

Hon. Mr. McMULLEN—I would just say in reply to my hon. friend, that these gates are left entirely in the possession and under the control of the farmer himself. If there is any risk, or if he thinks that he runs any risk by strangers leaving those gates open—if it is a way in which people cross the railway for a short cut or any other purpose, and he is afraid of the gates being left open, he can put locks on them and then strangers cannot open them. The clause as it stands is safe and proper, and if we interfere with it we will make it worse than ever.

The clause was adopted.

On subsection 4 of clause 202,

4. Every company shall incur a penalty not exceeding fifty dollars for each day of wilful neglect, omission or refusal to obey the provisions of this section. 51 V., c. 29, s. 192, Am.

Hon. Mr. CASGRAIN (de Lanaudière)—This clause should be amended by adding after the words 'every company,' the words 'or owner.'

Hon. Mr. KERR (Toronto)—Would you make the owner liable for the neglect of the company?

Hon. Mr. LOUGHEED—Suppose the owner refuses to obey the order of the board? The object of the penalty is evidently to punish the owner if he refuses to obey.

Hon. Mr. FERGUSON—This could only arise in operating the railway.

Hon. Mr. DANDURAND—But what about the owner who is not included in the interpretation clause, and who might be cited before the commission for refusing to obey an order?

Hon. Mr. KERR (Toronto)—The owner might be made liable for the fault of the company by this phraseology.

Hon. Mr. LOUGHEED—Let me cite the case of the owner of a bridge who is brought before the board at the instance of the company, say for making improvements in the bridge, or making repairs. He is ordered to make the improvements and refuses to comply. The order must be enforced in some way. The order of the board will specify who shall make the improvements.

Hon. Mr. DeBOUCHERVILLE—If the owner is not the railway company, what business has the railway with that bridge?

Hon. Mr. CASGRAIN (de Lanaudière)—It is in case a farmer has built a bridge over a railway, and that bridge is not high enough, the order is made by the board to the farmer to raise the bridge.

Hon. Mr. DeBOUCHERVILLE—Does the hon. gentleman know of any case where a farmer has built a bridge over a railway?

Hon. Mr. DANDURAND—Take the case of a municipality.

Hon. Sir MACKENZIE BOWELL—What has the owner to do with this? It is the company that does the work. It does not say that the board shall impose on the owner the expense of raising or altering a bridge.

Hon. Mr. FERGUSON—It allows the company to go in and do the work without the consent of the owner.

Hon. Sir MACKENZIE BOWELL—Then it provides that the company shall incur a penalty if they do not carry out the order of the board. The object is evidently to protect the public.

Hon. Mr. DANDURAND—There is something very queer about the conclusion the hon. gentleman reaches. Here is a company which desires to have some improvements made to a bridge. The owner refuses. The company cites the owner before the board, an order goes out, and then there is a penalty against the company for refusing to obey an order that the company has sought itself. Is not the penalty directed more especially against the party who refuses to do a certain thing that the company wants done?

Hon. Sir MACKENZIE BOWELL—That might be so, but this clause does not say so.

Hon. Mr. LOUGHEED—Let me cite the instance of the interprovincial bridge here. Assuming the top of that bridge was too low, the board would not have authority to instruct the railway company to raise that bridge. They must have jurisdiction over the owners, the company, to do it, and if the company does not obey, it is subject to the penalties of the clause. Let us assume the railway company wanted to