

of the position of this road, and I am resting myself absolutely in this matter upon the language of Mr. Justice Street. I am not pronouncing any opinion of my own, but I am desirous of pointing out to the committee what the position of this road, and any other that is in the same condition, would appear to be. **From 1888 until 1903 we had in force in this country the unequivocal declaration of the Railway Act of 1888, that any road which crossed a Dominion road thereby itself became a Dominion road, subject to Dominion legislation, and Dominion legislation only.**

Mr. FOSTER. Is that the law?

Mr. AYLESWORTH. No, that is what I am going to point out. This road was declared to be in that position by Mr. Justice Street in 1898 or 1899, and in 1903 this Parliament passed the present Railway Act in which it uses this language:

That every railway, steam or electric street railway, or tramway, now crossing a railway which is subject to the legislative authority of the Parliament of Canada, is hereby declared to be a work for the general advantage of Canada, in respect only to such connection or crossing, or to through traffic thereon.

Mr. FOSTER. Hear, hear.

Mr. AYLESWORTH. That was a change of policy on the part of this Parliament which, after fifteen years' experience, was pronounced in 1903. Now, the contention arises at once, and I should think it is a question of very considerable importance for any railway solicitor or counsel to consider: **Can a road which has been for ten years, or for one year, subject only to the jurisdiction of the Dominion Parliament, be referred to the jurisdiction of the Local Legislature so far as legislation over it is concerned. There is no provision of that nature in the British North America Act. The only provision whatever on the subject in our constitution is the provision of section 92:**

That such works as have at any time been declared to be for the general advantage of Canada shall thenceforward be subject to the Dominion control only.

There is no power conferred by any express language or by any implication, that I am aware of, upon the Dominion Parliament to denude itself of its legislative jurisdiction over the works of any undertaking which it once has established.

Mr. FOSTER. Does the decision of the judge on a point of law make that declaration permanent?