

Senator Choquette: *Res ipsa loquitur.*

The Law Clerk: And it would exclude any report on the policy of the Minister in deciding to expropriate.

The Acting Chairman: Honourable senators, as I see it we have reached the point that there is a consensus here and we can assure Mr. Munro that it is not intended that the hearing officer should act in a judicial capacity or make any recommendations, but rather that the objecting party can act and state his case within the framework of the proposed amendments.

Mr. Munro: To restrict the nature and grounds of the objections which may be made.

The Acting Chairman: In the form which we have suggested to you, if the honourable senators will approve.

Now, honourable senators, may we therefore state that it is the consensus of this committee that it would favourably consider three amendments suggested by Senator Hayden, as it appears before us, and that we are asking Mr. Munro to be good enough to draft in a form that will be satisfactory to the Justice Department the amendments that would give effect to the foregoing as explained here, and any consequential amendments in the statute that may be necessary. Is that agreeable, honourable senators?

Hon. Senators: Agreed.

The Acting Chairman: Is that agreeable, Senator Hayden?

Senator Hayden: Yes.

The Acting Chairman: Now if we may move on to some further amendments that Senator Choquette has in mind.

Senator Choquette: Honourable senators will recall that when I spoke on this bill in the Senate chamber, I intimated that I would propose in committee a few amendments, and I would like to state briefly before reading to you how I have worded these proposed amendments, that I have three amendments which I intend to propose, and the first one is that the Minister should not be allowed to and cannot delay making an offer without a Court order. If we refer to the wording of the act itself, it says—"When the Minister decides it is not practicable". This is so indefinite, and he wouldn't even have to give his reasons for finding that it is not practicable, so that in order to conform to the Ontario Legislation I would suggest that he cannot delay making an offer without a Court order, so that therefore a section 14(2) should mention a change which I will read briefly after I have dealt with the other two points.

My second proposed amendment is that if there is a Court application made, the costs payable should be paid by the Crown notwithstanding section 36, therefore a section 14(4) would be added to it, and the third proposed amendment is that the interest as a penalty paid should be a basic rate and not 5 per cent.

Now, dealing with this last proposed amendment, I would refer honourable senators to the bill itself at page 33 which defines "basic rate" in section 33(1) as follows:

In this section

(a) "basic rate" means a rate determined in the manner prescribed by any order made from time to time by the Governor in Council for the purposes of this section, being not less than the average yield, determined in the manner prescribed by such order, from Government of Canada treasury bills;

I have gone to the trouble of ascertaining what is usually the basic rate and I think at the present time it is 7-½ per cent. I think I am correct in saying that. So that rather than have a rate of 5 per cent, as stated in the bill, it would be the basic rate and we could always refer to the basic rate definition in the act.

Coming back to my first proposed amendment, I think honourable senators have received a copy of my draft amendments, and I would refer to the bottom of page 1, which would be section 14(1)(c) to be added after paragraph (b), and it is underlined:

within the period extended by the Court under subsection (2), and if the Court does not extend time under subsection (2) forthwith upon the adjudication made by the Court under subsection (2),

We have to read (b) before that.

within ninety days after the registration . . .

I am now reading section 14(1)(b):

within ninety days after the registration of the notice, or, if at any time before the expiration of those ninety days an application has been made under section 16, within the later of

- (i) ninety days after the registration of the notice, or
- (ii) thirty days after the day the application is finally disposed of; or

. . . and this is my amendment, which would be (c) as underlined at the bottom of page 1.

Then my second amendment, if a court application is made, the costs paid by the Crown, notwithstanding section 36, should be on a solicitor and client basis. That is to be found on page 2:

(4) Notwithstanding section 36, the costs of all parties to an application by the Minister under