

The MINISTER OF JUSTICE. If there is any doubt on the subject I will insert language that will remove that doubt.

Mr. BORDEN (Halifax). That is perfectly fair. In this country, as in all other countries we have the power to take a man's land against his will because sometimes it is in the public interest to do so. It is an invasion of private rights and it is desirable it should be made as little oppressive as possible. The argument from this side is that you are making this more oppressive when you introduce complications of this kind. The Minister of Justice knows, that when the Minister of Railways talks about a tribunal absolutely determining the amount of compensation for land; he does not mean that any tribunal can absolutely determine that with anything like certainty. What is the usual practice? A number of expert witnesses, perhaps fifteen or twenty, are called on each side—in one province, I believe, the number has been reduced to five—and they give varying estimates as to value. In one case in which I was concerned the estimated value of a piece of land expropriated by the Crown varied from \$15,000 to \$90,000. The tribunal in the end must simply make a guess, and the objection to this legislation is that you are making the guess much more difficult, and you are imposing upon the owner of the land the duty of proving what his damages are.

The MINISTER OF JUSTICE. I think the burden of proof is on the expropriated party.

Mr. BORDEN (Halifax). In an ordinary case in the Exchequer Court the proceeding is this: The Crown proves that it has taken the land and the party proves in the first place the amount of damages and the Crown gives evidence in rebuttal. That is the practice in the Exchequer Court in all cases in which I have been concerned.

The MINISTER OF JUSTICE. The origin of the proceeding is notice, and the deposit of a certain amount.

Mr. BORDEN (Halifax). Quite so.

The MINISTER OF JUSTICE. Then the party to whom the money is offered determines whether or not he accepts, and if he declines the proceeding is taken in the Exchequer Court, and a deposit is made and the question is whether the amount is sufficient or not.

Mr. BORDEN (Halifax). That is part of the issue; but the real issue is: What is the value of the land. The expropriated party must prove the value of his land, and it comes to what I said at first. If he agrees to what the Crown offers of course there is no litigation, but if he does not agree the burden of proof as to value is upon him. Thus you are imposing a burden upon the claimant and you are making it much more difficult to determine the compensation. Is

it desirable in the public interest that that should be done. At present the court makes a mere guess formed upon the opinions of people who come to court and say: This land is worth so much or the detriment to this land by reason of taking part of it is so much. You might get a very extreme case under the provisions of this statute, and I would invite the attention of the Minister of Justice to a case of this kind. Suppose you take ninety feet from the middle of a farm to build a railway, and the owner sells the balance of his farm. After you have had that land for some time you come to the conclusion that you do not require it, and you file a document under section 2 of this Bill stating that you desire only a limited interest, namely, that you desire that land from the period of time which has elapsed from the time it was first taken up to the filing of the notice.

The MINISTER OF JUSTICE. That must be done at the inception. You must bear in mind that the preceding section is the origin of the proceeding.

Mr. BORDEN (Halifax). Does the Minister of Justice mean that this section only applies to land taken for a limited interest in the first place. This section is general, is it not?

The MINISTER OF JUSTICE. It is general in the first part; in the second part it is limited.

Mr. BORDEN (Halifax). The second part seems to make provision that the Crown may retrace its steps and say that land taken absolutely in the first instance should only be taken for a limited interest. Am I correct in that?

The MINISTER OF JUSTICE. Yes, before the compensation money is actually paid.

Mr. BORDEN (Halifax). I guarded myself in that. Then it is general in its terms. The Crown may file such a document as I mentioned, the result being that a piece of land ninety feet wide through that farm is handed back to the original owner who sold the rest of the farm, and the burden is cast upon him of determining what compensation shall be paid by the Crown to him for that: Is not that a rather complicated position, and is it desirable in the public interest that an obligation of that kind—and I have mentioned only one case out of hundreds that may arise—should be imposed on the property owners of this country. As has been said, the Crown has the remedy in its own hands. It takes a piece of property; let it take it absolutely; if it finds out afterwards that it does not need the whole of that property; if it finds it only needs it for a limited interest; let it retain that interest and sell the balance of the property and every one's right is preserved by that. Is the Minister of Justice