

as a rule, of course, from the receipts—but, of course, none of the working expenses of the road so leased ought to be borne by the main line. There ought to be a separate account with the leased line. But if the company which is working a leased line as one of its own, embraces all the receipts from the leased line, then I am not satisfied at all that the rental ought not to be charged. You are getting revenue and expenditure and if my hon. friend intends that the revenue, which is derived from the leased line, shall be inserted in the gross revenue, then the charge upon that revenue ought also to be inserted on the other side. Even if it is not so intended, and he intends that the revenue derived by the leased company from the leased line shall be kept separate, yet there would be a case in which the rent in part may be properly charged on the working expenses of the main line; and that is this; in which you find you have leased a line at a rent which that line does not pay, and have got to pay a portion of your rent out of the profits of the main line. In that case it is made a charge on the main line and has to be advanced out of the annual profits. It is an unprofitable investment. I invite the hon. gentleman to say whether he intends that in cases of a leased line, the company shall in making the returns, embrace the returns of the whole undertaking in the gross receipts of the leased line. If so, why should not tolls, which are substituted for the interest on the bonds which may be given for the construction of the main line, go to the benefit of the revenue account?

Sir CHARLES TUPPER. This matter has been carefully considered in relation to both these points raised by the hon. gentleman. With reference to the last point, the reason why interest for the leased line is taken out, is because the statistics of the leased line will appear by themselves. It would be unjust to charge this rental for the leased lines to the working expenditure of the main line, thus showing that it was working at a loss, when perhaps it would be working at a profit. As to the other point, the hon. gentleman will observe that this clause is for statistical purposes. Now, the Department has carefully considered everything that could possibly be found in regard to railway statistics and the operation of railways elsewhere, and everything has been enumerated here that we believed could be enumerated; but lest any oversight should have occurred from any cause, we wish to have the power to add the other points. We send out the forms from the Department to be filled up by the companies, and this clause would enable us the moment our attention was called to anything which should go to the heading of working expenditure, it could be provided for under this authority. It does not enable the companies to exercise their judgment as to what is the usual practice with other railway companies. The Department may, however, change the form from time to time, if we find anything which may be legitimately embraced in the working expenditure.

Mr. BLAKE. I think it would be better to say: "all such other changes as may, from time to time, be determined by the Governor in Council," because questions may arise as to the accuracy of the view of the Department. No doubt uniformity will be one object which will be obtained, as the hon. gentleman says, by this plan. As to the mode by which the statistical return has to be made for the leased lines, there is one point remaining, and that is, if the leased line does not pay its running deficiency, would the charge then be made against the working expenses?

Sir CHARLES TUPPER. It would appear, on the return of the leased line, that it was not paying its way.

Mr. BLAKE. But would it not appear that the deficiency really came out of the assets of the main line?

Mr. CAMERON (Victoria). Not so as to take priority of the fixed charges, but immediately afterwards it would come out of the assets of the main line.

Mr. BLAKE.

Mr. WHITE (Renfrew). With reference to the remarks which fell from the hon. Minister of Railways in the discussion upon the second reading of the Bill, he is correct in saying that he did not give me any indication in the conversations I had with him that he would adopt the amendment which I propose to make to the Bill, and of which I gave notice some time ago. I am sorry to say that in the conversations I had with him the arguments I offered did not seem to convince the hon. gentleman that the amendment should be made to this Act. I am sorry to say also that his arguments have not convinced me that there is no necessity for this amendment being made. Let me say this—that I think the hon. Minister of Railways misapprehended the scope of the amendment which I propose. I did not intend that the duty should be imposed on railway companies to erect fences in those parts of the country in which they run through wild, untenanted and unoccupied land. I presume that the amendment to the Act that was made in 1868 was for the purpose of giving railway companies power to build portions of their lines through untenanted parts of the country without imposing that duty upon them in those parts of the country where they would be practically of no use, and where the cost of erecting those fences would be added to the cost of building the railway without their being of advantage to any one. I am not conversant with the law, but those who are acquainted with it say—and I believe it is a general principle of law—that no railway company is liable for damages, which may kill cattle which have strayed upon the track from land owned and property occupied by the owner of the cattle, for the destruction of which claim is made against the railway company. But I admit that any gentleman will say that because the proprietor of the land happens to have lands in a particular locality through which the railway runs—happens, as the Minister of Railways said, to have a thousand acres of land in a particular locality, which is not cleared or cultivated—he should not thereby be prevented from putting his cattle there, and the company should not say: Unless you give notice within the time prescribed by law, we are not liable for any damage. It was properly stated by the hon. member for Simcoe (Mr. McCarthy), that the duty of erecting fences is not only imposed on railway companies under the conditions prescribed in the sixteenth section, but they are also bound to maintain them. A circumstance occurred in my own county last summer which shows the necessity of imposing that duty on the railway companies, without requiring the adjoining proprietor to give notice, or, at all events, to hold the railway company liable for damages which may occur through the non-erection of these fences. The Canada Central Railway was built through that portion of the country in 1878. The fences were erected almost simultaneously with the grading of the road—in fact, before trains ran at all the fences were put up. No notice was given as required, because the railway company put up fences without the necessity of any notice being given by the adjoining proprietors. What was the result? Last summer a fire occurred; a portion of the railway fences was burnt down; a horse was killed upon the track; an action was brought to recover damages. The defence was set up that no notice had been given the company to erect or maintain these fences. Notwithstanding what the Minister of Railways has stated—and his experience is larger than mine—I think it is manifestly the duty of every railway company that takes lands and fences these lands, to put the proprietors in as good a position as if the railway had not passed through the lands. In view of that fact, I propose to move that the following clause be added to the Bill:—

1. Sub-section two of section sixteen is hereby repealed and the following substituted therefor:—
2. Until such fences and cattle-guards are duly made, the company shall, whether they have or have not been required to erect and maintain the same by the proprietors of the adjoining lands, be liable