

when the Bill was going through the House in Committee of the Whole, just prior to the third reading, Mr. Clarke, of Toronto, moved to add certain safeguarding sections. The sponsors of the Bill said "No need for it, because it will be subject to any future legislation if conditions should arise which you, Mr. Clarke, apprehend." And Mr. Pringle, in support of the Bill, said that "they would be subject, of course, from time to time to such legislation as was needed in the public interest." That time has now arrived, and I am only asking that the terms on which they got their charter—because it was accepted in that way at the time the Bill was passed—should be carried out; and that is accentuated by the matters I have pointed out in regard to the Privy Council decision.

Mr. SINCLAIR: You do not pretend to say that the Privy Council would give the same decision under this amended Act?

Mr. MACDONELL: I do not know what they would do, and I do not think any one would be bold enough to guess what the Privy Council would do. For the future they would be governed by the Railway Act, but in the meantime this company have acquired a status and have acquired interests, and they will be at large with regard to all that. All I ask is that they be put upon the same basis as other companies.

Mr. NESBITT: From the passing of this Act?

Mr. MACDONELL: No, from the beginning. Perhaps Mr. Nesbitt heard the arguments of Mr. Kilmer and the other gentlemen on that point.

Mr. NESBITT: I did, but I want to know if you think this Act is strong enough now to hinder them from going at large from the present time forward. I want to do away with the retroactive idea.

Mr. MACDONELL: I want to make another appeal, and I do so as of right. I do not come here as counsel with a brief for Toronto, or anybody else. This is an intricate matter that has arisen on account of the Privy Council decision, and I ask that the committee be given direct information and that the questions be answered by one who has come here briefed in the matter and prepared to give the answers to the questions. Mr. Kilmer appears for the province of Ontario. I have no objection to hearing other gentlemen as well.

The CHAIRMAN: I have a memorandum which I have asked counsel to prepare, to cover the case, in as short a manner as possible.

Mr. MACDONELL: I would like to have Mr. Kilmer answer these questions now.

Mr. NESBITT: I have no objection, but it is only fair the other side should be heard.

Mr. KILMER: The difficulty is that section 373, as drawn probably, does not cover the point at all of the Toronto and Niagara Power Company as to the future, and it certainly is not retroactive. Section 373 is what you call a lineal descendant of section 90 of the Railway Act. In the special Act of Incorporation of the Toronto and Niagara Power Company, section 90, and its lineal descendant, including, if you please, the whole of section 373, are only applicable to the Toronto and Niagara Power Company, in so far as they are not inconsistent with the special Act itself. The Privy Council have decided that if section 90, or its descendant is inconsistent with the special Act, it does not govern the Toronto and Niagara Power Company, but all their powers are unimpaired by it.

Mr. CARVELL: You do not mean section 90 of the revision of 1906?

Mr. KILMER: No, the old Act. It is section 247, and the Privy Council decided that 247 should be read into the special Act, instead of section 90 in the repealed Act. Now then, going exactly the same distance with the new section 373, no matter what it says it is plainly inconsistent with the powers granted by the special Act to the Toronto and Niagara Power Company; and, at all events, it is a fair argument for the