

power of this parliament to declare that that portion extending from the North-west Territories and going to Port Simpson a work for the general advantage of Canada without interfering with the other part. It seems to me it would be within the power. One might not be a work for the general advantage of Canada, and the other might be. I am however putting an extreme case, which, I confess may involve some doubts. There is another principle also. I do not quite agree with the hon. gentleman from Calgary that the power of this parliament is limited under the section of the British North America Act, to which he has just referred, section 92, subsection 10. It has been held repeatedly that this parliament has a good many incidental powers. For instance, the question arose and was decided by the Privy Council under the Insolvent Act, when it was contended that the Insolvent Act was an encroachment upon the jurisdiction of the provinces upon real property, and that the Act was ultra vires to that extent, because the local parliaments were vested with exclusive powers over real estate, but the Privy Council held, and very properly so, that this parliament had the necessary incidental powers to give affect to the main powers that were given to the parliament; and here it seems to me that the crossing, the through traffic, and the connection would be properly covered by the same principle, and could be treated as an incidental power to this parliament in connection with its own railways, or the railways under its jurisdiction. Then I would call the attention of the hon. gentleman from Calgary to the fact that I am in accord with the position taken by the Supreme Court in the decision to which I have referred. The Supreme Court plainly held that it was not because a local railway happened to cross a railway under the jurisdiction of the Dominion parliament that it was to be taken out of the jurisdiction of the local parliament altogether, but that the crossing would be affected subject to the sections of the Railway Act of 1888—section 174 and 175—and which refer exactly to that subject. Section 174 says:

The Railway Committee may make such orders and give such directions respecting the proposed crossing, intersection, junction or union and the works to be executed and the measures to be taken by the respective companies as to make it appear necessary or expedient to secure the public safety.

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And 176 is on the same line. Therefore, the Supreme Court maintained that the railway remained the creature of the province, but as far as the crossing was concerned, the Federal Act would take effect.

Hon. Mr. LOUGHEED—It did not take it out of the authority of the Railway Committee of the Privy Council?

Hon. Mr. BEIQUE—No.

Hon. Sir MACKENZIE BOWELL—I did not hear the argument of the hon. gentleman. I want to know whether the effect of the amendment which he has proposed would remove from the Board of Commissioners the power to control the through rates when it would connect with the Ontario government road to which he has referred. The reason for my asking that is from the remarks made by the hon. Secretary of State. I understood him to say that he would have no objections to confine the powers of the Board of Commissioners to questions of connection and crossing, and that it would be unfair to interfere in any way with the through or local rates that would be charged upon a provincial railway. It seems to me that if you were to adopt that principle you would destroy one of the fundamental principles of this Act, that is, that the board shall regulate the through traffic upon all railways. That is one of the reasons why my hon. friend to my right, the senator from Marshfield, gave notice of a motion to place in the Board of Commissioners the power to control the through rates that have to pass over the Intercolonial Railway as well as over any other road. For my part I cannot see why a provincial road such as that to which reference has been made should be entitled to any more power, or have any greater authority, particularly in the through traffic, than if it belonged to a private company. The province has taken the responsibility upon itself of constructing a road for colonization purposes, and that road stands to the country and to this law—at least it should be so—in precisely the same position as if it had been built by an independent company. I do not argue that the Board of Commissioners should control and interfere with the local traffic, but so far as the through traffic is concern-