any & what extent. The Nelson & Fort Sheppard Ry. Co. was incorporated by an Act of the Legislature of B.C., but by petition prayed that the railway be declared to be a work for the general advantage of Canada, & the Co. a body corporate within the jurisdiction of the Parliament of Canada. Accordingly the railway was so declared by statute, & it was provided that the Railway Act of Canada should apply instead of the B.C. Railway Act. In 1891 the Legislature of B.C. passed the Cattle Protection Act, which, after reciting that railway companies incorporated under the authority of the Parliament of Canada or declared to be for the general advantage of Canada, did not recognize any obligation to fence their lines against cattle, & that it was just that, in the absence of proper fences, the companies should be held responsible for cattle injured or killed, proceeded to make enactments with that view. In the present case the County Court Judge decided that the Cattle Protection Act applied, & that the Co. were liable to appellants for the loss of their horses. The Supreme Court, on appeal, reversed that decision, holding that Provincial legislation, so far as it purported to extend the liability of the Co. beyond that imposed upon them by the Canadian Railway Act, was ultra vires. From that judgment the present appeal was instituted, & the Attorney-General for British Columbia & the Attorney-General for Canada were permitted to intervene in the interests of the Province & the Dominion respectively.

The Lord Chancellor, in delivering the judgment of the Board, said their Lordships were of opinion that the judgment of the Supreme Court ought to be affirmed. The course of the argument had been rather to suggest that there was no express direction of the statute to create any erection or construction of the works of the railway & thus to avoid the objection of its being ultra vires. But their Lordships were not disposed to yield to that suggestion, even if it were true to say that that was only an indirect mode of causing the construction to be made, because it was a very familiar principle that one could not do indirectly what one was prohibited from doing directly. It was an understatement of the difficulties in the way of the appellants to speak of it as an indirect operation of the statute to enact that the companies should erect fences & provide against the particular class of accident which had happened in the present case, because the Provincial Legislature which passed the enactment seemed to have been under the impression that they were proceeding directly, & the preamble of the statute pointed out what they were intending to do. The Provincial Legislature pointed out by that preamble that the Dominion Parliament had neglected proper precautions, & that they were going to supplement the provisions which in their view ought to have been made, & they thereupon proceeded to do that which they recited & which the Dominion Parliament had omitted to do. It would be impossible, in their Lordships' opinion, to maintain the authority of the Dominion Parliament if such a proceeding were allowed. The law seemed to have been laid down with sufficient precision in the Bon Secours case, where it was decided that, although any direction of the Provincial Parliament to create new works on the railway & make a new drain, & to alter its construction, would be beyond the jurisdiction of the Provincial Parliament, they were not exempted from the municipal law, as it then existed, that all landowners, including railway companies, should clean out their ditches so as to prevent a nuisance. In the present case there was the actual provision that there should be a liability on the railway company unless they created such & such works upon their line. That was manifestly & clearly beyond the jurisdiction of the Provincial Legislature. For those reasons their Lordships would advise her Majesty that the appeal should be dismissed.

It was intimated by counsel that as the railway company had not entered an appearance & the case had been argued as between the Province & the Dominion—the respective Attorney-Generals intervening—no costs would be asked for.

ESQUIMALT & NANAIMO RY. CO. V. HOBBS. This was a petition by the Esquimalt & Nanaimo Ry. Co. for special leave to appeal from a judgment of the Supreme Court of Canada of May 30, 1899, to decide whether, as petitioner contends, the mines & minerals under the land should be reserved to it. Their Lordships granted the petition, intimating that the petitioner must pay the costs if it was so decided after hearing the appeal.

Recent Dominion Legislation.

Among the acts passed at the recent session of Parliament, & assented to Aug 11, are the following :—

Respecting the Ontario & Rainy River Ry. Co.

Respecting the Temiscouata Ry. Co.

Respecting the Manitoba & South Eastern Ry. Co.

To incorporate the Niagara, St. Catharines & Toronto Ry. Co.

Respecting the Edmonton District Ry. Co., & to change its name to the Edmonton, Yukon & Pacific Ry. Co.

To incorporate the Algoma Central Ry. Co.

To incorporate the Belleville Prince Edward Bridge Co.

Respecting the Montreal Island Belt Line