

and connect with the local railways, and it is only when they connect that the question of through traffic can come up. The railway commission which we are organizing would be powerless to regulate through traffic; there can be no through traffic unless there is a connection, and if the local railway was connected with a railway under the jurisdiction of the Dominion parliament, and gave rise therefore to through traffic, that through traffic should be regulated by the Dominion parliament, or a commission organized under this parliament, and not by the local bodies or authorities.

Hon. Mr. SCOTT—Strictly speaking, I presume if we were not going to interfere with the legislative authority of the provinces, we could limit the power of the board to the mode in which the connection was made, and to the mode of crossing, and as the traffic would be over a road belonging to one province over which we should not have any jurisdiction, I would see no impropriety in omitting 'traffic' altogether, and limiting the power of the board to the mode of connecting and to the mode of crossing. There can be no hesitation in our exercising the prerogative to that extent. It may be questionable whether we ought to go any further, and in the instance stated that of the Timiskamang Railway, which belongs to the Ontario government, it does seem rather arbitrary that we should dictate to that province what its proportion of the freight carried over the Grand Trunk Railway and that line, or the Canadian Pacific Railway and that line, and of the passenger travel should be. There is no doubt it is an intrusion to that extent, and I do not see that any serious harm would arise if, after all, the power of the board was simply limited to the connection and crossing, leaving the question of traffic independent of that. It could not be any serious matter, but to that extent it is an intrusion on the powers of the provincial legislature.

Hon. Mr. LOUGHEED—I would point out to my hon. friend, without discussing this at length—because I certainly have not given the same consideration to it as he has done—that it is very questionable in my mind whether there can be a division of authority, as has been pointed out, under the British North America Act. The only way

this parliament can exercise authority over a provincial railway, as distinguished from one running in two provinces, is by declaring it to be a work for the general advantage of Canada. Parliament has to do that in the first instance in order to exercise authority over it. Having done that, it certainly cannot leave part of the powers to be administered by the province, the parliament of Canada reserving to itself certain other powers. There cannot be any divided authority, and in my judgment, immediately a railway is declared to be for the general advantage of Canada, it must, under the British North America Act, come exclusively under the authority of this parliament, and certainly this parliament cannot delegate to any of the provinces the powers which, under the British North America Act, are vested in this parliament by reason of that Act. The argument of my hon. friend is that this parliament, after declaring that a work shall be for the general advantage of Canada, shall at the same time say to the province 'We grant to you the right, notwithstanding it be vested in us to exercise authority to a limited extent over that particular railway.' It cannot be otherwise, because if my hon. friend says that only to a limited extent shall this parliament exercise authority over that class of matters, namely as to crossings, as to connections and as to through traffic, it impliedly says to the province 'We permit you to exercise authority as to the other powers which, under the British North America Act, are vested in this parliament.' I say there cannot be a delegation of that authority or a division of it.

Hon. Mr. KERR—Clause 5, which is being repealed, does contain that provision. It reads as follows:

5. All the provisions of this Act relating to any subject or matter within the legislative authority of the parliament of Canada, and for greater certainty but not so as to resist the generality of the foregoing terms, all provisions relating to railway crossings and junctions, highway crossings, through traffic, offences, penalties and statistics, shall apply to all persons, companies and railways, whether otherwise within the legislative authority of parliament or not. 51 V., c. 29, s. 4, Am.

Hon. Mr. DANDURAND—Clause 7 divides the jurisdiction as well, in this Bill,