

the exchequer court sits in judgment on the value of the property. That act was set up to deal with government property, such as this will be. I may say that there is nothing in the bill to prevent purchase by negotiation if that can be done to the satisfaction of both parties.

Sir GEORGE PERLEY: The previous section provides for that.

Mr. MacNICOL: Will the board be permitted to expropriate any land it desires without the approval of the minister?

Mr. CAHAN: It should have the approval of an order in council.

Sir GEORGE PERLEY: The previous section commences with the words "when previously authorized by the governor in council," but those words would not apply to section 11 the way it is drafted. I suggest to the minister that subsection 1 of section 11 should commence with the same words.

Mr. HOWE: Ordinarily an order in council is not required for an expropriation. An expropriation plan can be filed by a land surveyor or by any clerk acting on the instructions of any department of government. The payment would have to be authorized by order in council, but that is not required for the filing of the expropriation plan.

Sir GEORGE PERLEY: I quite understand that. If the board is buying a small piece of land, under section 10 it must get previous authority from the governor in council, but under section 11 it could expropriate a large property without reference at all to the governor in council. Does the minister want it that way? What I am suggesting is that the expropriation section should contain the same words as the previous section. Under section 10 the board cannot buy a small piece of property without going to the governor in council, whereas under section 11 they can expropriate a very large property without any reference to the governor in council.

Mr. CAHAN: And pay for it out of the consolidated fund.

Mr. HOWE: They can file expropriation plans, but they need not pay for the property.

Sir GEORGE PERLEY: If they do that the government will have to pay, whether or not they provide for it.

Mr. HOWE: Oh, no, you can abandon expropriations at any time prior to the time you pay for the property.

[Mr. Howe.]

Sir GEORGE PERLEY: Does the minister not wish to have those words in section 11? I am just trying to be helpful in the matter. Does the minister not wish that expropriation proceedings should first be submitted to the governor in council, as is provided for in the case of ordinary purchases?

Mr. HOWE: I think the reason for that section being in the Expropriation Act and in this bill is because expropriations must often be carried out speedily before they get out of hand. We are just following the ordinary government practice.

Mr. CAHAN: No, that is just what you are not following. Under the Expropriation Act it is the minister who must file the plans and proceed with the expropriation. I never knew of a minister who did that without previous authority from the privy council of which he is a member. As the hon. member for Argenteuil (Sir George Perley) has suggested, under section 11 the board may acquire and take over land and section 10 does not necessarily apply. This may be construed to mean that the board of itself may acquire lands by expropriation and when once it has so acquired lands, then the imperative clause of the section, to be found from line 34 to the end, comes into effect, to wit:

The amount of any judgment upon each such proceeding shall be payable out of any unappropriated moneys forming part of the consolidated revenue fund of Canada.

If the board on its own initiative is authorized to proceed with expropriation proceedings and a judgment is given, then, ipso facto, the amount of the judgment is payable out of the unappropriated moneys forming part of the consolidated revenue fund of Canada. It thus becomes a charge upon the treasury of Canada without the parliament of Canada having received any notice of it or having made any appropriation therefor, possibly without the government knowing anything about it.

Mr. HOWE: I think my hon. friend is wrong when he suggests that litigation before the exchequer court could be carried on without the knowledge of the government of Canada, as the Department of Justice must represent the government before that court. I have the Expropriation Act before me and I quote from section 9 as follows:

—a plan and description of such land signed by the minister, the deputy of the minister or the secretary of the department, or by the superintendent of the public work, or by an engineer of the department, or by a land surveyor duly licensed and sworn in—