

trol of this Government and Parliament. Consequently, I have, this year, prepared a Bill intended to apply to all these railways, framed upon the basis of the law already for years in force in the province of Ontario. That Ontario Railway Drainage Act of 1890 made use of municipal machinery to a large extent and referred, almost entirely to drains constructed by municipalities under the different drainage Acts of that province. In making a Bill which is to apply to all Canadian railways, I have been compelled to drop the use of a good deal of municipal machinery, since our legislation cannot command that machinery in the same way that provincial legislation can. But I have preserved the main principles of that Bill, and I now ask this House to accept the measure.

I may say, in general terms, that the first object of the Ontario Act, and of my Bill, is to provide a cheap and quick settlement of all disputes between land owners and railways in connection with the question of drainage. It is to be admitted that drainage across the property of a railway company must be proceeded with much more cautiously than drainage across ordinary land. The road-bed must not be spoiled, and the safety of the road must not be endangered. For these reasons, and these alone, I think, special legislation is required. That special legislation was provided, as I have said, in Ontario. But when farmers and municipalities tried to take advantage of it by bringing their disputes to an issue, it was held by the courts, so far as any such cases have heretofore gone, that the provincial parliaments had no jurisdiction over Dominion railways. So that as a matter of fact, in the province of Ontario, that legislation, which has been in force since 1890, has been of no effect whatever, and has been of no use to those who desire to take advantage of it. My own opinion, given for what it is worth on a constitutional point, is that on a question of drainage the right of the provincial authorities to legislate seems very strong. But I do not set that opinion up as against the judgment of the courts; and, at present, all the decisions in existence go to show that that power, so far as Dominion railways are concerned at all events, rests with this House. In consequence of these decisions the old system of appealing to the Railway Committee of the Privy Council on any question of dispute as to such drainage had to be continued. Farmers and municipalities find that system a tax upon them which, in some cases, they have borne, and, in some cases, they have refused to bear, preferring to put up with the inconvenience and loss which they suffered, rather than incur the necessary expense without any certainty of getting a quick and proper decision on the question if they came here.

I wish to urge upon the attention of the members of this House what it means to

come before the Railway Committee of the Privy Council. In the first place many municipalities, even in Ontario and Quebec, are very far indeed from Ottawa. When we come to the case of other provinces, the question of an appeal to the Privy Council seems even most absurd. An appeal to Ottawa from British Columbia, from Manitoba, from Nova Scotia, from New Brunswick, or from Prince Edward Island, on a question as to whether farmer Jones, or the township of whatever-you-like-to-call-it, has the right to drain across a certain railway, is entirely out of the question. To send a delegation here and hire a lawyer to appear would cost more than to suffer the inconvenience or even, in many cases, to abandon the land which it is proposed to drain. There is not at present any means of obtaining justice or, rather, of obtaining a decision—let me put it on that ground—on these questions of drainage, where such questions arise at a great distance from Ottawa. Gentlemen in this House have told me—and there may be hon. members present who know of such cases—that they have known farmers who have abandoned their farms simply because the railways refused to give them an outlet for their drainage, and they could not afford to come here and have that question tried out.

Suppose they did take the alternative of coming here, what would they have to encounter? They are met by the permanent counsel engaged by the different railways, some of the ablest professional men in Canada who, on account of their age and experience, and by reason of having been long in that position of railway counsel, have more or less the ear of Ministers, whoever they may be at the time. They have their ear, and they have it justly, because they are known to be men of standing and position in their profession. It is very hard to expect a farmer or a poor township to engage counsel sufficiently able to contend with these railway counsel before the Railway Committee of the Privy Council. Then, again, that Railway Committee is composed of the Minister of Railways and such other Ministers as may be associated with him, very few in number, perhaps none of them, except the Minister of Railways himself, much versed in railway matters, probably none of them knowing much about the needs of drainage in a country neighbourhood.

The tribunal is one which should not be occupied over such works; it should be discussing questions of railway policy, and not questions of railway drainage. The location of the tribunal puts it out of reach of the most of those who need to have recourse to it. The conditions of trial before that tribunal are unnecessarily costly and unfair, to the rural litigant, at all events. For all these reasons, I ask the House to support the principle of the Bill which I now propose. Let me tell the House briefly what it amounts to.