

sider the injurious effect which that has on the remaining portion. If you take a portion of his land and leave only a certain portion on either side, the owner can call on you to take the whole property and give you a counter notice. I merely bring this to the notice of the Minister of Justice.

The MINISTER OF JUSTICE. It is practically the same with us.

Mr. BORDEN (Halifax). The power of expropriation should not be oppressively exercised.

The MINISTER OF RAILWAYS AND CANALS. Are these clauses to which the hon. gentleman is referring in the Consolidation Act of the United Kingdom, not limited to the cases of expropriation cases by railway companies? The Crown is not included within the provisions of this Act.

Mr. BORDEN (Halifax). What is a good principle in a case of expropriation by the Crown should be a good principle in the case of expropriation by an ordinary railway company?

The MINISTER OF RAILWAYS AND CANALS. I do not know about that because the great public interests of the country are concerned in the one case in our not paying any unnecessary money for the user we want. But in the other case, it is only the particular interest of a private company which is involved.

Mr. BORDEN (Halifax). It is not the interests of a private company at all, but the public interest in every case, which is considered.

Hon. Mr. HAGGART. The hon. Minister of Justice referred me to my leader as to the interpretation of the clause we are considering—as to whether it had a retroactive effect and affected his pendens. Let me give an illustration which I have received in a letter complaining particularly about this Act, and in which the opinion of a leading lawyer is given with reference to this particular clause.

The MINISTER OF JUSTICE. That is the Peterborough case.

Hon. Mr. HAGGART. Yes. In 1865 the government expropriated land at Lakefield, for the Trent canal. The land belonged to one John Hull, and was attached to a flour mill worth some \$30,000. The land was taken on which were the store houses, sheds and other appurtenances of the mill. In this letter, after describing the litigation, the writer proceeds to say that the government has brought in this measure apparently with the view of defeating Hull, not on the merits, but by an Act of parliament of their own passing, while the case is pending in appeal. The solicitor of Mr. Hull thinks that this Bill is intended to apply to Mr. Hull's case, litigation in which has been going on since 1865 to the present day.

Mr. BORDEN (Halifax).

While this Bill would not apply to actions settled, it certainly applies to action pending.

The MINISTER OF JUSTICE. I have read the letter to which my hon. friend refers and my opinion is not in any way affected by what the learned gentleman says. If the case of Hull is not proceeded with, the writer of that letter may probably inform my hon. friend the reason why. It is not due to any fault of the Crown. And, in any event, I give it as my opinion that there can be no doubt about it that this law will not have a retroactive effect. Legislation of this sort has never had such an effect. But, if there is any question about it, I am prepared to make it absolutely clear. There is no intention to make this Bill applicable to pending cases. When the Bill was introduced before.

Hon. Mr. HAGGART. That is what I said—

The MINISTER OF JUSTICE. When the Bill was introduced before, the hon. gentleman will see it was made applicable to pending cases, and it was largely because of that it was rejected by the Senate.

Mr. BORDEN (Halifax). I hope the hon. gentleman does not mean that I said that this was retroactive in the ordinary sense. But if the Crown should file a document creating a limited interest in a man's property—

The MINISTER OF JUSTICE. I see—the hon. gentleman (Mr. Borden, Halifax) is wavering between his reputation as a lawyer and his desire to come to the assistance of his friend (Hon. Mr. Haggart).

Mr. BORDEN (Halifax). By no means.

The MINISTER OF JUSTICE. I am willing to set the question at rest by accepting an amendment.

Mr. BORDEN (Halifax). I will ask the hon. gentleman's (Hon. Mr. Fitzpatrick's) opinion—as he seems to want opinions—on one point. Does he mean to say that it is plain that if the Crown file, under the provisions of the section, a document stating that it will take only a limited interest—

The MINISTER OF JUSTICE. No.

Mr. BORDEN (Halifax). That is what I am talking about, and that is the case the Minister of Railways and Canals (Hon. Mr. Blair) was putting. I confined my remarks to that. I am prepared to stand by that and to say that it is open to serious question. It is not a desire to support my hon. friend the ex-Minister of Railways and Canals (Hon. Mr. Haggart) in an indefensible position that leads me to say this, but because I believe there is a grave question about it.

Sir CHARLES HIBBERT TUPPER. The observations of the Hon. Minister of Rail-