

Nothing in this Act contained shall prejudice or affect any right of stoppage *in transitu*, or any right of an unpaid vendor under the civil code of Lower Canada, or any right to claim freight against the original shipper or owner, or any liability of the consignee or endorsee, by reason or in consequence of his being such consignee or endorsee, or of his receipt of the goods by reason or in consequence of such consignment or endorsement.

HON. MR. KAULBACH—I am very glad of this clause, because there has been a conflict of authority on this question, and a great variety of decisions in the courts, whether the property of the goods should be in the hands of the consignee or the parties to whom the articles have been endorsed, and yet a right under that contract cannot be enforced by him, but must be by the original parties to the bill of lading. It seemed to be an inconsistency, and in my practice I fell into that error in bringing an action on the contract against the consignee, and found I could not succeed.

HON. MR. ABBOTT—My hon. friend will perceive, on examining the Bill closely, that the decision will remain with the tribunals of the different Provinces.

HON. MR. SCOTT—I feel a good deal of hesitancy in recognizing Bills of this nature, unless especial necessity for them exists. We all know the law relating to bills of lading is one that has arisen out of the necessities of merchants, and the decisions of courts are based on well known principles, that have been guides in the past, and I would like if my hon. friend would point out, if possible, where any defect has been observed in the Act relating to bills of lading? I do not remember myself that there has been before the courts any special case to show any necessity for this Bill. So far as the difficulties are concerned, I am not myself aware that they conflict with the laws of the Province with which I am most familiar—the Province of Ontario—and if my hon. friend is aware that the necessity for such an Act exists we should be glad to hear it. If the decisions of the courts have shown the necessity for legislation of this kind I can quite recognize the propriety of its being introduced, but I have always a fear of disturbing the well understood principles that govern those cases, by special legislation. I know that often when the courts come to interpret

our new Acts, they find the meaning of the words is something different from what former decisions would lead us to believe they are. I think it would help us very materially if it were known that this special legislation was based on any actual necessity—that the law, as it exists, is a failure in any one of the Provinces.

HON. MR. ABBOTT—The Minister of Justice, I understand, had his attention called to the defect in the law which this Bill proposes to remedy, by reports of cases which have occurred in other Provinces of the Dominion.

HON. MR. SCOTT—Not in Ontario.

HON. MR. ABBOTT—I cannot inform my hon. friend in what Province, but he has had his attention brought to it several times, and has fallen in with similar cases in his own practice. In the Province of Quebec I can state that on two occasions, in my own practice, I had occasion to study this question, and it was in course of those proceedings that I formed the opinion I hold, that in reality the carriers should be held liable as well as the parties who signed the bill of lading. There are two cases, to my own knowledge—one a large shipment of flour, and another a large shipment of cattle, which were made the vehicles for the defrauding of banks, and the parties were left without any remedy whatever.

HON. MR. SCOTT—Then the master should have been indicted for fraud.

The motion was agreed to, and the Bill was read the second time.

RAILWAY ACT AMENDMENT BILL.

SECOND READING.

HON. MR. McCALLUM moved the second reading of Bill (D), "An Act to amend the Railway Act." He said: The object of introducing this Bill is to make it more convenient and less expensive for land owners to cross railways, when they want to drain their lands, than is provided by the Railway Act of last Session. The Bill is a very short one, and as it has been before the House for some days I do not know that it is necessary for me to say much more about it, until it is before the Committee of the Whole, when I will explain it clause by clause.

HON. MR. ABBOTT.