

*Expropriation*

is not accepted, supposing the owner feels the offer is inadequate, is there provision in the statute for any money to be paid to him then, pending disposition of his claim?

**Mr. Turner (Ottawa-Carleton):** Then, he can receive all the money and still proceed before the court for the extra amount he feels is his due, and the minister then is bound to make that payment.

**Mr. Woolliams:** Following on that may I ask another question? That suggestion is a good one. But if the property owner accepts the money at that stage, is that made known to the court, like tendering money, and if the judgment given is less than the amount offered will the owner have to pay the court costs?

**Mr. Turner (Ottawa-Carleton):** The costs might well be discretionary on that basis. If the owner goes to court and gets an award over the amount paid by the minister, then he is entitled to his legal costs as of right, and the minister must pay a penalty of 10 per cent of the amount between his offer and the amount awarded by the court.

On the other hand, let us say the court awards him less than the minister offered. We must remember that it was an unconditional offer, and I suppose he is entitled to retain it, but obviously in such a case the costs would be assessed at the discretion of the court.

Unless there are special circumstances that give rise to an urgent requirement for possession of the property by the government, a minimum of 90 days' notice will have to be given to persons in occupation of expropriated property before the government can take possession from them under the new law, and they must have received an offer of full compensation as described, as a condition of giving up possession to the government. If, however, the government must take possession before the 90 day period has elapsed it will be obliged to pay what might be described as a special compulsory taking allowance, as a kind of penalty for depriving persons of their general right to remain in possession for the minimum 90 day period. The additional amount specified is 10 per cent of the value of the expropriated property.

[*Translation*]

Fourth, under the present legislation, the government can arbitrarily state, in writing, that it no longer requires a property that was expropriated and that it abandons its rights to it and the registration of such a document

[*Mr. Brewin.*]

at the Registrar's Office automatically allows the property to be returned to the former owner.

The new legislation will allow the government to abandon an expropriated property only if the former owner chooses to accept the abandonment after receiving a notice indicating the government's intention to abandon its right to the property.

Fifth, we shall inaugurate a new negotiation procedure. The present legislation prescribes no negotiation procedure to help solve disputes concerning compensation. The new legislation entitles the owner or the lessee to cause a negotiator to be appointed, and that negotiator shall not be a civil servant, to inspect the land, the appraisals and other evidence for the purpose of determining the compensation payable to him. The statements made in the course of the negotiations are privileged statements not admissible in judicial proceedings intended to settle the compensation payable.

[*English*]

Turning now to the principles of compensation, at present the rules that govern the determination of the amount of compensation payable are unstated except in the decided cases. They depend on the rules that have been determined over the years by the courts.

● (12:30 p.m.)

The new law will provide a comprehensive code for determining the compensation payable with the minimum or base amount being, in general, the market value of the property at the time of its taking. Provision is expressly made to compensate for any costs or losses incidental to disturbance, including moving to other premises and for any element of special economic advantage related to occupation or use of the property. Special rules are also included to cover specially designed buildings such as schools, hospitals and religious institutions for which there is no general demand or market. Holders of security interests or mortgage interest are also dealt with specifically.

New principles of compensation have been included to deal with the expropriation of property that was in use as a residence and with the expropriation of leasehold interests. In the case of the expropriation of a residence, the new law will recognize the right of the expropriated person to claim as compensation the cost of relocating his residence in reasonably equivalent premises if the compensation otherwise payable to him is not