

Mr. ROSEVEAR: Of course, there is a provision in the Railway Act that requires us to fence in a thickly peopled area and if we do not fence our trains are limited to 10 miles an hour.

Mr. GREEN: This clause will get you away from that liability.

Mr. ROSEVEAR: I was going to say, Mr. Chairman, that the railway is less concerned about the station grounds than about the right of way. It is usually described as right of way and station grounds. I suppose that is how it was described in the Act, and that is how it got in here.

The CHAIRMAN: Mr. Green has made a motion.

Mr. GREEN: I would change my motion to delete the words "and station grounds".

The CHAIRMAN: Your motion would delete "and station grounds" instead of the entire clause?

Mr. MCGREGOR: Do I understand that if somebody did have a cow and that cow was killed by a locomotive they would have no action against the railway? Is that the situation?

Mr. ROSEVEAR: I do not think it is.

Mr. MCGREGOR: Is that the answer? The minister nodded I am right.

Mr. ROSEVEAR: Under the Railway Act the railway is an insurer of cattle in this way, that the Act provides that fences, gates and cattle guards must be sufficient to prevent animals getting on the track. Now, if an animal gets on the track the assumption is that the fencing is not sufficient. If the railway happens to remove that then the question becomes one of negligence. The question will be: Did the engineer fail to give any warning?

Hon. Mr. CHEVRIER: In other words, the common law remains as it is.

Mr. WEAVER: I think I can add a little information here that will enlighten the committee. Once you cross the Saskatchewan river there is no fencing on the railroads. There might be an exception as far as around Cranberry Portage goes as that is not actually in the Precambrian Shield. The Hudson Bay railway is 516 miles long and I do not believe there is any fencing along it. On the railway from Cranberry Portage to Sherridon at the present time there is no fencing and I do not know of any trouble that has been caused. Once you get into the Precambrian Shield a cow is just about as rare as it is in Ottawa, so I think the railway is justified in asking this exemption.

The CHAIRMAN: How about the stations, Mr. Weaver?

Mr. WEAVER: I cannot recall the stations being fenced either, but I may be wrong in that.

Hon. Mr. CHEVRIER: Are the stations fenced on the Hudson Bay railway, Mr. Fairweather?

Mr. FAIRWEATHER: Not to my knowledge.

Mr. HERRIDGE: Mr. Chairman, I must say that on this occasion I do not agree with Mr. Green in that fencing on this line is necessary. I think that fencing here would be an unnecessary expense. I notice in my own community, even with all the fencing and the cattle guards, even my own herd have learned to walk across the cattle guard and along the tracks for miles and I have always been under the impression that any animal killed on the railroad tracks there was my responsibility. My friend, Mr. Stuart, has some bright ideas and wanted to know if anything had been done to lessen the cost of fencing, or if anything had been done to use electric fencing for a few short lengths in the settled districts.

Hon. Mr. CHEVRIER: Dealing with the amendment, in view of the attitude taken by Mr. Rosevear, I can see no objection for deleting the words suggested by