

language is certainly general and comprehensive; but, in their Lordships' view, it cannot be interpreted as being designed to alter the other and specific provisions of the statute as to the compensation payable by the railway company. The particular application now being dealt with falls within the scope of sec. 237, which applies to "any application for leave to construct the railway upon, along, or across an existing highway." By sub-sec. 3 of that section it is provided that when the application is of that character "all the provisions of law at such time applicable to the taking of land by the company, to its valuation and sale and conveyance to the company, and to the compensation therefor, shall apply to the land exclusive of the highway crossing required for the proper carrying out of any order made by the Board." It does not appear to their Lordships that it would be safe to infer from the generality and comprehensiveness of the powers of the Board, and apart from any specific reference to the compensation itself and the parties entitled thereto, that these provisions of sec. 237 were liable to be altered, abrogated, or enlarged by the exercise of the Board's administrative power under sec. 47.

The reasons above referred to, which might induce administrative action so as to make the compensation properly equate with the injury to all interests, are reasons which might or might not appear sufficient for direct legislative interposition, but, as already mentioned, their Lordships, apart from that, cannot interpose by the inference argued for. On the contrary it appears to them that the administrative action taken was beyond the powers of the Board of Railway Commissioners for Canada, under the law as it stood at the date of the order.

On the other hand, their Lordships are unable to give any countenance to the proposition that an order was pronounced, subject to a condition in itself neither unnatural nor unreasonable, but erroneously inferred to be within the Board's powers, should be treated by the method of striking the condition out and leaving the order as an unconditional order to stand. Nobody meant that. The point is not advanced by the use of language as to whether this was a condition precedent or was not, the truth of the matter is pretty clear, namely, that had the Board been faced with the situation that it was not within its power to give protection to all the real interests which, in its opinion, were subject to injury by the location of the railway at the streets mentioned, the Board