

In the first place, it declares the abstract right of all land owners to drainage across railway property to the same extent as across any other property, subject to the terms of this Act itself, which are intended to make provision for safeguarding the rights of the railway. When a municipality or an individual wishes to obtain drainage across a railway track, the first step in either case is to secure an engineer to make a plan of the proposed drainage works, so far as they affect the property of the railway company, together with profiles of any necessary structures, and an estimate of the cost. This plan, report and profiles are to be sent to the manager of the railway company, with a request to know whether he agrees to them. If he agrees, the documents showing that agreement are to be filed as herein provided, and form a basis for closing the whole matter. If they are not accepted by the manager of the railway company, he shall notify the other parties, and must then send an engineer within a certain time to confer with the engineer of the municipality or land owner, on the spot where the work is to take place, and see if they can not come to an amicable conclusion. If they do, their agreement is valid, and becomes a settlement of the case. If they do not agree, two courses are open to them. They may agree upon a third engineer to act as umpire, or third arbitrator, and go on, with his assistance, to settle the case then and there, or at such future time as may be appointed. If they do not do that, the party not satisfied in the case appeals to the Minister of Railways, who shall appoint a third engineer, a competent man in his opinion, to act as such umpire, or third arbitrator. The decision of these three engineers, in either case, shall be final and without appeal. The Act itself provides that no such drainage works shall be carried on in such a manner as to render the road-bed of the company unsafe or to do any permanent injury to it. I need not go into all the details on that point, but the rights of the railway in that respect are fully safeguarded. After it has been decided that the work shall be done, if it is so decided, the question arises of how it shall be done, and there is ample provision in the Act for obtaining the consent of the railway company to its being done by their own men, or by persons hired by the other party, as the case may be. If the railway company, or the other party to the case, does not act up to the provisions of this Act by appointing an engineer of their own, or if the engineer so appointed does not act, the Minister of Railways can again step in and appoint an engineer to act for such party, who shall have all the rights and duties of the engineer who should have been, or was, originally appointed. I think those explanations are sufficient as to the principle of the Bill, though I should like to have given you some more details, but there will be an opportunity for that in committee.

Mr. CASEY.

I have great confidence in the soundness of the provisions of this Act, as the action on which it is based was passed in Ontario under the eye of our present Minister of Justice, Sir Oliver Mowat, who was then Premier of that province. I have no doubt they were well considered by him before he allowed them to pass into law as a provincial Act; and I have no doubt that he still believes the principle of that Act to be sound. I had intended to ask for this Bill, as for my Bill in regard to railway employees and passengers, a special committee; but as it is a much longer Bill, and involves a question of jurisdiction between this legislature and another, I have been advised by the Government to allow it to go to the Railway Committee, and to have the question of jurisdiction submitted to the Minister of Justice before it passes through. Of course I am quite content to submit to his arbitration on that subject. I have no doubt that he is the best authority on that point that we have in Canada, and if his verdict is against the constitutionality of such an Act, then some other means must be taken of getting the relief proposed for the farmer or the municipality concerned. In that case I should have to revert, probably, to my other proposal to make Dominion railways subject to provincial legislation such as it may be. I have therefore the honour to move, seconded by Mr. Hurley, that this Bill be now read the second time, and I propose to follow that up by a motion that it be referred to the Railway Committee. I had, as I say, strong objections to sending it to that committee, and have them still, for that matter. I have not found that a committee of that kind, a rather tumultuary committee, inasmuch as there is an absence of the sense of dignity which prevails in a session of this House, is not the best tribunal to pry into and try the fitness of the details of a public Bill. I do not believe it is one of its functions to discuss a public Bill, but in deference to the expressed wish of the Government, under the peculiar circumstances of this case, I am willing to let this Bill stand the ordeal, believing in its intrinsic merits to carry it through.

Mr. HURLEY. I have presented a petition to this House from the county council of Hastings in favour of some legislation in this very direction. The township council has had considerable difficulty there with regard to drainage. A great deal of the land has been drained by private individuals, and the work was found very expensive, so I think there will be in the future little land drained unless there is an easier way of carrying out the undertaking. Difficulty has arisen in regard to the amounts to be paid by the owners of the different farms. I know two or three farms, which were not considered of very good quality, that were expected to be benefited by drainage, and