

law. If it be a fact, as I think I can show, that while there is now, and while there has been for many years back, a law requiring the railway companies to give, for instance, facilities to other railway companies in the interchange of traffic, requiring them not to deal unfairly or inequitably with individuals carrying on business with them; if it is a fact that there is no efficient means by which railway companies can be compelled to obey that law—if in point of fact the railway companies are substantially above the law—then I think I make out a case for the constitution of some kind of tribunal in order that that law may be made effective. Now I shall refer to the existing law, because, though it is well known to lawyers, it may not be so well known to the general public; for, although it has been the law for many years, it is practically a dead letter. The second sub-section of the 60th section of the Consolidated Railway Act provides:

"But every railway company shall, according to their respective powers, afford all reasonable facilities to any other railway company for the receiving and forwarding and delivering of traffic upon and from the several railways belonging to or worked by such companies respectively, and for the return of carriages, trucks, and other vehicles; and no company shall give or continue any preference or advantage to, or in favor of any particular company, or any particular description of traffic, in any respect whatsoever, nor shall any company subject any particular company or any particular description of traffic to any prejudice or disadvantage in any respect whatsoever; and every railway company having or working a railway which forms part of a continuous line of railway, or which intersects any other railway, or which has any terminus, station, or wharf of the one near any terminus, station or wharf of the other, shall afford all reasonable facilities for receiving and forwarding by the one railway all the traffic arriving by the other, without any reasonable delay, and without any preference or advantage, or prejudice or disadvantage, and so that no obstruction may be offered in the using of such railway as a continuous line of communication, and so that all reasonable accommodation may at all times, by the means aforesaid, be mutually afforded by and to the said railway companies; and any agreement made between any two or more railway companies contrary to the foregoing provisions, shall be unlawful, null and void."

Now, a consideration of that sub-section shows that there is this positive enactment that railway companies shall so carry on and conduct their business, that, in point of fact, one railway company, although managed by one board of directors, shall give to another railway company, managed by another board of directors, the same facilities as if both were under the management of one board; in other words, that railways, which have now become the great highways of this country as in other countries, are to be, as the law declared they shall be, public highways to be used, not for the purpose of simply making money and paying large dividends, but to be used for the benefit and behoof of the people at large and for the purpose of facilitating traffic; to be used for the convenience of the public and as if all the railways in the Dominion were under the control of one board of management and one company. There is another sub-section also which establishes the same joint principle, that is the latter part of sub-section 6, Section 17, which declares:

"The same tolls shall be payable at the same time and under the same circumstances upon all goods and by all persons, so that no undue advantage, privilege or monopoly may be afforded to any person or class of persons by any by-laws relating to the tolls."

That may be called the equality clause. It provides that tolls shall be the same to all who require to use the road. The other clause I read requires that railway companies shall so conduct their business that traffic shall be interchanged and cars run with such speed and at such time as to afford the shippers of goods the means of transit from one end of the country to the other, although these roads may be under different managements. Although this has been the law for many years—it has not been incorporated for the first time in the Act of 1879—I think I can appeal to every hon. gentleman on both sides of the House, to say whether, from his own experience, he does not know that each and every railway company, according to its means, be it a large or small company, and whatever its opportunities may be, violate

that law and decline to interchange traffic with one another, unless it suits their convenience, and do not carry on their business upon equal terms and rates to all their customers, but deal as to them seems meet for the purpose, not only of increasing their dividends, but perhaps for the purpose of crushing out rival enterprises, or gratifying spleen or malice against individuals or companies, and there is no redress. Now, why do I say there is no redress? Because all that can be accomplished under the law as it stands to-day in Canada is this: If a man is made to pay more tolls than he ought to pay, he may get back what has been improperly exacted from him, but we all know that he gets no compensation as intended by law, and that it is no compensation for a man to be told: "You pay the money now and you can go into Court afterward and recover the excess of payment we have exacted from you." I do not think their is any other redress open. What is the result? The result is that railway companies take the litigant from Court to Court, from the Court where the suit was first instituted to the Court of Appeal and then to the next higher Court, and so on, leading him as they say, such a dance as would probably deter him and others in the future from attempting to enforce the law or secure a redress of his grievances. Now this subject has been considered in the Mother Country, and I think it would be unwise to attempt any legislation here to remedy these evils without having some reference to the means that have been attempted in the motherland to accomplish the same end we desire to attain. In the Commons' Paper of 1872, is to be found a very instructive report of a Joint Committee of both Houses of Parliament, where the whole subject is very fully reviewed. We find there that at a very early period the difficulty we complain of grew up there, and from time to time Committees of one or both Houses were empowered to consider these questions. These reports are all collected in one Joint Report of a Committee in 1872. One of these reports was made in 1846, and stated:

"After mature consideration your Committee has come to the conclusion that it is absolutely necessary that some departments of the Executive Government so constituted as to command general respect and confidence, should be charged with the supervision of Railways and Canals with full power to enforce such regulations as may be from time to time indispensable for the accommodation and general interests of the public * * *. Your Committee entertain no doubt that a department so constituted, might, in addition to those duties, afford material assistance to Parliament in relation to legislation. It might save, by preliminary investigation as regards facts, much expense to parties applying for Bills, and much of the valuable time of both Houses, without in any way interfering with the paramount powers of Parliament and its sole adjudication as to the rights of property."

The result of that was that a Commission was appointed in 1846, something in the nature, it seems, of the Committee of our Privy Council. There were five members of the Commission, of whom three held seats in the House of Commons, and they were instructed to report on special cases referred to them, and also upon Private Bills, and generally to deal with cognate matters. Now, some people think that if larger powers were given to the Railway Committee of the Privy Council, it would be unnecessary to appoint the Commission proposed by this Bill. But we find that the experiment has been tried in England in the most elaborate form, where a Committee was constituted, composed of railway experts who were specially delegated with those duties which the Committee of our Privy Council discharges; that is, they were political in their nature, and that necessarily distract their attention from the determination of matters of this kind. This Commission was appointed in 1846, and in 1854 it was that a Committee of which Lord Cardwell was chairman, made these two propositions at the conclusion of their report:

"That every company should afford proper facilities for forwarding traffic, and that no preferences should be given."

On these two propositions that clause in the sub-section I read a moment ago is founded, and