

to state the nature and the grounds of their objection to the intended expropriation.

Senator Hayden: If you stop there, you can say this is what the person can do, but under that wording and interpretation he could raise the issue of the policy decision.

Mr. Munro: Yes.

Senator Hayden: There is no place where you have excluded that?

Mr. Munro: Does it make any difference at all, really, though? In Ontario there are circumstances which make it necessary that the bill be different. Under the Ontario bill the hearing officer makes a recommendation. Of course, if you were going to make a recommendation on the basic policy issue that would perhaps be unthinkable under our bill. It is therefore necessary to restrict the issue upon which the hearing officer makes his recommendation. But under our bill there is no recommendation by the hearing officer at all. He listens to the nature and grounds of the objections and he reports on them to the minister. That is all. But he does not make any recommendations.

Senator Hayden: But the point is that, if the bill does not have this restriction in it, the door is not being shut on the possibility of raising an issue in policy. You go along and at some stage you may get into court and, if your bill is drawn in language that would permit the questioning of policy, then that could be an issue in the court. I don't want that possibility to exist.

Senator Flynn: You don't want what possibility to exist?

Senator Hayden: I don't want it to be possible to raise the policy behind the taking of land as an issue.

Senator Flynn: I don't know. This is a very delicate matter. For instance, if you look at it from the point of view of a municipal corporation, you always have the right to say you cannot expropriate for that very purpose because it is without your jurisdiction. If the federal Government, for example, were to expropriate in order to build an elementary school, you could say that that is without their jurisdiction. I think you should be entitled to raise that objection. That is just an example. I would not expect that to happen. But I submit that in principle you could raise an objection of that kind.

The Law Clerk: A jurisdictional problem is different from a policy problem, senator.

Senator Flynn: I know, but, if I understood the witness, he said that everything is included. There is no limit to the objections that can be raised.

Senator Hayden: That is what it would appear to be.

Mr. Munro: The words are "objects to the intended expropriation". You would have to find that the objection was in fact an objection to the intended expropriation.

Senator Flynn: It could be an objection in law and it could be an objection in fact.

Mr. Munro: If I might mention that once the notice of confirmation is registered, then the matters prior to the registration of the notice of confirmation, which of course takes place after the hearing, cannot be called in question.

The Acting Chairman: May I draw your attention, Mr. Munro, to paragraph 7, where the party in interest has the right to indicate the nature of his objection? Do you not think it would be desirable to follow through on Senator Hayden's suggested amendment for two reasons: from one point of view it restricts the grounds upon which the objection can be taken; and, from the other point of view, it does give a guide as to what the objecting party has the right to object to by merely being called upon to establish the lack of fairness, the lack of soundness or the lack of reasonableness. As you have it now, the parties in interest do not know on what basis to guide themselves.

As Senator Hayden says, the nature of his objection might go to the very policy matter, whereas the proposed amendments say on a negative basis the objection cannot go to the policy matter but can only go to the fairness, reasonableness or soundness of the proposed objective.

It would appear to me that it would be in the interest of the minister to introduce into the statute such a guide, because the way you have it now any objecting party can march from here to Timbuktu in the form or the nature of his objection, you see.

Senator Flynn: I was not here at the beginning of the discussion, but I would be inclined to take the opposite view.

The Acting Chairman: I see.

Senator Flynn: I would give the expropriated party all the latitude possible, because I think that is what we are trying to correct. Generally speaking, there has always been abuse by the expropriating party. I say generally speaking, but I don't say it has always resulted in injustices for the expropriated party. However, what we are trying to do now is to be entirely fair to the expropriated party and we are putting the