having legislative authority from the Parliament of Canada to acquire, construct, operate or maintain works, machinery, plant, lines, poles, tunnels, conduits, or other means for receiving, generating, storing, transmitting, distributing or supplying electrical or other power or energy, but not including a railway company or a telegraph company or telephone company. The effect of this amendment as explained by Mr. Nickle, M.P., will prevent any light, heat and power company that has not got a special charter from entering upon the streets of any municipality without the consent of the municipality being obtained, although a transmission, or a distribution and transmission company, may have its rights to construct a transmission line determined by the Railway Board. Power over any distribution system for which legislative authority has been obtained will be retained by the municipalities. All companies having special charters, such as the Toronto and Niagara Power Company have, will go absolutely scot free.

The interchange of business between the Bell Telephone Company and rural companies raised an interesting point. The clause (375) dealing with traffic arrangements left it to the Board of Railway Commissioners to determine the conditions of interchange "including compensation if any" and strong exception was taken in the Commons to these four qualifying words on the ground that they lent colo to the argument that compensation was clearly intended, when as a matter of fact the Bell Company was the principal gainer by the interchange of traffic with rural companies. Mr. Wallace of West York moved to strike out these words and add the following:

Provided however that the charge to such first-mentioned company, province, municipality or corporation for any long distance conservation or message transmitted over a line owned, controlled or operated by the company shall not be more than the established long distance rate of the company.

This amendment carried by 47 to 9, but the Senate later gave it short shrift, and the form words as quoted appear in the Consolidated Act.

An appeal was made to the Union by Mr. Fraser, President of the Union of British Columbia municipalities, to oppose section 325 conferring authority upon the Railway Commission to increase fares or rates notwithstanding the provisions of any existing agreement between railways and municipalities. As explained by Mr. McQuarrie, member for New Westminster district, the municipality of Burnaby, B.C., is at issue with the British Columbia Electric Railway Co. upon the question of the tariff of rates between Vancouver and New Westminster. The reeve and other representatives of the municipality of Burnaby considered the matter so important that they came all the way from British Columbia to Ottawa to oppose this application. After full discussion the decision of the Board was reserved, as was stated, for the purpose of awaiting the result of pending litigation. At the same time another appeal was threatened to the Supreme Court of Canada, but that appeal not having been proceeded with, in November of last year the Board gave its decision approving the increased rates, notwithstanding the existence of an agreement between Burnaby municipality and the British Columbia Electric Railway Company, fixing the maximum rates to be charged. The municipality immediately applied to the Board for leave to appeal to the Supreme Court of Canada on the question of law involved, namely, whether the Board had jurisdiction to grant the application or not. The Board intimated that leave would be given on a definite question or on definite questions of law which would have to be settled by the Board. A decision has never been given, and the question of law has never been settled although many applications have been made to the Board to have the matter disposed of. The proposed amendment to the law, it appeared, emanated from the Railway Board.

In the subsequent discussion Sir Robert Borden intimated that a memo from Sir Henry Drayton made it clear that the Railway Board must have the right which the clause would establish, otherwise it would be impossible for the Board to fix rates commensurate with the necessity of having railways operated. He admitted, however, that there was force in Mr. McQuarrie's view and suggested as a compromise that the authority conferred by the Act be limited to three years, so that Parliament could have an opportunity of considering the situation from the standpoint of limitations, if any, upon the effects of the clause in the future, and from the standpoint of compensation. This suggestion of the Prime Minister was subsequently embodied in the act and accepted by both houses.