some of the permanent forest rangers in the Dominion service at divisional points on the railways to make inspections of locomotives so that inspections may be made immediately when a locomotive is reported to be throwing sparks. With this closer inspection and a careful study of the equipment it may be possible to reach a solution of the problem which will give comparative safety.

The penalty for violation of the regulations in regard to equipment and inspection of locomotives is twenty-five dollars as against the company and fifteen dollars as against an employee.

Damages.

The Railway Act did not until 1903 contain any specific provision in regard to damages for fires caused by railway locomotives. It was apparently considered that the matter was governed by the common-law principle that no person should be permitted to use his property in such a way as to result in injury to his neighbor, and decisions in various Canadian cases were given on this principle. On this point being carried on appeal to the Imperial Privy Council in the case of the Canadian Pacific Railway Company vs. Roy, it was decided in 1902, in accordance with previous decisions in the English courts, that inasmuch as Parliament had given the railway companies authority to run locomotives they would not be liable for damages for doing so, provided no negligence was proved. It may be pointed out, however, that the wording of the Railway Act is to the effect that the railways may operate "by the power and force of steam" and does not in so many words make lawful the running of locomotives, as the English Act does. The running of a locomotive without statutory authority or the running of a traction engine along a roadway would come under the common-law principle.

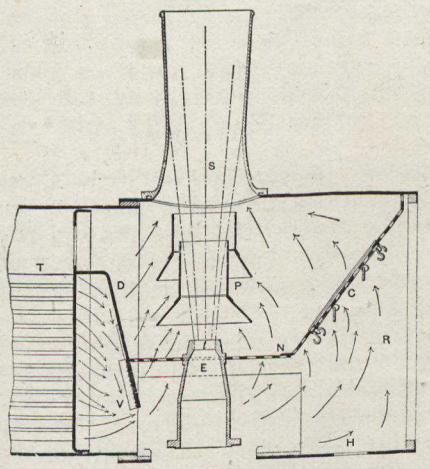

FIG. 10.

Smoke-box or front-end of locomotive. (T, boiler-tubes; D, baffle-plate, or diaphragm; N, netting, dividing smoke-box into upper and lower chambers; S, stack; E, exhaust-pipe. Arrows show direction of draft.)

As the Railway Act requires the right-of-way of the railway to be kept clear of combustible material the failure of a railway company to keep its right-of-way cleared would amount to negligence at common-law and would make the company liable for the full amount of damages sustained. This would be the case whether the fire was set by a locomotive or otherwise, so long as it originated on the right-of-way. It might be caused by burning of the combustible material on the right-of-way for the purpose of clearing, but the company would still be liable for full damages.

But in cases were no negligence of this or some other nature was shown the railway company was not, according to the decision given, responsible for damages.

In 1903, therefore, the question was brought before Parliament by Mr. L. Philippe Demers, M.P. for St. John's and Iberville, who proposed a provision to make the railway responsible for damages caused by sparks from locomotives under the common-law principle, whether or not negligence was shown. The provision proposed was, however,