

APPENDIX No. 2

Mr. MACDONELL: Do you not think there are almost as many arguments, as you have recited now, in favour of the Ontario Court of Appeal's decision, which the Privy Council reversed, on the old Act.

Mr. JOHNSTON, K.C.: The cases are not analagous at all. The old Act was not like the present Bill.

Mr. CARVELL: Does not that bring us to the real question whether Parliament wishes to make the general Railway Act retroactive to meet the special case of the province of Ontario. It seems to me that is the position we have reached and that is the principle we should discuss.

Hon. Mr. COCHRANE: The only thing is that Parliament in 1906 thought it had given power to municipalities to control their streets which they are responsible for, and have to pay for. The Privy Council says they have not that control.

Mr. CARVELL: Does the minister think that this Parliament in 1906 intended to pass legislation especially providing that a power company which, under the authority of its Act of Incorporation, had spent hundreds of thousands of dollars in building lines for the distribution of power in Canadian municipalities, should be deprived of that right.

Hon. Mr. COCHRANE: That has not been done so far.

Mr. CARVELL: I understand that the Toronto Electric Light Company have a distribution system in the city of Toronto.

Hon. Mr. COCHRANE: They have but that is not the Toronto and Niagara Power Company.

Mr. CARVELL: No, but they are subsidiary, as I understand it, or connected in some way and they might as well take this thing over. There is no doubt about what this is. It is a fight between the Toronto and Niagara interests and three or four companies on the one side, and the Hydro Electric on the other.

Mr. MACDONELL: No, this company has the right to go anywhere in Canada, so that it is not confined to Ontario.

Mr. CARVELL: But the proposal of the proposed Bill certainly is intended to limit that right in so far as the future is concerned; there is no question whatever about that. It seems to me that the amendment just proposed by Mr. Johnston settles that once and for all; that for the future they must get the consent of the municipalities or go to the Railway Board. I can quite understand that in many cases there should be an appeal from the municipalities to the Railway Board. But let us go back; the proposal is that no matter how much money the company has invested in their plant, the municipalities should have power to interfere and compel them to remove their plant.

Hon. Mr. COCHRANE: The Toronto Electric Light Company has an agreement with the city that they got the franchise from that the city will have the first opportunity of buying them out, and the company is not living up to that agreement; they propose to sell out to the other company.

Mr. CARVELL: We have not much evidence of that. But if that be so treat them fairly and bring down an amendment to the Toronto and Niagara Power Company's Act or something like that. I do not think we should burden the general Railway Act with legislation of a special character, which might be detrimental to other interests in other parts of the country in order to meet the requirements of the city of Toronto and I have, I am glad to say, had an opportunity of discussing the whole question with the representatives of the city of Toronto. I can quite understand that I would feel very strongly if they came here by special Act that they should have a great deal of consideration, but I object very strongly to burdening the Railway Act of Canada with a clause that might be detrimental in other places simply for the purpose