

DISALLOWANCE—MANITOBA AND THE NORTH-WEST.

lumbia into the Union, that Parliament preferred its construction and operation by an incorporated company rather than by the Government, that the greater portion was still unconstructed, and that in conformity with the expressed desire of Parliament, a contract had been entered into for its construction and permanent working, a copy whereof was annexed to the Act and submitted to Parliament for its approval; and the first section of the Act approves and ratifies this contract and authorizes the Government to carry out its conditions according to their purport. It is enacted that the company shall have the right to build and work branches from any point on the main line to any point or points within the Dominion; that for twenty years from the date of the contract (21st October, 1880) no line of railway shall be authorized by the Dominion Parliament to be constructed south of the C.P.R. from any point at or near the C.P.R., except such as shall run south-west or to the westward of southward, nor to within fifteen miles of latitude 49; and that in the establishment of any new province, provision shall be made for continuing such prohibition after such establishment until the expiration of the said period.

The Governor is then authorized to grant a charter of incorporation to the contracting company in the form appended to the contract and to the Act, and granting them the franchises, privileges and powers embodied in the contract, and which being published in the *Canada Gazette*, shall be held to be an Act of incorporation of the company, and have effect as if it were an Act of the Parliament of Canada. Under this contract so confirmed, the company have acted and are acting, and claim the exclusive privilege therein stipulated for twenty years from its date, and the right of constructing branches as therein pro-

vided at any time, under the conditions mentioned in the contract: and the words "The Canadian Pacific Railway" are declared by the contract to be intended to mean the entire railway as described in the Act 37 Vict. c. 14, *i.e.*, from a point near to and south of Lake Nipissing, to its terminus at some point in British Columbia on the Pacific Ocean. This provision as to branches does not exclude the construction of other railways by other companies as the twenty year monopoly clause does, though it has been objected to as being too extensive, and as in some cases virtually preventing their construction.

The twenty year monopoly clause has given rise to much difficulty. The Manitoba Legislature, holding that it did not apply to that Province as originally constituted and bounded, passed an Act authorizing the construction of a railway from Winnipeg to the southern Provincial boundary, and this Act was disallowed by the Governor under the B. N. A. Act. The Manitoba Government undertook to make the railway under their Provincial Public Works Act, or of their own right. Exceedingly unpleasant litigation and bad feeling have been, and are the consequence: and the Dominion Government has been violently abused for the disallowance, and I think improperly and unjustly. The Provincial Act seems to have been beyond the powers of the Provincial Legislature under sec. 94 of the B. N. A. Act (a), as relating to a railway "extending beyond the limits of the Province," if not according to the *letter* certainly according to the spirit of the said sec. 94, which expressly applies to railways connecting one province with another, and could hardly be intended not to apply to a railway connecting, as this was avowedly intended to do, a Province with a foreign country. Sec. 91 of the B. N. A. Act expressly subjects ferries between a province and any foreign country to the *exclusive* jurisdic-