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THE GREAT RAILWAY CASE.

REFERRING to the case now before the Supreme Court *in re* the Province of Manitoba and the Canadian Pacific Railway Company, we gather from the reports in the papers that Mr. Blake contended that the Manitoba Railway in question came within the description of those which had been declared by the Dominion Parliament to be for "the general advantage of Canada," and was, therefore, by the provision of the Constitutional Act in such case, withdrawn from the legislative authority of the Provincial Legislature, and exclusively placed under that of the Dominion Parliament, and was, therefore, unlawfully made under the Manitoba Act, contrary to the said provisions of the Constitutional Act, and was not entitled, under the Railway Act of 1888, to the benefit of the provisions therein made respecting railway crossings. Mr. Mowat, on behalf of the Province, maintaining that the provisions of the Constitutional Act did not prohibit the making of a railway declared to be "for the general advantage of Canada," but made it subject thereafter to the legislative authority of the Dominion Parliament, and placed it, when made, and until the said Parliament should otherwise direct, under the laws governing railways under its authority; that the Dominion Parliament had made no special provision as to the said railway, which was, therefore, entitled to the benefit of the provisions of the Railway Act of 1888, including those respecting railway companies and others, which by section 4 are declared to be applicable "to all railways, whether otherwise under the authority of Parliament or not"; and that this construction of the Imperial Act seemed more consistent with common sense, and with the allowance by the Dominion Government, acting, of course, under the opinion of the Attorney-General, and more consistent the intention of the Dominion Parliament, than the view which supposes it to have been intended to prevent the construction by a Province of a work entirely within its boundaries, because it was declared to be "for the general advantage of Canada."

The Imperial provision has been frequently extended to provincial railways, but always for the purpose, not of prohibiting them, but of extending them, so that they should be for the "greater advantage of Canada." It is difficult to believe that a Parliament which, in the then last session, had repealed the enactment establishing railway monopoly in Manitoba under one form, intended to re-establish it in another, which Mr. Blake's construction of the Imperial enactment would certainly do.