

*Expropriation*

that is the case, fine; let us say it in words that no court, no judge and no citizen can misunderstand. I do not think those words are there now. I am afraid I would be getting into an argument on detail, on the legality of the matter, if I pursued this point further. However, I am pleased with what the minister has said and I assure him that when we get into committee we will deal with the question.

The root of the whole problem at present is the unevenness of the negotiating balance between the expropriating authority and the person whose property is being expropriated. This happens when a government department, the Crown or some other public authority is on one side and a small, private citizen unused to the law and without the necessary funds is on the other side.

Mr. Speaker, this is a little out of order in my notes, but I concur entirely with the hon. member for Calgary North (Mr. Woolliams) when he says there is no use providing justice unless you make it available in all areas. Without being rude to the Exchequer Court, sitting here in Ottawa with high legal fees and antiquated rules it is not available to the ordinary citizen except on terms almost impossible for him to meet. The hon. member is right in suggesting that justice should be made available locally. It should not be something to be purchased at great expense in a capital city perhaps 2,000 miles from where you live. I join the hon. member for Calgary North in urging the minister to consider the question of whether the Exchequer Court is the only court that ought to be able to determine these matters.

There are in the bill some things which I commend and for which I congratulate the minister. He has introduced something of an innovation in providing for a right to a hearing and a right to make objection to the expropriation itself. This is a valuable, new principle in the act. It seems to me very clear that when property owners have their property taken away by the force of the state, they should have the right to attend an open hearing and say, "There is vacant land next to mine that you could use just as well. You do not need mine for your particular purpose. The purpose is unsuitable for the locality."

There is in the bill another provision which I am happy to see. It concerns a principle for which I and other hon. members have fought many battles in this House in the past. The bill provides the right of a small homeowner to get, in effect, a home for a home. This principle of relocation has long been neglected. I believe it is imperative that in order for

[Mr. Brewin.]

the person dispossessed to be put in an economic position where he does not suffer from the expropriation, he should be given the means to acquire other property, another place where he can live, as long as it is comparable to what he had, and he should be paid whatever is necessary for this to be done. I commend this feature of the legislation.

The provision with respect to interest is also commendable and reasonable. It made no sense at all that the government should take your property, have long hearings over it and then say at the end of it all, "We will pay you 5 per cent on the money we withheld from you even though we acquired title to your property a long time ago." I am not equally happy, frankly, about the provisions of the bill that attempt to define the compensation to which people are entitled. There are long, complex provisions in regard to that matter. My view is that the basic principle has been recognized by courts in civilized countries for generations, and that principle is fair value to the owner. That principle, as Mr. Justice Rand said in one case, is that the owner is entitled to be made economically whole.

• (2:30 p.m.)

You can talk about the market and relocation value and try to analyse it to your heart's content. The basic proposition is that the man whose property is taken should neither benefit nor be damaged because it happens to be his property that is taken. I suggest that in those sections which deal with the definition of compensation there should be an overriding provision in this respect. Even if we are trying to spell out the principles that make up the concept of market value, value to the owner and what should happen to the tenant, the basic purpose is to make the person expropriated economically whole and to give the proper value to the owner. In so doing you fall back on the basic principle that has been recognized by civilized jurisdictions and courts for many centuries, and that has a useful effect.

There is a danger in being too specific about these things. If you attempt too much definition you limit cases by definition. The circumstances that exist in respect of matters of expropriation are as infinite as is the ingenuity of mankind in acquiring and improving different types of property. So if you put provisions into a straitjacket of long and complicated words, as is done here, and you do not adequately reproduce the basic principle, you may be giving a formula for injustice in certain cases.