

of the Supreme court, and he points out that there is nothing to substantiate any suggestion of legal liability. Has my hon. friend read that opinion?

Mr. STEWART (Argenteuil): No.

Sir HENRY DRAYTON: Well, there is one of the difficulties of dealing with this case. The minister does not know the legal right of these gentlemen to get \$120,000 of the taxpayer's money. I had better read what that opinion says:

In the case then under consideration the minister advised that allowance of the entry desired would not seem to be unreasonable, but that the expediency of it was a matter for the consideration of the Minister of the Interior and His Excellency in Council. I think these powers may be invoked to justify approval of a recommendation in the present case,—

That is, as to exchanges, as I understand it,—and that it would not be unreasonable to authorize the licensees to cut timber of corresponding value upon Dominion lands in an other location in consideration of surrender of their existing rights, but while I am disposed to think upon the authority aforesaid that the power exists to authorize these arrangements, the question of propriety or expediency is to be determined by the Governor in Council.

Not one single word as to their being any liability on the part of the scuntry.

Mr. STEWART (Argenteuil): Well, where licensees had allowed their berth to go uncut for a number of years and the government stepped in and prevented the cutting advantageously of perhaps the most accessible portions of the berth, surely the licensees were entitled to some consideration. I never questioned the right of exchange; the difficulty was we never could reach an agreement as to value. I recommended that rather than give more valuable timber we pay back to the licensees the expenditure made and keep our timber, because my own opinion is that we will eventually be very much better off with the timber than we would be by making the exchange. Of course, the \$120,000 is in coin of the realm; the licensees get it and we keep our timber. The hon. member has gone into a long argument as to legality. From the strictly legal point of view I suppose we could say to the licensee: "You have got your berth; do what you like with it; we will not recognize any liability on our part for interfering with your rights and privileges." But in dealing with matters of this kind, if by inadvertence or some other circumstance the government by its action destroys the investment of the licensee, surely the licensee is entitled to some consideration on that account. I think my hon. friend would agree with other ministers who have dealt with this matter that an exchange should be arranged if possible.

Sir HENRY DRAYTON: The minister's statement overlooks the real facts of the case. It overlooks the erection of the eighty foot dam, for which this government certainly is responsible. It overlooks the state of the river, which cannot be fed in the ordinary way by these logs, and which his own department says cannot be used for that purpose. It overlooks the fact that the conditions out there were such that from 1906 up to 1916 no one thought of doing anything with it—not until it is known, as pointed out in the report of the previous November, that there are difficulties in the way and there is some chance of their getting paid either by the city of New Westminster or by the government. But the point I am really emphasizing is this: that it is absurd to expect any proper consideration of a matter of this kind on a supplemental estimate brought down at this hour of the session. I am just going to finish with the legal question now. The matter was again sent to the Justice department on September 20, 1921, and Mr. Newcombe gives another opinion. He first acknowledges the letter and says:

In reply I beg to state that I have nothing to add to the opinions in regard to the above matter given by me in my letters to Mr. Cory of the 25th of October, 1919, and the 9th of May last. If by "valid claim", you mean "legal claim" my reply must be in the negative, but as stated in the opinions just referred to it is open to the Governor in Council if he thinks it expedient to make an exchange of timber berths.

That is as far as the Justice department could go, and I submit that they were right in their opinion that there is absolutely no legal liability. The situation is an unfortunate one. It is very unfortunate that these gentlemen should have been held up by all these different matters in connection with their investigation. But why should the Dominion have to take on the whole burden in the absence of all legal liability? Here we have nature itself making that berth, which is valueless until a railway is built, and if the records of the department are to be relied upon—my hon. friend will not say they are not—they show that the river cannot be used, irrespective entirely of the dam; that the river was such that it was not at all suitable for logging operations. In short, the investment was a mistaken one. Here is a lot of timber that the licensees could not have removed irrespective of anything whatever about New Westminster, except at a greater cost than the timber would be worth even in the war period, and now we are called upon in the dying days of the session without the slightest proper opportunity of considering