

Exchequer Court Act

hanging what I have to say on those words. I should like to suggest to the minister that possibly next year—there would not be time this year—he might consider re-enacting the whole Indian Act. It badly needs it. There is more and more contact between the white man and the Indian now in connection with such matters as have been mentioned this afternoon, and more and more need for a modern act. My connection with the administration of the act ceased in 1911, twenty-seven years ago, and at that time it was an obsolete act. To the best of my knowledge it has not been altered to any extent since. Whenever any minister, deputy minister or official took the notion he slammed an amendment into the act regardless of its context or its relation to the other parts of the act. When I was administering the act and somebody was charged before me, if he had a lawyer who proved that the section under which he was charged was wrong or inappropriate I could simply flip over the page and find another section entirely contradictory under which proceedings could be taken.

When the act was drawn up originally I imagine there was no British Columbia, or in any case that the question of British Columbia Indians was not under consideration. Apparently the act was framed having in mind only the conditions on the prairies, and some of the clauses in the act to-day are in direct conflict with some of the provincial laws of British Columbia. Offhand it is rather difficult to say which takes precedence, and this makes trouble for all hands.

So I would suggest to the minister that before another session he might consider carefully whether it would not be advisable to appoint some authority, some lawyer, a small commission or something like that, thoroughly to re-enact the Indian Act from beginning to end.

Mr. CRERAR: As a matter of fact, some consideration has been given the very point raised by the hon. member for Comox-Alberni. In its present form I think the act is open to at least some of the criticism he has just directed against it, and we have been giving some consideration to the question of re-vamping or redrafting the whole act to make it one coherent piece of legislation so that it will be free from inconsistencies, which it holds to-day. I am glad to have the observations of my hon. friend in connection with that matter.

Mr. STIRLING: Will the minister say whether some insistent incident has arisen which has brought forth this legislation?

[Mr. Neill.]

Mr. CRERAR: No, not in relation to the amendments proposed here, or the one to which my hon. friend particularly referred in regard to mineral rights.

Resolution reported, read the second time and concurred in. Mr. Crerar thereupon moved for leave to introduce Bill No. 138, to amend the Indian Act.

Motion agreed to and bill read the first time.

At six o'clock the house took recess.

After Recess

The house resumed at eight o'clock.

EXCHEQUER COURT ACT

CLAIMS AGAINST THE CROWN ARISING OUT OF NEGLIGENCE OF OFFICERS OR SERVANTS OF THE CROWN

Right Hon. ERNEST LAPOINTE (Minister of Justice) moved the second reading of Bill No. 109, to amend the Exchequer Court Act.

Hon. C. H. CAHAN (St. Lawrence-St. George): Mr. Speaker, I suppose it remains to me to congratulate the right hon. gentleman upon his action in proposing a change, after due reflection, in the terms of the Exchequer Court Act. This amendment was advocated strongly by the right hon. leader of the opposition (Mr. Bennett) and myself during a long debate in May, 1936, which, at least, eliminated any confusion that was in the minds of hon. members on either side of the house, and in which we finally arrived at a concrete suggestion, that an amendment to the effect of that now brought in should be favourably considered. Section 19 of the act existing reads:

The exchequer court shall also have exclusive original jurisdiction to hear and determine the following matters:

(c) Every claim against the crown arising out of any death or injury to the person or to property resulting from the negligence of any officer or servant of the crown while acting within the scope of his duties or employment upon any public work.

It is now proposed to eliminate the restriction contained in the words "upon any public work." This bill does not quite cover all the cases of tort. If I remember rightly, it was suggested in the debate to which I referred that the amendment should also cover cases of nuisance; but, with respect to negligence, I think this amendment is all that could be desired at the present time.