

The MINISTER OF RAILWAYS AND CANALS. You have to state just what term you want the property for; and you have to estimate the damage.

Hon. Mr. HAGGART. I am asking the questions of the hon. Minister of Justice. If notice is given of the expropriation of any property that the Crown is in possession of at the present moment and has not paid the amount of the expropriation, if this clause passes, cannot you abandon the land, get the compensation fixed, and compel the owner to take the land back again?

The MINISTER OF JUSTICE. Why should he not?

Hon. Mr. HAGGART. The difference between the two ministers is this: The hon. Minister of Railways and Canals says the amount is to be fixed at first—

The MINISTER OF JUSTICE. He never said anything of the kind.

Hon. Mr. HAGGART.—before the partial interest in the limited estate is taken. There is a difference as I understand it between these two hon. gentlemen.

The MINISTER OF JUSTICE. Not if we are understood. We both say the same thing.

Hon. Mr. HAGGART. I will admit for argument that if you fix the limited estate at first, or the interest in the land to be expropriated, if you fix it in your notice and serve it upon the party whom you take the land from, you can fix its value, but this clause goes a great deal farther than that. It goes so far that you can serve notice on the man whose land is to be expropriated, you need not pay him the amount of the expropriation, or any money, for the user of it till the time expires, and when the time expires you can fix the amount of the expropriation, or get the arbitration to fix the amount which is to be paid to the man for the user, and the clause gives you power to do so and to hand back the land. Another reason why we object to a Bill such as this is, that it will have an ex post facto effect. It applies to lands which are at present under process of expropriation. Does it not do so?

The MINISTER OF JUSTICE. It has no retroactive effect at all.

Hon. Mr. HAGGART. Does it not apply to lands on which the government are at present working, and in regard to which they have not paid the amount of the expropriation? Are there not hundreds of cases at present in the department that the Bill applies to where the Crown is in possession of the land? Certainly there are, and this Bill applies to them. It is intended to apply to them. It is intended to apply to some difficult cases of expropriation perhaps running, not for months, but for years,

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and to lands of which the Crown is at present exercising the user, or using the lands at the present moment, because the parties have not been able to settle with the Crown or to get their claims settled. By this plan the government will be able to say: We have used your property as long as we like, we will leave it to the court to fix the value of the expropriation for the user, and we will hand you back your property. This can be done under this Bill if it becomes law. I agree with my hon. friend from Norfolk (Mr. Tisdale) that there is no justification for any such action as that. There is no justification for the Crown, or any individual, taking from a person who owns a property a partial interest in the property for a small number of years. The law of eminent domain should apply solely to the absolute taking of the property, and as my hon. friend says, when you have taken a property for public purposes and when there is no more use for it for public purposes, you ought to put it up to auction and give it to the highest bidder. That is the only honest, fair way of doing. This is new legislation as the hon. Minister of Justice himself admits. He cannot show a precedent in any other country in the world for it. He knows it is the exercise of a right which is an extreme right. The taking of property from an individual is a right which most countries do not allow the government to exercise except under the strictest conditions, such as are provided, for instance, in the constitution of the United States. It is not for the state to determine, nor for the federal government to determine the reasons for which they may exercise the right of eminent domain; it is fixed in the constitution. But here is an extreme right of absolutely taking property where it is necessary in the public interest, and when you have no further use you can sell it or give it back. I am afraid that under the law this right may be exercised in connection with suits which are pending.

The MINISTER OF JUSTICE. No.

Hon. Mr. HAGGART. If such be the case I object to the principle of the thing.

The MINISTER OF JUSTICE. As to the retroactivity of the law, I will take the opinion of the leader of the opposition, as to whether it is retroactive or not.

Mr. BORDEN (Halifax). If there are cases in the department where land has been expropriated and the compensation money not paid; the statute would seem to have the effect which the ex-Minister of Railways states.

The MINISTER OF JUSTICE. Would the hon. gentleman (Mr. Borden) say that.

Mr. BORDEN (Halifax). It is at least open to question whether the language is not sufficiently comprehensive for that.