

tioner in this case had no merit on his side, and we should now decide that hereafter no refund will be made in these cases.

The motion was agreed to.

BILLS INTRODUCED.

Bill (CC) "An Act respecting certain Savings Banks in the Province of Quebec." (Mr. Abbott.)

THE RAILWAYS BILL.

THIRD READING.

HON. MR. ABBOTT moved the third reading of Bill (Z) "An Act respecting Railways."

HON. MR. POWER—This Bill comes back to us in a different form from that in which it went to the committee. In fact, the two most important clauses in the Bill have been stricken out, and there has not been any discussion on the subject in the House. I do not propose to discuss the clauses that have been stricken out, but I rise for the purpose of moving an amendment. The fourth clause of this Bill was intended to remedy an injustice which arose under the existing law. The fourth clause strikes out sub-section 3 of section 194, and substitutes the following therefor:—

"3. If the company omits to erect and complete, as aforesaid, any fence or cattle guard, or if, after it is completed, the company neglects to maintain the same as aforesaid, and if in consequence of such omission or neglect any animal gets upon the railway from an adjoining place where, under the circumstances, it might properly be, then the company shall be liable to the owner of every such animal for all damages in respect of it caused by any of the company's trains or engines; and no animal allowed by law to run at large shall be held to be improperly on a place adjoining the railway merely for the reason that the owner or occupant of such place has not permitted it to be there."

The cause of this change in the law was a case that occurred in the immediate neighborhood of this city. In Ontario there is a statute which legalizes the running at large of one man's cattle upon another man's land, provided there is no fence to prevent them from getting there; and the cattle then, sometimes through the default of the railway company in fencing their line, get on the railway track and are killed, and under the law as it stands the owner has no redress. The object of this provision is to give him redress. As the law stands now, unless the cattle get on the railway track from the property of the owner he has no redress.

This amendment proposes that where cattle get on the railway from the place where the cattle are by law allowed to be, then the owner may recover for them if they are killed by the company's trains. I think that is a right and proper thing, because the immediate cause of the destruction of the cattle is the neglect of the railway company to fence their road. It is a very common practice in the Province of Nova Scotia, and I presume it is the same in New Brunswick, that cattle are allowed to run at large upon wild lands owned by the neighbors or owners of the cattle, and if these cattle get on the railway track there is no reason why the railway company or the Government, as the case may be, should not pay for the cattle if they are killed, owing to the default of the railway company or of the Government in not fencing the road. I have been told by the hon. gentleman from Colchester of a case within his own knowledge where the cattle of two parties were herded together, and they got on the railway track from the lands of one of the owners, and the man from whose land the cattle got on the track was paid for the destruction of his cattle, while his neighbor received no compensation. I think that is evidently unfair. If a man chooses to allow his neighbor's cattle to run over his land, and, owing to the neglect of the railway company or of the Government to fence the railway track the cattle are killed, I think the neighbor should have the right to recover for them. My motion is that the Bill be not now read the third time, but that it be amended by striking out the words "by law" in the second line on the second page.

HON. MR. SCOTT—This amendment is proposed to meet the very case mentioned by the hon. gentleman from Halifax, a case of the cattle of "A" being killed, having got on the track from the land of "B," and I think it meets it entirely and fully.

HON. MR. POWER—It meets it in the Province of Ontario only.

HON. MR. SCOTT—It meets it everywhere. The words "by law" are simply introduced for the purpose of relieving the railway company of the responsibility of killing animals where they are not allowed by law to run at large. For