

V. THE PROBLEM TO BE SOLVED.

It must be assumed that the framers of the British North America Act in giving to the provinces the power to incorporate companies with provincial objects did not intend that the provinces should have the power to interfere with companies operating under Dominion charters, and to prevent them from exercising their chartered powers until they had complied with provisions which are in themselves as onerous as the taking out of a new charter. Granted the provinces may tax business within the province, it is questionable whether they are competent to prevent companies, at all events those incorporated by the Dominion, from doing business until the tax is paid, or to impose disabilities of status incapacitating them from enforcing their rights by an appeal to the courts.

The Supreme Court may be expected to give to the subject the careful consideration to which its importance entitles it. And if the matter is carried further it is to be hoped that no small partizan spirit on the part of the provinces or the Dominion, and no carping assertion of "federal rights" or "provincial rights" will stand in the way of having the questions dealt with in a manner consistent with the magnitude of the interests involved.

There is, in fact, room for constructive statesmanship of the highest order in dealing with the whole question of corporation law in this country. Constitutional law is being constantly made by decisions of the courts in concrete cases, and although in theory the courts are confined to a strict and impartial interpretation of the written constitution, it needs no argument to demonstrate that a chance decision on a hard set of facts, in which the constitutional questions are inadequately argued, or ignored, may influence the whole course of constitutional development. When the British North America Act was passed, the subject of corporation law occupied no such place as it does to-day, and the difficulties that have arisen could scarcely have been anticipated. There are certain companies which can be