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Cattle Killing by Railways

The killing of stock on the railway track in Western Canada has engaged the attention of the Grain Growers' organization for several years. The Railway Act has been so worded that when farmers have had recourse to the courts for compensation for stock killed on the track, the railway companies almost invariably succeeded in evading payment. Farmers all through the Prairie Provinces have been losing thousands of dollars worth of animals every year without being able to secure any compensation. The matter has been brought before the attention of the railway commissioners on several occasions and their reply invariably was that, as the Railway Act is now worded, it would be fallacious for any farmer to attempt to collect damages through the process of the courts.

At the meeting of the council of agriculture held in Regina last February, Mr. Jas. Bowser, president of the United Farmers of Alberta, F. W. Green and R. McKenzie, secretaries respectively of the Saskatchewan and Manitoba Grain Growers' Associations, were appointed a committee to endeavor to secure legislation that would compel the railway companies to protect their tracks, as to prevent animals getting upon them.

Conference—Arranged

These gentlemen, while in Ottawa in March placed the matter before the minister of railways, who arranged for a conference to be held between representatives of the railway companies and of the Grain Growers' Associations and the chairman of the Board of Railway Commissioners. That meeting was held in the office of the minister of railways, Judge Mahoe, chairman of the board, stated that the commissioners had received a large amount of evidence to the effect that the railways refused to compensate for stock killed and that in his judgment the only effective remedy would be to amend the provision of the Railway Act that the railways would be compelled to pay for all stock killed on the track, the fact of their presence there being prima facie evidence that the track was not properly protected. The result was that the minister requested Judge Mahoe to draft a clause to amend the act which would meet the case, and have the clause submitted to the minister and to the different parties interested. Judge Mahoe prepared the following amendment to the Act:

The Amendment

"11. Sections 294 and 295 of the principal act, and sections 8 and 9 of chapter 30 of the statutes of 1910 are repealed, and the following is enacted as section 294 of the principal act:

"294. The company shall be liable to the owner for the full value of all horses, sheep, swine or other cattle that may be killed or injured upon the company's lands through the operation, save where such killing or injury is caused by reason of any person—

(a) failing to keep the gates of any farm crossing, at each side of the railway, closed when not in use, or

(b) leaving open any gate on either side of the railway provided for the use of any farm crossing without some competent person being at or near such gate to prevent animals passing through such gate onto the railway, or

(c) other than the officer, contractor, or employee of the company taking down any part of the fence, or

(d) turning any animal upon or within the enclosure of any railway company, or

(e) except as authorized by this act, without the consent of the company, riding, leading or driving any animal, or suffering it to enter upon any railway and within the fences and guards thereof, or

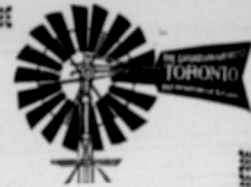
(f) leaving the gates of the company at railway stations open for the convenience of the public."

Strenuous Objection

The suggestions of Judge Mahoe being accepted by all the interests concerned, the minister introduced a bill into the House embodying the clause together with several other amendments to the Railway Act, a couple of days before the adjournment. The clause dealing with stock-killing met with such strenuous opposition, however, from some members who so evidently intended to talk it out that the minister withdrew the clause, with the understanding that it would be again introduced when the

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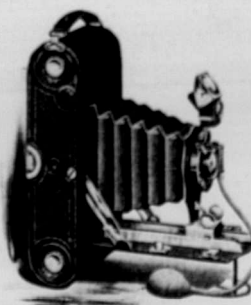
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House assembled after recess.

This is one of the questions that the Grain Growers should urge upon Mr. Borden upon his prospective tour and urge him to assist the government in having the clause passed after recess. If this section becomes law the effect of it would be that the railways would have to pay for all stock killed on the track excepting in the case where they had access to the

track through gates at farm crossings being left open, or through animals having been turned onto the enclosures of railway companies or, when animals get on the track through gates of the company at railway stations being left open. Experience in the West shows that of the stock killed on track not more than one in fifty have been due to the exceptions made in that clause.

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