

responsible. He submits, and therefore he is responsible, so far as he can be.

Mr. POPE. Of course, I do not much disagree with the sentiments of my hon. friend, but upon one or two points I cannot agree with him. As a general rule railways do fence their roads, they are bound to fence them for their own protection. They are exactly in the same position a farmer is in respect to his neighbor; and why should they not be? If I live alongside a neighbor whose land adjoins mine, the only thing I can do is to give him notice that I want a fence made. Nor can I expropriate his land without paying him for it, perhaps two or three times as much as it is worth. But let me tell my hon. friends there are cases where this law will work very great hardship. There are many cases where a railway is running through woods, and has been for years, and where there are no cattle. All at once a man settles down in these woods, near the road; the company know nothing about it; and why should that man, if he wants a fence, not be obliged to give the company notice? Some hon. gentlemen have spoken about our ignorance, saying that farmers know nothing about the Act. I can tell him we know just about as much of what we are about as the lumbermen do, and we will try to take care of ourselves. I think we will compare favorably with the lumbermen, and with the railway men, and, I trust, after a little time and a little further education, we will be able to compare favorably with the lawyers.

Mr. McCARTHY. Is my hon. friend speaking on behalf of the farmers?

Mr. POPE. I am speaking for the farmers. The hon. gentleman seems to forget that there may be a hardship towards the railway companies in a case where the road runs through a forest, and a man settles down there without their knowing anything about it—why should not this man be required to give the company notice, if he wants a fence, in order that they may know of his existence? However, I think railways should build their own fences; but we must take care that in protecting the rights of the farmer, we must not do injustice to the railway companies, as there are cases where a man can take great advantage of a company if he is not forced to give some notice.

Mr. LISTER. I am very much pleased that the hon. Minister of Railways has yielded to the evident wish of both sides of the House, and accepted the amendment proposed by the hon. member for North Renfrew. I was not surprised at the hon. Minister of Railways and the hon. Minister of Agriculture taking the position they did, understanding the subject as they do; I am not surprised they should propose to protect a company that is protected already. When the hon. member for North Simcoe stated that ninety-nine out of a hundred farmers do not know anything about the law, he stated the truth. Railway companies expropriate the lands of farmers throughout the country, and leave them unfenced until it suits their convenience. In my own county a branch of the Canadian Pacific Railway was constructed some years ago, and that branch is still unfenced. The people living along the line of that road have not been able to use their pastures for some years, because if they put their cattle in the fields they ran the risk of having them killed by the railway, and the consequence has been that that land was of no value at all to those farmers. Applications have been made to the company from time to time to fence the line, but no heed has been paid to them. I do think the time has come when this Parliament should assert its power and say to the railway companies that they have been protected just as far as it is in the interest of the public to protect them; and when we seek to throw the protection about them which this Bill proposes, I think we are doing a great injustice to a large proportion of the people of this country. I think the hon.

Minister of Railways, according to the evident wish of both sides of the House, has done what is right, and I hope that when this Bill again comes before the House such amendments will be made as will protect the farmers in the way indicated by the hon. member for North Renfrew and the hon. member for North Simcoe.

Mr. DAVIES. I wish to call the attention of the hon. Minister to the phraseology of the third section. In introducing the Bill he explained that he intended to put in a few words containing the principle of the thirteenth section of the Consolidated Railway Act, 1879, to cover cases where compensation might be payable to persons who had suffered by accidents on railways. It strikes me, in reading this section, that the hon. gentleman has not quite attained the object in view. Certain portions of the Act of 1879 were made applicable to Government railways. The second section of the Act applied to the Intercolonial Railway; but sections from five to thirty-four never were made to apply to any other Government railways than the Intercolonial. By the fourth section, sections from thirty-four to ninety-eight were made applicable to the Intercolonial and all other railways, either built by the Government or acquired by purchase. Section thirty of the Act of 1879, which the hon. Minister proposes to amend, never did apply to the Prince Edward Island Railway. When the Act of 1881 was passed sections two and four of the Act of 1879 were repealed, and that left the law in this position: that no section of the Act of 1879 applied to any Government railway whatever. So this proposed amendment of the hon. Minister would merely go this far—it would compel companies to make certain returns to the Government respecting compensation they paid for accidents, &c.; but inasmuch as the consolidation of Government Railways Act of 1881 repealed all such provisions of the Act of 1879 which applied to Government railways, whatever effect the amendment may have as regards returns being furnished by ordinary railway companies, it can have no possible effect as regards Government railways.

Sir CHARLES TUPPER. In regard to railways brought under the operation of the Consolidated Railway Act, the hon. gentleman knows that, under the law as it stands, compensation is obtained against the companies. The hon. gentleman will see that no amendment of the Government Railways Act is required in order to embrace—as I have stated it was the intention of the Government to embrace—accidents to persons, causing either loss of life or injury of any kind in the working expenses of the Government railways. Clause 74 of the Government Railways Act says:

"The Department shall not be relieved from liability by any notice, condition or declaration in case of any damage arising from, and negligence, omission or default of any officer, employé or servant of the Department, &c."

That clearly shows that where damages arise and are due to the negligence of the officers there is a legal liability as against the road. Then section 81 says:

"Any person injured while on the platform of a car, or on any baggage, wood or freight car, in violation of the printed regulations posted up at the time in a conspicuous place inside of the passenger cars then in the train, shall have no claim for the injury, provided room inside of such passenger cars, sufficient for the proper accommodation of the passengers, was furnished at the time."

The inference to be drawn is that if any injury takes place the party is able to secure damages, as liability exists. Section 103 says:

"All claims for indemnity for any damage or injury sustained by reason of the railway, shall be made within six months next after the time of such supposed damage sustained, or if there be continuation of damage, then within six months next after the doing or committing such damage ceases, and not afterwards."

So the hon. gentleman will see that the Government Railways Act applies to the Prince Edward Island Railway as to the Intercolonial, because in the interpretation it is declared that the word "Railway" shall mean any railway