

I want to see the clause amended to include some consideration for just and equitable treatment in the case of deprivation of property. However, the question of property is surely not the most important consideration when one considers the possible implications of this bill. There are a great many other rights at stake here that one could imagine if one considered that matter at all. I want to see this clause expanded so that not only would such a tribunal deal with the deprivation of property, but other losses and damages suffered as a result of this proposed act.

If we have any concern about equity in this matter, it seems to me we have to give that some serious consideration.

● (1550)

My third point is that I want to see provision for an appeal from this board, and I suggest an appeal to the Trial Division of the Federal Court, will be appropriate in the circumstances.

So the three things I think should be done with clause 22 are these: First of all, I think it should be mandatory. Secondly, in connection with property and other matters, it should clearly compel the board to award compensation that is just and equitable; and thirdly, it should be expanded from matters of property to any rights which may be adversely affected by the operation of the statute. So I move:

That Bill C-42 be amended

(a) by striking out line 1 on page 18 and substituting the following:

“22. (1) The Governor in Council shall make”

(b) by striking out line 10 on page 18 and substituting the following:

“for such deprivation of property or any other losses or damages suffered as a result of the operation of the Act.”

(c) by adding immediately after line 10 on page 18 the following subsections:

“(2) The tribunal established pursuant to subsection (1), in determining the amount of compensation referred to in that subsection, shall consider such factors as it deems proper in the circumstances to enable it to make an award of compensation that is just and equitable.

(3) A decision of a tribunal established pursuant to subsection (1) may be appealed to the Federal Court-Trial Division within thirty days of the day upon which the parties receive notice of the decision of the tribunal or within such further time as the tribunal or a member of the tribunal may allow.”

Honourable senators, we have a very poor bill before us, I suggest, and the least we can try to do is to bring to it such measures of equity and justice as reason and common sense would commend to us. If I have failed in all these other amendments that I have been working on this afternoon, I hope this one at least will strike a response in the conscience and in the intelligence of all the members of this house.

**Senator Flynn:** Wishful thinking.

**The Chairman:** Honourable senators, it is moved by Senator Roblin, seconded by Senator Macdonald:

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“for such deprivation of property or any other losses or damages suffered as a result of the operation of the Act.” and

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(3) A decision of a tribunal established pursuant to subsection (1) may be appealed to the Federal Court-Trial Division within thirty days of the day upon which the parties receive notice of the decision of the tribunal or within such further time as the tribunal or a member of the tribunal may allow.”

Is it your pleasure, honourable senators, to adopt the motion in amendment?

**Senator Flynn:** Honourable senators, I merely want to mention for the record and for the edification of the minister, because I think he, or preferably his successor, will have to review this legislation, that this section is typical of something that has been botched up. I have been trying to solve the problem of compensation for losses—any kind of losses that may result from the application of the act—by simply providing for the Governor in Council to make regulations to establish a tribunal, the rules of which will follow, and so on and so forth. It does not mention, for instance, the other kind of losses that may result from the fact that a certain contract may be cancelled and that the party to the contract could lose profits, so it is not necessarily deprivation of property but also deprivation of profits.

I want to emphasize that under the War Measures Act, which I think, again, is the mother of this act in some respects, any claim had to be referred to the Exchequer Court of Canada. Of course, it was by the Minister of Justice, which is an element I do not like. But it was to the Exchequer Court of Canada, or to a superior court or county court of the province within which the claim arises, or to a judge of any such court. To me the recourse to the court is very important.

Another thing that should be mentioned in the regulations, and should have been mentioned in the bill, is that the general principles in the Expropriation Act should be followed here. They should be adapted, of course, to the special circumstances of the case. I agree with Senator Roblin that this