

Manitoba Railway Bills.

Ottawa, April 25.—At half past ten the railway committee room of the House of Commons was crowded with a hundred members, a dozen lawyers, as many newspaper men, and a score of on-lookers. Cabinet ministers were as thick as at a council meeting, the minister of railways, the finance minister, the minister of the interior, and others being present. Mr. James Sutherland presided. The Winnipeg delegates, Mayor Arbutnot and D. W. Bole, were on hand with their counsel, Wallace Nesbitt, K. C., and Greer. Dan Mann was there, beside Z. A. Lash, K. C., counsel for the Canadian Northern. Other counsel were: Emilius Irving, K. C., representing the Ontario government; Walter Barwick, K. C., representing the Manitoba government.

The Manitoba railway bills, Nos. 102 and 103, were the cause of this array and interest. Both bills and the whole deal were taken up together and considered.

Mr. Lash, K. C., addressed the committee, explaining the position of the railway companies concerned in these transactions and gave a technical account of the nature of the lease and contract. The legislature had confirmed these contracts and they did not expect this parliament to interfere. Taking up the question of freights and tolls and the control of these by the government of Manitoba Mr. Lash dwelt at length on this aspect of the case. The way he put it was that the company had a right to fix tolls within the limits fixed by the governor-general-in-council. In pursuance of its powers the company had thought fit to give up its own control, and hand it over to the Manitoba government. It was precisely the same kind of contract as any railway company might make with any large shipper of freight. It left the railway company just where it was subject to the laws of the country.

To save all dispute on the subject of jurisdiction the Canadian Northern railway were willing to have a clause inserted in the bill:

"That nothing in this act, or any of the schedules, or anything done in pursuance of them, shall divest or limit temporarily or otherwise rights of powers under existing or under future legislation of the Parliament of Canada, the governor-general-in-council, the railway committee, or any railway commission or other authority, respecting any matter, thing, obligation or duty."

This was Lash's first proposal. His second was:

"We will agree also to another clause to be this: 'That nothing done shall authorize the Canadian Northern Railway to charge, or demand higher rates for the carriage of freight or passengers than heretofore or hereafter fixed by the Parliament of Canada, by the governor-general-in-council, the railway committee, or the Privy Council, or a commission or other authority.'"

Mr. Lash's third announcement was as follows:

"In order that we shall not have any question raised that any liability whatever is assumed by the Government of Canada in consequence of these agreements we are willing to add this clause, to save all possible doubt: 'Nothing in the act or agreement shall place the Government of Canada either directly or indirectly under any obligation liability, or duty whatever with respect to any payment matter or thing in the said indentures provided for or referred to.'"

After explaining the operation of the lien proposal regarding which Mr. Lash said, in reply to Mr. Haggart, that indenture will have to be changed by the mortgage, or, he added: "Or by a supplementary agreement." Mr. Lash declared the government will not sign the bonds unless all conditions imposed by the legislature are complied with. He added: "We do not ask you to interfere, we ask permission to make a contract we believe to be to the advantage of both parties, and without your authority we cannot make it, but whether the contract be wise or unwise for either party to make we do not ask any declaration of interference on the part of this parliament."

Mr. Gallihier read section two, empowering the company to agree to such terms as imposed by lieutenant-governor-in-council, "although they

may be at variance with the provisions of the contract," and asked what it meant?

In reply Mr. Lash made the significant admission that this clause, upon which Mr. Roblin and his colleagues placed so much stress before the public as a safeguard to all possible dangers was no good. Mr. Lash said: "I quite agree that this clause is open to objection as it asks for unlimited powers. It is not necessary to have that clause at all, and we are willing to strike it out."

In reply to Mr. Puttee, member for Winnipeg, as to the date of acquiring the Northern Pacific railway lines in Manitoba April 1, Mr. Lash said all parties had agreed to postpone the delivery of those lines until a date subsequent to the prorogation of parliament here. Mr. Lash added that with a view of making it clear he had, had the bills recast and reprinted incorporating them together in one bill. These new bills were then distributed to the committee.

Mr. Walter Barwick, on behalf of the government of Manitoba, addressed the committee briefly, his chief point being with reference to the control of tolls by the lieutenant-governor-in-council. It was not thought by Manitoba that in this there was any trenching on the powers of the Dominion.

Mr. Wallace Nesbitt, on behalf of Manitoba opponents to the bills, addressed a long, able and keen argument to the committee on the constitutional aspect of the case, reserving to a later period his remarks on the merits of the contracts. Owing to interruptions and questions designed to make his position clear, Mr. Nesbitt repeated some things several times. He was good natured and accommodating, and made a good impression. It is not necessary though to make a long report of his remarks in order to make his position clear.

He began by rudely disturbing the committee with the declaration that parliament was being asked to do something which would make it responsible for the bargain to the public of Canada and not the legislature of Manitoba. (Cries of no, no, and a general air of disgust on the faces of the members at the idea that they would be responsible for such a bargain.)

Mr. Nesbitt—"Yes, I will show you how since federation, no provincial authority has validated legislation here which was beyond the powers of a province. This is a new and different case. I shall ask on behalf of the citizens of Manitoba, irrespective of politics, for you to say before action on this provincial law that it is meritorious and meets with your approval."

A member—"Is this legislation initiatory or supplementary?"

Mr. Nesbitt—"It is initiated here. It seeks to confer the necessary power. They can do nothing without your legislation. In the opinion of a number of eminent counsel you are being asked to make a new departure, and introduce a principle of legislation, which, if adopted, might lead you very far afield. That principle is that the legislature of Manitoba has no more right to own or operate a railway, which is not a local work, than I have, because it is a railway within the sole jurisdiction of the Dominion. You are being asked to give validity to a province assuming a jurisdiction belonging to the Dominion. You are asked to transfer the function of the Dominion government to a local government."

Mr. Blair—"You hold that without our legislation these contracts would be absolutely nugatory?"

Mr. Nesbitt—"Yes."

Mr. Blair—"That is because they are dealing with a railway under the jurisdiction of parliament?"

Mr. Nesbitt—"Yes, you can confirm the agreement between the two railway companies which are under your control, but you are being asked here by this lease to authorize the government of Manitoba to acquire a Dominion railway. You cannot do that because the government of Manitoba cannot do what a private corporation can do for the reason that it is limited in its powers by the provisions of the constitution. Manitoba is excluded by the B. N. A. Act from legislating respecting a railway running into another province, or extending beyond the limits of the province. This disables Manitoba in this case for making the lease constitutional and probably the Dominion parliament from passing an act enabling Manitoba to do what the constitution says it cannot do."

This in brief was Nesbitt's whole argument expounded by him with

clearness and force, and amplified for the benefit of questioning members of the committee. Manitoba could not acquire a title to the Northern Pacific lines and this parliament could not give it a title, therefore, the lease must fall to the ground. Parliament could not divest itself of its functions and hand them over to a province. They were not being asked to delegate a power possessed by parliament, but to abdicate a power within their jurisdiction for a period of 30 years, in favor of a foreign and sovereign authority or state, because Manitoba was as much a foreign and sovereign power under our constitution as a state in the American union. There was, he said, a floating motion that we could extend the limits of the jurisdiction of a local legislature, but the best authorities say not.

Mr. Haggart said that was the crucial point, and asked Mr. Nesbitt to dwell on it.

Mr. Nesbitt said: "Here you have the Manitoba legislature solemnly passing an act taking to itself power to do that which plainly and by common consent they have no power to do, and this parliament is asked to legislate that the other party to the contract shall be allowed to do this. Is that not legislation by acquiescence which the law forbids? That is the kind of legislation which is so likely in the eyes of the courts to make the parliament of Canada ridiculous. You are asked to empower another sovereign power to take the jurisdiction which rests with yourselves."

Mr. Fielding—"Can't Manitoba purchase a Dominion railway in another province in pursuance of its powers?"

Mr. Nesbitt—"Clearly, if they cannot lease they cannot deal with it at all. The government of Manitoba is not a private corporation. They are entirely limited by the B. N. A. Act. This parliament is being asked to enable the Province of Manitoba to enter into a void contract. You should not pass a bill allowing a party to purchase which cannot purchase, and which would, therefore, be a mere futile piece of legislation."

Mr. Oliver—"Your argument is, we cannot empower a railway company to sell to the Province of Manitoba?"

Mr. Nesbitt—"My own opinion is you cannot."

Mr. Oliver combatted Mr. Nesbitt's views at various points, and created roars of laughter by saying that the essential feature of the agreement was the payment of the money, and as Manitoba had power to pay the money it had legislative power to fulfill these contracts. Mr. Oliver is evidently in favor of the bills, as well as Messrs. Scott and Boyd and Davis are also understood to be.

Dr. Russell, of Halifax, crossed swords once or twice with Mr. Nesbitt on other constitutional points, but Mr. Nesbitt declined to discuss anything but the Manitoba case.

Messrs. Boyd, Pringle, Fraser, Fortin, Bureau, Scott and others all argued with Mr. Nesbitt and put posers which he answered, and it appeared as he said, "that he had soaked himself in the subject."

Mr. Fortin's point, and afterwards Mr. Fielding's or Mr. Blair's was that Manitoba might not require local legislative jurisdiction to purchase the Northern Pacific and Manitoba lines, but the government could take the place of the existing corporation and submit itself to the legislature jurisdiction of the parliament of Canada.

Mr. Nesbitt's answer was that Manitoba could not do anything without legislation from its own legislature.

Mr. Boyd—"Your contention is that while we could give power to a private corporation to purchase these lines, we cannot give power to the government of Manitoba, which owns the whole thing."

Mr. Nesbitt—"Yes, that is my contention."

Mr. Boyd—"A pretty fine point."

Mr. Nesbitt—"No, it is not at all a fine point, but one fixed by the act of confederation. You are not at liberty to take a sod from the Dominion field and plant it in the provincial field. If you do in this case you open the door to every other case."

The following sentence summarizes one of Mr. Nesbitt's contentions:—"Once a Dominion railway gets into the sovereign power of Manitoba, you divest yourselves of the control, and that you cannot do because of the constitution of the country."

Mr. Pringle asked about the question of the control of rates, and the effect of the new clause proposed by Mr. Lash.

Mr. Nesbitt said that did not affect

his present argument or point. Mr. Nesbitt thought it cleared much of the objection he was going to urge as to the control of rates, "but," added Mr. Nesbitt, "taking what I read you of Premier Roblin's statement in the legislature with this change these contracts had better go back to the legislature of Manitoba, because I do not think they would have adopted them with this saving clause."

"I ask," said Mr. Nesbitt, "rather that this matter shall stand until it can be threshed out in Manitoba or referred to the courts, or leave it for a year to the people of Manitoba." This new clause is directly contrary to what Mr. Roblin said he was seeking to accomplish, absolute control of rates.

Mr. Pringle—"Then this clause does conserve to the Dominion its control of rates?"

Mr. Nesbitt—"Yes."

A member—"Then, what does Manitoba get?"

There was no answer to this question, and it is up to Roblin to answer it inasmuch as he told the board of trade that if the province did not get control then the contract was bad and should not be endorsed.

Coming back to the contention that the lease of the Northern Pacific lines to the government of Manitoba was illegal and unconstitutional, Mr. Fielding asked "Cannot they lease a Dominion road and operate it without exercising legislative powers? Could the legislative powers not still remain in the Dominion government?"

Mr. Nesbitt—"No. Because they cannot do it except by legislation which they have no power to pass. That is the basis of my argument."

Here it became evident that Nesbitt had not carried the committee past the one point as to the power of the province to lease the Northern Pacific lines and as it was one o'clock, Mr. Blair suggested an adjournment till eleven o'clock to-morrow and the committee adjourned at one o'clock.

Messrs. Oliver, Scott, Boyd and Davis are in favor of the bill.

The Fishing Industry of Canada

The importance of the Canadian fisheries in the industrial life of the Dominion, may be seen from the fact that about one hundred thousand men and a capital of about ten million dollars are engaged in their development. The fishing areas are very extensive. The eastern sea coast of the Maritime Provinces from the Bay of Fundy to the Straits of Belle Isle, covers a distance of 5,600 miles; the Pacific sea coast of British Columbia, 7,180 miles, and the salt water in-shore area, not including minor indentations, more than 1,500 square miles. The fresh water area of that part of the great lakes belonging to Canada is computed at 72,700 square miles; not including the numerous lakes of Manitoba and the Northwest Territories, all stocked with excellent food fish.

According to the returns published in the annual report of the department of marine and fisheries, the total value of the catch of fish in Canada in the year 1890 was \$21,891,700, distributed as follows:

Province.	Value.
Nova Scotia	7,347,604
British Columbia	5,214,074
New Brunswick	4,119,891
Quebec	1,500,447
Prince Edward Island	1,043,645
Manitoba and the Northwest Territories	622,911

Total \$21,891,700

The value of the fish exported from Canada to foreign countries in the fiscal year ended June 30, 1900, was \$11,169,083, distributed as follows:

Provinces.	Value.
Nova Scotia	5,007,798
British Columbia	3,443,037
New Brunswick	731,392
Prince Edward Island	590,152
Ontario	518,823
Quebec	541,376
Manitoba and the Northwest Territories	306,505

Total \$11,169,083

Of this total, \$4,071,336 went to Great Britain, \$203,444 to Australia, \$957,958 to the British West Indies, \$109,046 to British Guiana, and \$4,323 to other parts of the British Empire. After Great Britain, the largest purchaser was the United States, which took \$3,688,935 worth. Other leading customers were Brazil, \$427,732; Cuba, \$320,413; France, \$526,187; Germany, \$71,281; Italy, \$84,562; Japan, \$47,773; Sweden and Norway, \$33,556; Porto Rico, \$358,098; Portugal, \$58,024; U. S. of Colombia, \$27,017, and Venezuela, \$20,890.—Labor Gazette.