

THE STANDING SENATE COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

EVIDENCE

Ottawa, Tuesday, May 12, 1970

The Standing Senate Committee on Legal and Constitutional Affairs, to which was referred Bill C-136, respecting the Expropriation of Land, met this day at 4.30 p.m. to give further consideration to the bill.

Senator Lazarus Phillips (Acting Chairman) in the Chair.

The Acting Chairman: Honourable senators, we have a quorum. On your behalf, I welcome the Minister of Justice, who is good enough to grace us with his presence here, and also Mr. Munro, the Assistant Deputy Minister of Justice, and Mr. Hayes, the minister's executive assistant.

Honourable senators will remember that we dealt with the subject matter of Bill C-136 in this committee. During the course of our deliberations there was provisional approval of the bill as it had passed the other place, but there were three amendments suggested, one by Senator Hayden, one by Senator Choquette, and one by Senator Flynn. It was suggested that before proceeding with these proposed amendments it would be well to get the view of the Minister of Justice and his department generally with respect to them.

I have been advised by Senator Choquette that he is not pressing the amendment which he had discussed in the conference which previously held. We are now down to two amendments, one by Senator Hayden and one by Senator Flynn. With your approval, Mr. Minister, before the calling upon you I will ask Senator Hayden if he is still of the same view.

Senator Hayden: I was concerned about the position of the minister, but the minister does not feel the same concern, and therefore I am not pressing the proposed amendment.

Senator Croll: Mr. Chairman, it so happens that I was busy elsewhere. Would you tell me what Senator Choquette's and Senator Hay-

den's amendments, that they have so generously dropped, were?

The Acting Chairman: I think it would be best, Senator Choquette, if you would summarize your amendment.

Senator Choquette: I really have lost track of the amendment which I proposed.

The Acting Chairman: I think the basic points were with respect to delays within which decisions had to be made by the minister and certain proposed procedures to be taken before the courts which would be conditional upon the right of the minister to move within the specified period. It was a procedural point with respect to the necessity of the minister's decision within the defined period.

In so far as Senator Hayden's amendment is concerned, Senator Croll, Senator Hayden felt, following, I think, the Ontario precedent of analogous legislation, that the hearing officer should not be given the jurisdiction or right to deal with the subject matter of the policy decisions of the minister that would lead to a proposed expropriation.

As I understand it, and as Senator Hayden just indicated, he thought it was being done for the protection of the minister, but he probably received information that this is an instance where the minister may not desire such protection. Am I right on that?

Senator Hayden: That is the conclusion to which I came. What I would like the minister to do is give us his connotation of the word "report". In discussing this, Mr. Minister, it was pointed out that the hearing officer is simply an extension of your ear. In other words, he gathers together all the parties who are objecting to the expropriation, and hears their story—what their objections are—and then he is supposed, as the bill says, to report to you on the nature and grounds of the objection. I was concerned that the report, as I conceive a report, goes further than simply