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railway as to which the Dominion Parliament has exclusive rights of legislation, and moreover, as the provincial railways are there by permission and not of right, they can fairly be put under terms and regulations. But s. 8 of the Railway Act of the Dominion and the clauses which are by it made binding on any provincial railway crossing a Dominion railway appear to their Lordships to indicate that it is part of the functions of the Railway Board to permit and to regulate such crossings. They are left unfettered as to whether they will permit such crossings to be at any particular spot or to be carried out in any particular way, and this jurisdiction is essential to them as guardians of those powers of construction and operation of Dominion railways which are necessary for their existence and efficiency. But these powers of permitting crossings by provincial railways under suitable circumstances and with proper precautions have not been given to them idly and for no purpose. They bring with them the duty of using those powers for the benefit of the public whenever an occasion arises where they can be wisely used.

By these provisions the Dominion legislation has in their Lordships' opinion given to provincial railways desiring to cross a Dominion railway all the *locus standi* that they need for making an application to the Railway Board for permission to do so. The Railway Board is bound to exercise these powers given to it just as much as all other powers given to it so as to advance the best interests of the public. In this way the legitimate claims of provincial railways to obtain facilities for crossing Dominion railways are in fact met as fully as is practicable, and this without risking the chaos of overlapping legislative powers.

Their Lordships are therefore of opinion that both the questions submitted to the Supreme Court of Canada should be answered in the negative and that the decision appealed from was correct. They will accordingly humbly advise His Majesty that this appeal should be dismissed, but without costs.

Solicitors for appellant: *Blake & Redden*.

Solicitors for respondent: *Lawrence Jones & Co.*