ROSE, J.] [April 29.

IN RE CANADIAN PACIFIC R. W. CO. AND COUNTY AND TOWNSHIP OF YORK.

Constitutional law—Railways—Crossings—Railway Act of Canada, 1888—Powers of Railway Committee of Privy Council—Erection and maintenance of gates—Contribution to cost of—Municipal corporations.

The Railway Committee of the Privy Council of Canada made an order that gates and watchmen be provided and maintained by the Canadian Pacific Railway Company for the protection of the railway crossings at certain streets which traversed the City of Toronto, the township of York, and other townships within the County of York, such crossings being at the north limit of the City of Toronto, and that the corporation of the City of Toronto should contribute to the cost of erection and maintenance.

Subsequently, the Committee, upon the representation of the city corporation, made an order that the township and county should contribute part of share of such cost originally allotted to the city.

Held, having regard to ss. 11, 18, 21, 187 and 188, of the Railway Act of Canada, 1888, that the British North America Act conferred upon the Parliament of Canada the exclusive legislative authority to deal with the Canadian Pacific Railway and with the guarding of the crossings; that legislation upon such a subject was necessary legislation; that the Dominion Parliament could and did confer upon the Railway Committee the power to make such orders as those in question; that it was within the power of the Committee to determine what persons were interested in the crossings; that the Court had no power to review such decision, it being declared to be final; and that the fact that the highways in question were vested in municipalities, or in any sense controlled by them, did not in anywise limit the powers of Parliament to legislate respecting the subject, or of the Railway Committee to make the orders in question, but that the municipal corporations were subject to such legislation and to the orders made thereunder as any private individual would be.

Robinson, Q.C., and *Angus MacMurchy*, for the railway company.
Aylesworth, Q.C., for the township corporation.
C. C. Robinson, and *T. H. Lennox*, for the county corporation.
J. R. Cartwright, Q.C., for the Attorney-General for Ontario.