

two things. It authorizes the expropriating authority to make the offer of compensation after the expiration of three months without having to pay additional interest. That is unlike the bill as it now stands. Under this bill, once the three month period goes by—that is, the 90 days—penalty interest is payable, but the Ontario statute authorizes the offer after the expiration of three months without the payment of any additional interest.

Senator Choquette: How soon after?

Mr. Munro: That is left to the court to decide. One of the objects of going to the court is to have an extension of the period during which you can make the offer without paying penalty interest.

The second thing is that it enables the expropriating authority to obtain possession after the three month period but without having made the offer, which is again something we cannot do under this bill except by way of order in council in very special circumstances. But, under the equivalent provision of the Ontario statute the expropriating authority can get possession after the expiration of the three month period, and without first making an offer.

The proposed amendment in this bill would merely require the Crown to make the offer within 90 days of the notice of confirmation, unless the time is extended; unless a court authorizes the Crown to make it later. Despite the fact that the Crown does not have its appraisal reports ready—and it may be a very complicated expropriation—unless the court extends the time then the Crown must make the offer right then.

It is to be remembered, I think, that under the Ontario statute the offer that is made is only an offer of the market value of the land. The business disturbance is left for a year after the expropriation. Under this bill the minister must make an offer of the total compensation, including that for business disturbance and everything else, within 90 days.

Senator Hayden: That is the better way.

Mr. Munro: Yes. So, within that period the minister must have his appraisals ready, and everything must be done in order to make it at that time. In many cases it will not be practical, and in those cases the statute provides for a penalty interest. It is not an economic return on the owner's money. It is a penalty of 5 per cent if the offer is not made within the 90 days.

If the Crown were forced to make an offer notwithstanding the fact that it did not have its appraisals all ready within the 90 days, and notwithstanding the fact that that is impractical, then probably a much lower offer than was realistic would be made. So, the owner would not get all his money—he certainly would not get 100 per cent.

The contrary could theoretically happen, and that is that too much would be paid to the owner, in which case we can sue to get it back.

Senator Hayden: On this point, Mr. Munro, my experience—and I have been through a lot of these cases in the years I have been practising—has been that by the time the Crown decides to expropriate they have done all their studies.

Mr. Munro: That may be so, but under this legislation we have some very short time periods.

Senator Hayden: But even before they make the decision to expropriate they have done their studies.

Mr. Munro: In some cases that is so, and hopefully that will be done more and more.

Senator Hayden: I have found them so well informed that I had to go out and get well informed myself right away.

Mr. Munro: The reaction from the public servants who are going to have to administer this is that it is almost impossible to get the appraisals ready to make the offer within 90 days. They are concerned about all the interest we are going to have to pay after the 90-day period. As to the rate of interest . . .

The Acting Chairman: Do not worry too much about that. The National Revenue Department will get the interest back.

Senator Hayden: Is it only the wealthy landowners who are going to be expropriated?

Mr. Munro: There are disadvantages to making the Crown pay the compensation within the 90 days, and I do not think that it is really necessary because there is the carrot that the minister is not going to have to pay penalty interest if he pays within 90 days, but as soon as the 90 days are up he is going to start paying the additional penalty interest.

As to the rate of interest, I point out that it is a penalty. It is not intended to be an economical return. At this stage of the game when this penalty interest is payable the owner has his land. When he has his land taken away from him—that is, when he has to give up possession—then the bill provides for an economic return on his money. But, at this stage of the game it is merely a penalty, and that is all.

Senator Hayden: Yes, I know, but the moment proceedings of this nature are instituted the owner's use of the land is very substantially restricted, as a matter of fact. What can he do with it? If he has a store there he can operate for a little while, but he is not going out to buy more merchandise.