

Ontario's Jurisdiction Over Dominion Railways

A SUBJECT OF DEBATE.

Dangerous Railway Crossings Considered.

The House Adjourns After an Hour and a Half's Work—Several Deputations Wait on the Government.

Legislative Chamber, March 12.

The House sat for about an hour and a half to-day. Some routine business was disposed of and a number of bills came up for second reading. The most interesting discussion of the day was on Mr. Waters' bill for the protection of the public against level railway crossings. The bill was withdrawn for the double reason that it was considered to place too much power in the hands of the municipalities, and that the jurisdiction of the Province in this matter over Dominion railways in Ontario is an unsettled and uncertain point. After adjournment the Government received a number of deputations.

HAMILTON BEACH.

Dr. Ryerson moved for an order of the House for a return showing to whom the island at Hamilton Beach is leased; the terms of the lease; the amount of annual rental; how the lease was obtained, whether by public auction or private arrangement.

Dr. Ryerson, speaking to the motion, stated that his information upon the subject was that the island was leased to five individuals for a nominal rental of \$5 a year. It was very important for shooting, as the line of flight of the birds lay directly over it, and the persons occupying it thus controlled the shooting of the bay. There were persons in Hamilton who would be willing to pay \$5 a day for the island during the season; and there were many who thought Hamilton should own the island as a portion of its park system. He further understood that these people had an option of renewing the lease, and did not think that such a state of affairs should continue.

Hon. Mr. Hardy, in reply, complimented Dr. Ryerson on the exactness of his information. The island was less than an acre in extent, he said, and he did not know that it was so very valuable for shooting purposes. If, as Dr. Ryerson said, it was in the pathway of the ducks, then they must make a bee-line for it. The lease, he thought, was an ordinary one, and was revocable by the Lieutenant-Governor for cause or if the island were required in the public service.

Mr. Meredith—Not otherwise?

Hon. Mr. Hardy—I do not quite remember the terms. There is some such clause in the lease, but I cannot remember its exact provisions. He had not heard any complaints, he went on, and did not know that the case was very important. He would bring the information down.

The order was then passed.

RAILWAY CROSSINGS PROTECTION.

Mr. Waters moved the second reading of his bill for the preservation of life and property at railway level crossings in cities, towns and railways. He mentioned the benefit to the public from a measure

such as he proposed by the provision of the accidents which occurred so frequently in all parts of the Province owing to railways crossing streets on the level. Mr. Waters briefly explained the features of the bill, which are, in effect, that the Council of a municipality in which a level crossing exists should notify a railway of the necessity of having provided within 14 days a watchman, or whatever other protection at the crossing is deemed necessary. If the railway neglects the matter the Council shall itself provide whatever protection may be deemed necessary, and charge the cost to the railway, the cost to be added to the taxes of the railway if it does not otherwise pay.

Hon. Mr. Hardy said it was impossible to deny the truth of Mr. Waters' remarks as to the regrettable nature of the occurrences which his bill sought to provide against. The measure was a very sweeping one, however, and he thought the hon. member would be wise not to press it upon the House. The bill raised the important question of jurisdiction. It was not certain whether it could apply to more than Ontario railways as distinguished from Dominion railways. The hon. member perhaps hardly realized the enormous expenditure of money his bill would entail. He had spoken with some railway men regarding the matter recently, and they claimed, both for the G. T. R. and C. P. R., that it would cost \$1,000 to maintain watchmen night and day at each crossing, and that the cost between here and Montreal for either of these railways would alone entail an expenditure of hundreds of thousands of dollars, although there is no doubt that, in regard to many of these crossings, there is no room for complaint. There were hundreds of crossings where

no accidents had happened, and where no such protection as proposed was necessary. Before such a bill could become law, moreover, it would have to be considered whether or not it would be applicable to Dominion roads. The first impression would be that the Province had not the jurisdiction. A particular phase of this question had come before the House on a previous occasion, and the House had voluntarily resigned on that occasion whatever rights it might have to the Dominion to prevent clashing of authorities. He suggested to the hon. member that he obtain an order of the House giving information as to the number of crossings, the accidents at the same, and the estimated cost of adequate protection. On such a return as this it might be possible to have a measure free from the objection he had raised.

Mr. Meredith said the matter was a most important one. He agreed, however, that it would be unwise to place in the hands of the municipalities such powers as this measure conferred upon them. He thought, however, that the question of the jurisdiction of the Province in this matter over Dominion railways should be settled at once. If the two jurisdictions clashed in the matter, then that of the Dominion should prevail; but it should at least be ascertained if the Province had the power. He thought from the intimacy of the connection between the Legislature and the municipal law that there was good ground for contending that the Legislature had the jurisdiction in question. He agreed that the privileges which had been given a railway should not be used in any sense to the injury of the public, but, on the other hand, thought it would be unsafe to confer upon the municipalities such large powers as were here proposed. If any such action were taken as the bill suggested it should be at the instance of some central authority. The present bill would, as the Commissioner of Crown Lands suggested, involve enormous expense to the railways; the expense would be very great even in the City of Toronto. Mr. Meredith thought it more important to have a definite settlement of Provincial jurisdiction on this point than some others that had been referred to the courts; that of the power of appointment of Queen's Counsel, for instance.

The Attorney-General said the power of appointment of Queen's Counsel involved the rights of the Queen's Counsel and was therefore of importance. He admitted the question to be an important one, but it was one which had been previously brought before the Government. The Attorney-General then quoted the report of a case tried in the Province ten years ago, where a man employed by the Grand Trunk Railway had had his foot injured in a frog. The point was raised that the frog was not constructed in accordance with the Provincial statute on the subject, but it was held that the Province had no control over Dominion railways in this respect. The case had come before another court subsequently, when Chief Justice Sir Matthew Cameron had remarked in regard to the point that he would neither agree with nor dissent from the proposition that the act of the Legislature was ultra vires in this respect. The