

an advantage even to the railways themselves from the appointment of such a commission as this, I feel also that the effect of the Bill would be mischievous if one or more of the large companies were exempted from its operations while others were bound by them. We all know that the Canadian Pacific Railway, at least, claims to be in such a position under its special Acts that you cannot do with it what you propose to do under this commission. I think it would be a grave injustice that one company should be made subject to this commission and to the decrees of the commissioners, while the Canadian Pacific Railway or any other company should be absolutely free. I think that must be a proposition which no hon. gentleman in this House can dispute. We cannot very well, in the absence of the representatives of the Canadian Pacific Railway and other companies, decide here for ourselves which company is bound, and which is not bound by the provisions of the Bill as it stands. The only way, it seems to me, in which we can deal with that question, is the way which has been suggested; that is, to appoint a committee to hear the contentions of the several railways as to whether they are possessed of parliamentary powers which prevent this Bill being applied to them. We may spend hours and hours and days and days in going over the various provisions of this Bill and ultimately find all our work useless simply because we have no power to deal with some particular railway company whose freedom from control would make the Bill of very little use. I do not want to refer here at length to the question of the government railways. The hon. minister has said that he exempts the government railways from the operation of the Bill. I think that is wrong. I do not agree with him in that, but I am dealing now, simply with the question of other railways which cannot appear in this House and state the objections they may have to what is proposed against them here.

Motion agreed to, and House went into committee on the Bill.

On section two, paragraph (m)—

Mr. LANCASTER. I would ask the minister why he limits the authority, of the judges under this Bill to judges of the Superior Court. The judges of the High Court which is the Superior Court in Ontario, are located in Toronto when not on circuit, and as a great many things may arise under this Bill which would require immediate attention, I would suggest that the County Court judges who are perfectly competent to act should be clothed with powers under the Bill. It would save a great deal of expense and would greatly facilitate the operation of the law if the County Court judges were given jurisdiction.

The MINISTER OF RAILWAYS AND CANALS. Since the Railway Act was

Mr. BARKER.

passed it has been the law that the Superior Court judges should have jurisdiction, and I would be inclined to adhere to the existing law unless very strong reasons were given for the change. The judges have not many duties to perform under this Act. One duty of theirs, which occurs to my mind, is, that they have jurisdiction in connection with the expropriation of land, and I personally would not think it desirable that we should change the law in that regard. Then again, when rules are made by the commission, in order that they may become rules of court, application has to be made to a judge of the Superior Court, and I can see no reason at present why that should be changed.

Mr. LANCASTER. The procedure in expropriating land is, that the railroad gives notice to the land owner, and in that notice the company appoints an arbitrator, and they ask the land owner to appoint another arbitrator, then those two have to agree on a third one, but if they cannot agree, application has to be made to a judge of the High Court at Toronto. Suppose the land is in the county of Lincoln, which I have the honour to represent, could not the judge of the County Court there pick out an arbitrator a good deal better than a judge sitting in Toronto? The judge in Toronto has to rely on affidavits and he generally appoints a judge of the County Court, but if the judge of the County Court himself has the appointing power he could appoint the judge of another county court, or he could appoint any one he thinks fit. The application could be made to the county judge at home and it would save a great deal of expense and trouble. I think the legal gentlemen from Ontario on both sides of the House will agree with me that better and cheaper results would be obtained by giving the County Court judges power to deal with the expropriation of land. In Ontario we have railways incorporated by the province, and in relation to every one of these the County Court judges have to do with the expropriation proceedings and not the Superior or High Court, and practical experience has taught us that it works very satisfactorily. There has not been the slightest complaint against the manner in which the County Court judges have discharged these duties. As to making an order of the Railway Commission a rule of court, I would remind the minister that in the province of Ontario the County Court judges are local judges of the High Court, and every day of their lives they are making just such orders in regard to other equally, or more, important matters as they would be called upon to make under this Act. There are only ten judges of the High Court in the whole province of Ontario who have original jurisdiction. I firmly believe that it would be a great improvement in the Bill if we conferred this power on the County Court judges concurrently with the judges of the Superior Court if you like.