

Crown Liability

woman claimed damages through the Department of Justice and was informed that in the opinion of that department she had no claim. If it had been a truck belonging to the Imperial Oil company that woman could have sued without having to go through all the red tape that she has to go through now. She could have sued the Imperial Oil company, and any fair and decent court would have awarded her the actual positive damages caused by the truck of the employee who was drunk during working hours and who was on the payroll of the Imperial Oil company. That has happened on previous occasions.

In this particular case the man was on the payroll of the federal government, a government belonging to the people and for the people; but that woman was denied the right that she would have against a private corporation under similar circumstances. As a layman and as the representative of the people of Canada in my own part of the country, I can see, as any jury could see, many things that a lawyer cannot see about this which are wrong and should be adjusted in some manner or other. That is why the hon. member for Lake Centre (Mr. Diefenbaker) has appealed on this occasion to the Attorney General (Mr. Garson). He should be listened to and not laughed at by hon. members and lawyers in the Liberal party.

Mr. Stanley Knowles (Winnipeg North Centre): Mr. Speaker, when the Minister of Justice (Mr. Garson) was speaking on January 29, in the debate on second reading of the bill, he made certain comments to which I should like to draw his attention at this time. At page 1471 of *Hansard* he set out the history of this matter, and made particular reference to the act of 1887 which, as he said, gave the exchequer court jurisdiction to hear and determine every claim against the crown arising out of any debt, injury to the person or to property or any public work, resulting from the negligence of any officer or servant of the crown while acting within the scope of his duties or employment.

A little later in the same speech and at the same page he said this:

Actions against the crown in tort are still confined to negligence.

And later, again on page 1471, he said:

Upon the passage of this bill the crown will be liable not only for all torts committed by agents or servants of the crown, but also for torts that may be committed without the intervention of a servant or agent, namely torts arising out of the ownership, occupation, possession or control of property including motor vehicles.

Like my colleague from Kootenay West (Mr. Herridge) I have to look at this problem from the concrete rather than the abstract

point of view. On that basis I would like to draw a case to the minister's attention and, when he concludes the debate—which I imagine will be in a few moments—invite his comments.

Mr. Garson: Mr. Speaker, I am rising now on a point of order only, and not to close the debate. I wonder if we might discuss these individual cases when we are in committee, because we are now supposed to be discussing the principle of this bill. I cannot, without impropriety and offending against the rules of the house, go into those various individual cases which have been mentioned. I think hon. members in the opposition will find that they can make their cases more satisfactorily when we are discussing the clauses of the bill.

I must say with regard to at least two cases the misunderstandings under which my hon. friends are labouring are misunderstandings of the facts. These were cases in which there probably was no negligence on the part of the crown. However, I think it would be preferable not to discuss matters of that kind when we are discussing the principle of the bill.

Mr. Knowles: If the minister will make that a request rather than a point of order he will find us co-operative.

Mr. Garson: I make it as a request.

Mr. Knowles: Then I am prepared to leave the details of the case before me until we get into committee on the bill. I will say only this, without referring to the case in particular, that I would like to have cleared up the point as to whether or not, once this bill is passed, it will be possible for citizens to collect damages from the crown in cases other than those where negligence is proven.

In the particular case I shall bring to the attention of the minister in committee, the defence by a colleague of his for not responding to a request was that no negligence on the part of officers or servants of the crown had been proven. I hope the minister will clear up that point, even in the abstract, before Mr. Speaker leaves the chair. Then when we get into committee I shall bring to his attention the particulars of the case I have before me.

Mr. G. F. Higgins (St. John's East): Mr. Speaker, I wish to address myself to one particular point which has not been covered by my learned colleagues and which, I believe, should be mentioned. I am not satisfied that it is covered in the bill itself. If it is not, I think it should be.

I refer to the question of torts committed by members of the United States armed forces,