

tion than it had the first; and if any man is working in the quarry at the time the expropriation takes place, he will get his compensation. Every time an expropriation was repeated, it would be dealt with as a distinct and separate expropriation, and compensation would have to be awarded in respect of it. I say it is not a fair way to discuss the Bill at all. The Bill is plain, easily understood, and capable of being easily worked. My hon. friend the leader of the opposition saw a difficulty in determining as to the mode of doing justice to a man whose property had been cut in two by a right of way being taken or the construction of a railway. After that was done, the land might be turned back to the owner; but in the meantime he might have sold the rest of his land, and that part would be of no value to him. If my hon. friend had read the section, he would have seen that that is a question that would have to be dealt with by a court.

Sir CHARLES HIBBERT TUPPER. No.

The MINISTER OF RAILWAYS AND CANALS. Yes, it would undoubtedly, and I will point out the reason why. After the expropriation notice is given, some little time must elapse before it would get to the tribunal. At all events before payment is made—and I presume that would have reference necessarily to the payment the Crown would offer in respect of their valuation—they would have to declare whether or not they were going to retain the whole or surrender any portion of the property. If they were going to surrender any portion, then the Act provides that such abandonment shall be taken into account by the court, in assessing the amount to be paid as compensation for the land taken.

Mr. BORDEN (Halifax). What would the claimant have to go into in the case I have suggested in order to prove his claim?

The MINISTER OF RAILWAYS AND CANALS. He would simply have to show that after these proceedings had been taken for expropriation, under which his property had been cut in two, he had parted with his interest in the property. Would it not be perfectly apparent to any court that to throw back on his hands ninety feet or whatever might be the extent of the right of way, would be the throwing back of property on his hands which would be of no value, and the court would have to take that fact into account? He cannot suppose that any court could view the matter in any other light.

Mr. COCHRANE. Suppose he did not sell his land until after the court had assessed the damage?

The MINISTER OF RAILWAYS AND CANALS. That is not the case my hon. friend presents. If he had not sold his land, he would be getting it back just as it was originally, and there would be no strip

or right of way cut through his entire property.

Mr. BORDEN (Halifax). My hon. friend thinks he has settled the matter most satisfactorily. He says that in the case cited there would not be the slightest difficulty because the land handed back would have no value whatever. That would absolutely depend on the circumstances. I will tell him one case in which it might have a great deal of value. Suppose the land had been laid out in lots and a populous settlement created and a street laid out immediately along the line of the ninety feet taken?

The MINISTER OF JUSTICE. It would depend upon circumstances.

The MINISTER OF RAILWAYS AND CANALS. It would depend upon the facts and it is for the courts to determine the meaning and effect of those facts.

Mr. BORDEN (Halifax). Yes, and I am pointing out that the provision of this statute imposes an oppressive burden on the claimant in proving his case.

The MINISTER OF RAILWAYS AND CANALS. Is there any more difficulty in determining what the value of a two or three year's user of a man's property is than in determining the value of the whole property?

Mr. BORDEN (Halifax). Take the case I have referred to. What you would have to do would be to prove in the first place what damage was occasioned to the man who continued to own the farm. Then you would be met with the difficulty that the land was handed back to him after it had ceased to be of as much value as it would be if he had retained it. I would like to point out that sections 92, 93 and 94 of the Land Clauses Consolidation Act of the United Kingdom provide that in certain cases the whole of the land must be taken and a part cannot be taken.

The MINISTER OF JUSTICE. Where a man is injuriously affected.

Mr. BORDEN (Halifax). It is a different thing altogether.

The MINISTER OF JUSTICE. You would not take the land that was not affected by the appropriation at all.

Mr. BORDEN (Halifax). I think that my hon. friend is possibly confusing two things. In England if you do not take any portion of a man's land at all, although his land may have been injuriously affected by your expropriation of adjoining property, the general rule is that he cannot recover damage.

The MINISTER OF JUSTICE. That is the law in Canada.

Mr. BORDEN (Halifax). But if you do take a portion of his land, you must con-