

The Railway Act is a creature of the Government. Any amendments made to it from time to time have been offered by the Government—any important amendments, at all events. Only two years ago it was revised by the Government, and some very considerable changes were made. This Bill which is now before the House proposes to give the municipalities of the country a jurisdiction not now conferred by the Railway Act. I do not now propose to go into the details of the measure, because I assume that the House will confirm what they did last year when they adopted it. I think the course taken last year was, after reading the Bill the second time, to refer it to a special committee. Whether that should be done now or not I do not pretend to say. In the committee, some very considerable changes were made. I have not had time to analyze this Bill, but I take exception to giving jurisdiction to municipalities in reference to railway crossings, for the reason that every culvert put in a railway bank is an additional element of danger to the travelling public, and the municipalities are very apt to avail themselves of the opportunity to force these ditches through the railway banks when there are other means and methods by which the surface water could be carried off. I quite recognise that no railway bank should be allowed to interrupt the natural flow of the water. It cannot be done under the existing laws, whether it is a creek or a drain which existed at the time of the construction of the railway. Of course, from time to time, new drains are made in the country. In Ontario, very considerable powers are given to municipalities for the purpose of draining, and in that way new rivulets are frequently formed and made to extend for miles and miles. Although I have had some experience in this direction, I have not known of any particular case where the necessity of this Act has arisen. I have known cases where application was made to railway companies for such openings through their embankments, and I have always found the company, where it did not interfere with the safety of the line, willing to provide culverts to assist in the carrying out of the drainage. Of course, the railway bank is benefited by drainage wherever it can be safely done, and the railway companies are, as a rule, most anxious to have their right of way

drained, because we know in the spring of the year, when the freshets occur, very serious delay and loss may result if the water is allowed to rise above the railway bank. The railway companies are therefore more interested in having good drainage than even the municipalities. I think the railway ditches should not be used for draining the surrounding country. I do not think it is right and proper, because it forces on the railway companies' right of way a larger volume of water than their drains and culverts are constructed to carry off.

HON. MR. McCALLUM—This Bill is intended to take off the water, not to put it on the right of way.

HON. MR. SCOTT—The railway ditch might not be sufficient to take away the water, and at some seasons of the year the accumulation of water might lead to accidents involving loss of property and even sacrifice of life. Many railway accidents in this country and in the United States have been due to this cause. The purport of this Bill is practically to throw on the railways the necessity of carrying away the water that accumulates on the lands adjoining their lines.

HON. MR. McCALLUM—Not at all.

HON. MR. SCOTT—I do not think it proper that any railway company should obstruct the natural flow of water. Under the law of Ontario, at all events, they cannot do so. If a railway company should in any way obstruct the natural flow of water an injunction can be obtained and the company is liable for damages. It is the natural desire of the land owners whose properties adjoin the railway track, to drain their lands by means of the railway ditches. I do not think it is fair or right that they should do so, unless the municipalities contribute in some degree to make the railway drains deeper and the culverts larger.

When a railway is constructed the drainage is provided for the requirements of the right of way. If a company's line runs through low land they must make their ditches so much deeper and their culverts so much larger, but they should not be required from time to time, as increased danger arises, to deepen their