

undertaken by us amongst other provisions expressly stipulating that all grain should pass through one channel and one channel only; or, in other words, to create in regard thereto a complete and absolute monopoly. Any attempt to deal with the subject, other than in a full, complete and far-reaching manner, would, in our opinion, fail and prove futile, and possibly be followed with disastrous results. The separate states of the United States in dealing with transportation companies doing an interstate business found themselves unable to accomplish their desire and federal action was invoked to meet their difficulties. These states, while occupying a somewhat identical position with the provinces, possessed much more power relatively to their federal government than the provinces do to the federal government of Canada. The founders of Confederation clearly intended that the federal parliament of Canada should hold and possess the residuum of power and clearly and unmistakably defined the lines which should separate federal and provincial legislation, and such provision has clearly continued down to the present time. Whether power is given to the federal parliament and not to the provincial assemblies, it is incompetent for the provincial assemblies to trespass upon such powers. It must therefore be admitted without question that powers of provincial legislatures are limited. The parliament of Canada has exclusive jurisdiction to deal with certain classes of subjects. One of the objects of the constitution of Canada was to create a strong federal government charged with duties and responsibilities towards industry, and to establish confidence, credit and commerce by salutary laws affecting the Dominion as a whole and the nations with which the Dominion and its people would from time to time deal, to be enforced by the power of the whole Dominion. It was not, we believe, ever intended that both the federal parliament and the legislatures of the several provinces should have and exercise identical or similar powers respecting certain classes of duties and powers to be performed. Therefore, it was manifest that when certain powers were given solely to the federal government, it necessarily implies a prohibition on the part of the province to act on the subject so solely assigned to the Dominion. One of the provisions of the British North America Act is as follows:

"It is specially declared that any matter coming

within the classes of subjects as to which the parliament of Canada is given control shall not be deemed to come within the class of matters of a local or private nature comprised in the enumeration of the classes of subjects assigned."

"The subject upon which the provinces are asked by your executive to take action, that is to say, the monopolistic establishment and operation of grain elevators and handling of grain in the three provinces as a public utility, can hardly be claimed to be purely of a local or private character, and involves in its carrying out the condition precedent of the provinces being possessed of the necessary power and authority in the premises, which, unfortunately, from the standpoint of carrying out the wishes of your executive, is not the case, and it follows that any legislative action taken by the provinces along the lines suggested would, in addition to being extrajurisdictional in effect, be dealing with some of the matters as to which the parliament of Canada has exclusive jurisdiction to deal with and beyond the power of the local authorities to enact."

"We have in a general way given expression to our views respecting the absence of provincial jurisdiction in the premises. We, however, desire to briefly particularize the powers which the parliament of Canada has, and which the provinces have not, and which are necessary for the latter to have in order to fully and effectually deal with the matter in question."

"It is provided by the British North America Act that the exclusive legislative authority of the parliament of Canada shall extend to certain classes of subjects, among the number being 'the regulation of trade and commerce,' 'weights and measures' and 'national railways' (such as C.P.R., C.N.R. and G.T.P.) The provisions are clear and distinct, that in all matters respecting and affecting the trade and commerce of the Dominion and the weighing and measuring of the several commodities of the country, the parliament of Canada shall have exclusive authority to deal. Laws have been so enacted and relate and apply not to any portion, but the the Dominion of Canada as a whole. The matter of administration, the responsibilities imposed and the privileges extended, are uniform throughout. We cannot find that any of the provinces have ever attempted to deal with matters affecting either of the classes of subjects above mentioned. The power of the parliament of Canada with regard thereto has always been considered supreme. Applying this view to the present application or requests of your executive, we are in full accord in expressing the opinion that in the present condition of the constitution of Canada the consummation, either wholly or partially, of the desires of your executive, can only be given effect to in one of two ways, i.e., either by legislative action of the parliament of Canada (which now possesses the amplest powers of dealing therewith), or by securing amendments to the British North America Act by the Imperial parliament, conferring full and absolute control and authority upon the provinces in the premises, that is to say:

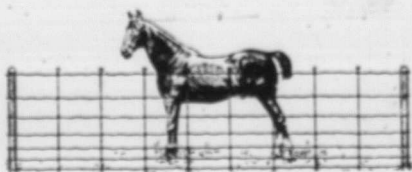
"1. To wholly and absolutely control, regulate and govern the storage and handling of grain."

"2. To prescribe, control and regulate the weights and grades of grains, subject to no alteration or review by any other authority."

"3. To fully control all transportation companies, railways, etc., in the matter of expropriation of elevators and sites, the distribution of cars, and in other respects to provide such regulations and restrictions respecting these companies as shall be essential for the convenient and satisfactory handling of grain."

"4. Generally, all such other powers and authority as to trade and commerce and the weighing and grading of grain as may be necessary to give the provinces complete inherent and extrajurisdictional jurisdiction in the premises in every respect; that is to say, full authority within the provinces, and also outside where the grain may be handled at terminal points."

"There is also to be considered the financial sides of the case. Mr. Charles C. Castle, warehouse commissioner, has furnished official statements to us, showing, among other things hereinafter set forth, the following information, i.e., that the number of elevators under operation last season was 1,334, with a storage capacity of 39,724,000 bushels. To put into effect any practical scheme of government ownership of elevator facilities and complete government control over the handling and shipment of grain, would involve the provinces in a very large financial undertaking. It would be necessary to provide, in the first place, the requisite number of elevators to handle the business not any part, but the whole of it, for the monopoly should be absolute in all respects; and, in the next place, for the cost of maintenance and management. Mr. Castle states that the cost of constructing an ordinary standard 25,000 bushel elevator is between \$5,000 and



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