

The MINISTER OF JUSTICE (Hon. Charles Fitzpatrick). When this Bill was last under consideration, it was suggested by the hon. member for Pictou (Hon. Sir Charles Hibbert Tupper) that there was not sufficient provision made for the compensation of the owner of property who might have lost the opportunity of selling it to advantage through the fact that the government had given him notice of expropriation. In view of that objection, I decided to offer an amendment to section 3 of the Bill, which will make that section read as follows :

The fact of such abandonment or revestment shall be taken into account in connection with all the other circumstances of the case, in estimating or assessing the amount to be paid to any person claiming compensation for the land taken.

I put the objection raised to the deputy minister, who drafted the Act. He said that he thought the Act was broad enough to cover the case put by my hon. friend from Pictou, but in order to make the matter absolutely clear, I would move that after the word 'account' in the second line of paragraph 3, the following words be inserted : 'in connection with all other circumstances of the case.

Hon. Mr. TISDALE. I would like to ask my hon. friend (Hon. Mr. Fitzpatrick) whether he can quote any precedent for such legislation as this. I confess I cannot find any. The Crown assumes to take a man's property only temporarily, leaving him with a qualified interest at their sweet will, and they keep it or abandon it as they see fit. If you are going to adopt such a principle for the Crown, how are you going to prevent corporations and other institutions to which we are in the habit of giving powers of expropriations claiming a similar power? Surely my hon. friend must have some precedent, and is not going to take the responsibility of initiating a principle of this sort. It surely cannot be that the Crown, for ordinary public works—government railways or other such works though clothed with all the powers they now have, will demand something more than they are willing to grant to private interests similarly situated. I say it is a vicious and a wrong principle. If specific cases are to be dealt with, they can be shown and can always be dealt with by the Crown—

The MINISTER OF JUSTICE. How?

Hon. Mr. TISDALE. By a special Act or resolution. Why should parliament grant to the Crown powers that it will not grant to other institutions? If my hon. friend has a precedent to quote, I will not say more at this time, for I do not wish to prolong the discussion. From the fact that he does not answer, I infer that he has no precedent for this measure. All the greater reason, then, why the dangerous character of this proposition should be pointed out.

It is wrong in principle, especially wrong in view of the fact that the Crown has so many rights against the owners of property beyond what private individuals have against each other. And it is especially dangerous, because if you enact such a Bill, you establish a precedent in the case of the Crown for which corporations will clamour, and which you will find it difficult to deny them. Suppose that I am the owner of property, and the Crown wants that property. They have the same right to take it for the public service that a corporation would have. But the Crown say : We are not satisfied with that, we want to introduce a new principle ; we want to take your property for a time. But is it not plain that this involves the impossible proposition of making a fair comprehension of damages for the future? It is impossible to foresee what the effect will be upon my rights in the property. It is contrary to all business principles. The law of damages is well understood. One must show direct damages, or he cannot claim compensation. This Bill involves a dangerous innovation upon an immemorial right, a right which is embodied in the old saying that a man who is in his house is in his castle. It is contrary to those rights of property which were particularly impressed upon me in my legal education, when it was made clear that the rights of property were the rights of individuals, and were the most sacred things that the law deals with, next only to personal liberty. Many wars have been waged to compel the recognition of these rights in the subject as against the Crown. Yet, here in this advanced age of the world and of legislation, we are to have a principle embodied in our laws for which there is no precedent—or if there were I would say it was a dangerous precedent, and it would be well to be careful how we acted upon it. Why cannot the Crown buy a man's property if they want it, and, if they cease to want it, sell it? I can get a jury of my countrymen or a board of arbitrators to fairly say what my property is worth. I would not sit on an arbitration—and I am no prude and no poser—between the Crown and an individual to say what was fair in the cases to be brought up under this Bill. I could not assess the damages fairly without knowing the future. It is so simple to me, the case is so unanswerable, the wrong is so patent, that I am bound to protest as strongly as I feel. Here is my farm, or my house, and you want to take it for public purposes. You can find plenty of men to say what is the value of the property. If you want it you can pay me for it as the governing authority in any free country does when it takes the property of an individual. But to say that the Crown may take a man's property and not pay for it is to attribute to the Crown a power against which the barons of England stood out firmly in