

Hon. Mr. ROBERTSON: Would my honourable friend refer to section 2 of Bill No. 143?

The Beauharnois Light, Heat and Power Company, Limited, its successors or assigns, is hereby granted the right to divert from Lake St. Francis up to but not exceeding 53,072 cubic second feet of water.

That, I presume, confirms the right that the company held under contract.

Hon. Mr. BELCOURT: That is quite right, but it still leaves open the question of the rights acquired by third parties.

Hon. Mr. WILLOUGHBY: What is there to show that any third parties exist?

Hon. Mr. BELCOURT: Of course I cannot say as to that.

Hon. Mr. WILLOUGHBY: Is there any right that my honourable friend knows of and that is not being protected? If there is not, he should not raise a ghost.

Hon. Mr. BELCOURT: I do not want to raise a ghost at all; but it must be obvious to every one of us, because a good deal of this work has been done, that the Beauharnois Company has entered into agreements with third parties, and has sold bonds, securities, etc. Those are the people of whom I am thinking. It may be that their rights are not affected; but we should protect them as far as we can.

Hon. Mr. DANDURAND: A huge trench is being excavated, extending for some miles from the head of the canal down to Beauharnois. So long as the trench is on the mainland, and no water is being diverted, the work can be continued without any authority from the Federal Government, because the property is under the jurisdiction of the province and has been acquired by the company by purchase, expropriation, or otherwise. It seems to me that federal intervention can be justified only when the canal is opened and water is diverted. The plans then would have to be approved by the Federal Government as affecting matters under federal jurisdiction. The Beauharnois Company is given a certain number of cubic second feet of water, but the plans concerning that diversion and use will have to be approved by a new Order in Council. Of course it would be impossible for my honourable friend to tell us what limitations and reservations are likely to be prescribed by that Order in Council.

Hon. Mr. TANNER: If it is correct, as I understand the law officers hold it to be, that the Minister or the Government cannot give permission for the diversion of the river

Hon. SMEATON WHITE.

into this ditch—that that can be done only by virtue of an Act of Parliament—of what value will the ditch be to the people who have it?

Hon. Mr. ROBERTSON: Without water?

Hon. Mr. TANNER: As I understand it, the Navigable Waters Protection Act does not extend to a work of this kind. It was all right when someone wanted to build a little bridge across a stream; but it never contemplated a work such as this, and does not apply. That, I understand, is the opinion of the law officers. Consequently, if this statute is not passed, the gentlemen who have built the ditch can have it, but they cannot get the water. This legislation, as I understand it, will save them.

Hon. Mr. DANDURAND: We are not called upon to interpret the statutes. By Order in Council these people were given the right to proceed. That Order in Council is cancelled, and this Act of Parliament is passed. But I would point out to my honourable friend that the right to the water is to be granted by Order in Council.

Hon. Mr. TANNER: Yes, subject to conditions.

Hon. Mr. DANDURAND: But we are reverting to the Order in Council.

Hon. Mr. TANNER: Subject to conditions which safeguard public interest.

Right Hon. Mr. GRAHAM: I should like to get a little information on these two Bills, which cannot very well be discussed separately. When we have finished with one, if we are allowed a little freedom, we shall probably have finished with both. At least, I shall. Now, the law officers of the Crown must have approved of the Order in Council.

Hon. Mr. TANNER: But it is said that the Order in Council is not valid.

Right Hon. Mr. GRAHAM: I do not know whether it is valid or not, but as a layman I presume that the law officers judged it to be valid. Section 3 of Bill 143 says:

No further or additional diversion of water of the River St. Lawrence shall be made by said company except with the express approval of Parliament.

That intimates that it could be done.

Hon. Mr. ROBERTSON: Heretofore it has been done.

Hon. Mr. TANNER: The Bill itself says there are grave doubts of the validity of the Order in Council.