

stood. The point was this: under the law as it stood railways were allowed to cross highways, but were not allowed to run along a highway. It was said that this extra land that was required, was for the purpose of building abutments in case of overhead crossings. I do not draw that deduction from it, and on reading the clause, I find it has more general application than that, and I think it is safer to leave the clause as it appears in the printed Bill. The clause reads as follows:

2. When the application is for the construction of the railway upon, along or across an existing highway, all the provisions of law at such time applicable to the taking of land by the company, to its valuation and sale and conveyance to the company, and to the compensation therefor, shall apply to the land required for the proper carrying out of any order made by the board.

I do not agree with the opinion that the extra land would be required for the crossing, and I therefore move to strike out the words I added yesterday.

Hon. Sir MACKENZIE BOWELL—Railways in the past have crossed highways, and do so at the present moment, without having to pay anything for the right of way. If that be the case how far does this clause impose a penalty of payment for railway crossings? It was never intended, I am sure, by the compilers of this Bill, that railways should be subject to pay for crossing public roads; if that be the case, why is the question of remuneration referred to in this clause, unless it be for additional property which may be required to enable them to cross a railway? If the railroad is building what we call a high level, it may be necessary to acquire the private property alongside the road, in order to enable them to build abutments, or something on which to construct their approach. In that case they should pay for the property, because it would be an infringement upon the private rights of the property-holders alongside of the road. What would they have to pay under this clause as it stands? It says:

When the application is for the construction of a railway upon, along or across an existing highway.

We know they have no right to build along a highway, unless they get special permission from the municipality through which it runs, and have to comply with

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its valuation and sale and conveyance to the company, and to the compensation therefor, shall apply to the land required for the proper carrying out of any order made by the board.

Is that intended to apply to the case to which I have referred, that is, the taking of additional land, or does it compel them to pay for crossing the highway—because I know that is the view taken of it by railway solicitors, and those who have been connected with railway construction and interpreting the Acts of parliament applying to railways. That is what I should like to know before we strike it out. If it does not impose any additional charge upon the company than that which they have had to pay in the past, the position taken by the hon. Secretary of State would be all right.

Hon. Mr. SCOTT—I think not; I think it is perfectly clear the law does not contemplate their paying for the crossing. That has always been a recognized law, but, for instance, if they were to run over a highway diagonally—take along a street for some distance—there it would be only fair, because it would be an inconvenience, probably, that they should pay for any diversion that would be necessary of the highway. The highway might have to be changed in the country parts. If the diagonal line ran from right to left, they might have to widen it and therefore it would be only reasonable the company should pay. But whether the words are in, or whether they are not in, they would involve no obligation on the company other than they are obliged to perform, and I thought the clause was freer without those words. It did not seem to me the additional words carried with them any penalty on the company—that they would be equally responsible whether the words were there or were not, and therefore I thought it safer, because I see the clause was changed in the House of Commons from the original draft.

Hon. Sir MACKENZIE BOWELL—What was the original draft?

Hon. Mr. SCOTT—The original draft was very much like the law as it stands now. Clause 84 in the original draft read as follows:—

The railway shall not be carried upon, along or across an existing highway until leave has been obtained from the board.

Formerly leave had to be obtained from the Railway Committee. The plan had to