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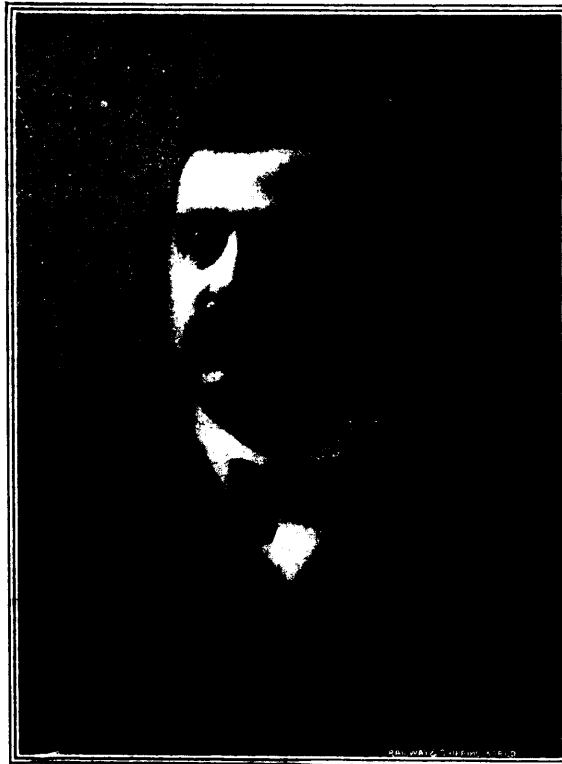
The Toronto-Sudbury Lines.

As stated in our last issue, the C.P.R. has started construction upon a line from Romford, near Sudbury, southerly to a point near Toronto. The route of this proposed line parallels, and in some points is identical with that surveyed for the James Bay Ry., a line projected by Mackenzie, Mann & Co. in the interests of the Canadian Northern Ry. Referring to the starting of work by the C.P.R., W. Mackenzie, President Canadian Northern Ry., recently stated that James Bay Ry. Co.'s location surveys were about completed and the subsidies arranged for, and that it was his firm's intention to arrange a contract for construction almost immediately, and that work would be commenced about July 1. Mr. Mackenzie added: "I know little about the C.P.R. people's intentions, but they certainly have no authority to build such a line. The C.P.R. charter embraced a branch from Sudbury to the city of Toronto, but the time allowed to build was to 1891, and not only has this time lapsed, but no parliamentary authority for the construction of the road has ever been secured by that company."

Section 14 of the agreement between the Dominion Government and the incorporators of the C.P.R., which forms the schedule to the C.P.R. Act of 1881, says: "The company shall have the right, from time to time, to lay out, construct, equip, maintain and work branch lines of railway from any point or points along their main line of railway to any point or points within the territory of the Dominion. Provided that before commencing any branch, they shall first deposit a map and plan of such branch in the Department of Railways."

The James Bay Ry., by Z. A. Lash, K.C., Chief Solicitor, has filed protests with the Ontario Government and with the Dominion Board of Railway Commissioners, against the construction of the C.P.R. line. This protest is accompanied by a copy of an opinion given by the late Sir Oliver Mowat as Minister of Justice on Nov. 13, 1897. The opinion was given in connection with claims made by the C.P.R. and other railway companies to certain lands in Manitoba and the Northwest Territories, and in dealing with that question the Minister of Justice referred to the power claimed by the C.P.R. to build branch lines from its main line. On this point he said: "I think, though, the point is not free from difficulty, that the time for building branch lines was limited to the time mentioned in clause 4 of the contract. That clause stipulates for the completion on or before May 1, 1891, of the works therein described as the east and centre sections of the road and section 15 of the act (charter) provides for the company's

constructing the main line, and an existing branch described in the act, and also other branches to be located by the company from time to time as provided by the said contract * * * the said main line of railway and the said branch lines of railway shall be commenced and completed as provided by the said contract. This language is so clear and explicit that it is out of the question to suppose it not to have been intended that there should be a limit of time as regards the branches. Not only does the act expressly state the contrary, but to give an unlimited time for com-



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mencing or completing a railway authorized by any act would have been contrary to the whole course of railway legislation. It would be contrary also to the policy of the General Railway Act of 1879, s. 28 (6), which act is referred to in the 22nd clause of the contract as applying to the C.P.R. so far as applicable thereto and as not inconsistent with the act relating to that company. Now it is true that the 4th section of the contract does not expressly mention branch lines. But it being quite clear from the 15th section of the act that it was intended there should be a limit of time both for commencing and for completing

these, that Parliament interpreted some provision in the contract as containing a limit or as showing a limit when read with the 15th section of the act, and that the only provision on the subject of such a limit is the 4th clause of the contract, that clause is to be construed accordingly. The words 'the said main line of railway and the said branch lines of railway shall be commenced and completed as provided by the said contract' may be read as including in the eastern and centre sections named the branch lines which the company should build therefrom under the authority of the act; or the 15th section may be read as if it said 'provided for by the contract in respect of the works therein specified.' It was evidently intended by Parliament to put the main line and the branch lines on the same footing in this respect. It has been suggested that the 15th section may be read as limiting time for those branch lines only which the company had contracted to build, but these are no more provided for by the words than other branch lines are; and if the 4th clause may in the light of the 15th section be read so as to embrace the branch lines contracted for, these may be read in like manner as embracing the branch lines located by the company from time to time."

Sir Oliver Mowat, in his opinion above quoted, referred to the policy of the Consolidated Railway Act of 1879, sec. 28, subsec. 6, as being contrary to the C.P.R.'s contention that its power to build branch lines from its main lines had not lapsed. But it was especially provided by the C.P.R. Act of 1881, sec. 23, that the above-mentioned subsection of the Consolidated Railway Act should not apply to the C.P.R.

Referring to the statement that the C.P.R. had no right to construct the proposed branch, A. R. Creelman, K.C., its Chief Solicitor, recently said: "There is no trouble whatever as to our right to build the road. We have looked carefully into the matter and there is no question as to our right to build branch lines. We have not, in fact, asked for parliamentary authority to build from Toronto to Sudbury simply because we have already secured this right. As a matter of fact, we have already started construction."

We have reason to believe that the C.P.R. management is very firmly of the opinion that it still has the right to build branch lines from its main line, and that if the matter is taken to the courts it is quite prepared to meet the arguments which may be advanced to the contrary.

The matter will come before the Board of Railway Commissioners at Ottawa, early in July, in connection with an application of the C.P.R. Co. to make certain changes in their proposed location.