

lawful for the Minister to pay any amount that may be assessed by the arbitrators or the courts in the case of a petition of right. In case the Minister expropriated any private property, they would have the right to have arbitrators assess the value of the property, and experience has shown they would be paid every dollar it cost them, with 50 per cent. additional besides expenses. That has been pretty generally the case.

Mr. POPE. Pretty generally.

Mr. DAVIES. Whether it is right or not is another question; but we ought to understand clearly what we are doing, and we certainly are doing that.

Mr. POPE. The hon. gentleman is entirely wrong. They might have expended \$20,000 or \$100,000, and their property be of no use to anybody. Would any court say we should pay for that which is of no use to us.

Mr. JONES. Why have you that clause then?

Mr. POPE. We have not it there. All that any court or arbitration could do would be to say that the value was so much to us. It could not say because men expended \$500,000, we would have to pay it back to them.

Mr. DAVIES. I submit, with reference to the hon. gentleman, that while that may be his intention, he has not expressed it in the Bill. The preamble expressly recites that it has been represented they have spent a considerable sum in prosecuting the work, and it is desirable they should be reimbursed such sum. The property may be worth the money or not, but what he has expressed in his preamble is the desire that they should be reimbursed whatever money they have expended in carrying on the work. I think the hon. the Minister will find that it will be necessary, if his intention is simply to pay them what value the works are to the Government, that that should be declared in explicit terms. I have no doubt that if he were sitting as an arbitrator, under this Bill, he would feel himself bound to award a sum, not representing the value of the work to the Government, but representing the amount paid by this company in building the road.

Mr. TUPPER (Pictou). The Bill, on its face, is not so clear to the hon. gentlemen opposite as it is to hon. gentlemen on the Treasury benches, but it would be clear to them if they understood some of the facts relating to the position of the company. The hon. gentlemen who criticised a clause of the Bill, approached the subject with the impression that the Government is dealing too generously or desires to deal too generously with the company, and that the company will be, under this clause, enabled to obtain an amount of money that Parliament should not give them in this fashion. I may say that the case of the company is at present in litigation, and the courts, up to this day, have virtually decided that the company are entitled to not a single dollar, notwithstanding the fact, as stated by the Minister of Finance in a recent speech, to which allusion has been made, that the company did expend several hundred thousand dollars in the construction of part of this scheme. I may explain that a Session or two ago this House voted \$150,000 to relieve a certain class of creditors of the company, such as laborers, &c., and the Government was authorized to acquire their rights. Now the rights of these creditors were finally protected by mortgage granted by the company, which mortgage was made legal and binding by the Legislature of Nova Scotia; and the Government, in paying these claims, have virtually become possessed of the company's rights in the whole road, and obtained the benefit of their large expenditure for this sum of \$150,000 or thereabouts. Now the company claims a much larger sum.

Mr. JONES. Of course.

Mr. TUPPER (Pictou). They have attacked the mortgage, and the title of the Government is in litigation. The case has been twice argued before the Supreme Court in Nova Scotia, and on both occasions the company were unable to make good their position; so that the position of the Government as virtual owners, under assignment of this mortgage, is at present strong. It would not be right, I take it, that Parliament, when passing title to the Government, should legislate in such a way as to prevent the company having any redress against the Government, in case they had rights which were being interfered with by this Act of Parliament without compensation. This Bill is drawn so as to meet the litigation now in the courts. They are attempting at present to establish a claim, and to enable the Government, if the company establish a claim, which the Government deny they have the right to establish, to protect itself. In the event of the case going against the Crown, the Government would have to come to Parliament and obtain authority to pay the claim, no matter what action the House may take in reference to the Bill. This Bill provides to meet the case of this litigation going on in court, or to meet the case, should the company abandon this litigation, and say: Now, we believe we have a claim, which is perhaps more than we can establish in a court of law, and we make the proposition that you pay us a certain sum representing the value of the work we have done, which you are going to use and which is going to become part of the property of the Dominion of Canada. Under this Bill, I take it, it would be conceded that the Minister of Railways would have the drawing of any reference to arbitration, and the Minister would take good care, under this Bill, which does not bind him to go any further, to submit to those arbitrators that one question, not as to the amount of money these men may have expended in connection with that scheme, whether wisely or unwisely—some of which has been expended in New Brunswick, and some in Newfoundland and elsewhere—on work that the Government does not pretend to appropriate, but as to the value to the Government of the work appropriated. No hon. gentleman on the other side will question that, under this Bill, that reference could confine the arbitration to the ascertaining of the value of the property actually taken, over and above the amount already paid by the Dominion Government for that property, viz., \$150,000. So that, I think, if the hon. gentlemen understand the position in which the case now is, they will see this Bill is drawn so as to enable the Government to come to a settlement with that company, or, if unable to come to a settlement, if it is deemed wise not to go on in the courts, but to leave the case to arbitration on that one point, there is no danger of the company obtaining, by any provision here, any greater sum than they are fairly entitled to.

Mr. JONES. I think the argument of the hon. gentleman would go to show how unwise it would be to pass this Act with that clause in it. He stated very correctly that the position of the railway was now before the court and that statement was also made by the hon. Minister of Finance in the speech to which I referred before. He said:

"There were difficulties in the way. When the money was paid, the Government took over a mortgage which had been given to the sub-contractors for the sum of \$150,000. That mortgage turned out to be not a legally and duly executed instrument. The company denied the right of their agent to execute it, and so important the Government of Nova Scotia consider this road that at once a resolution was passed unanimously by the Assembly of that Province to entitle the Government of Canada to sell under the mortgage for the money which had been expended for labor to the amount of \$150,000."

Now, it will be seen that the Government owned the road already. I suppose they have not taken legal proceedings, but the Government are the owners of that road at the present moment, and, as stated by the hon. member for Pictou (Mr. Tupper), the company were dissatisfied—naturally they were; I am not surprised at that—and they went to