

Crown Liability

being brought in all the provincial courts instead of limiting, as it does now, the claim to \$1,000. If you have a claim under \$1,000 you can bring it in your own shire town before your own county court judge, which would be Kentville in my case; but if it is \$1,100 you have to reduce it to under \$1,000. You cannot do it by way of a counterclaim. I suggest that is wrong, and it is a matter in defence of which, when we are in committee, the minister should give very substantial arguments.

We are still faced with the problem which I raised on the resolution stage. There is nothing to preclude the minister bringing an action in the Supreme Court of Nova Scotia, for instance—as incidentally he did in two cases in which I was involved—and thus restrict you in so far as a counterclaim is concerned. In both these cases there was good ground for counterclaim, but I cannot counterclaim in the supreme court; so I would have to bring a separate action in the county court or bring an action in the exchequer court. That is a matter on which we want some explanation. The minister says there is provision for it in the legislation. If there is that will clear up that difficulty.

In these two cases in which I was involved there was a claim arising out of interest in the ownership or occupation of property. In these cases you must give notice within seven days, or else you are precluded from bringing such an action. I can recall a case where the crown in another right, in the right of the province, was in occupation of certain premises and did some blasting in connection with highway construction and ruined a well. The owner was away in Florida at the time and did not return for six weeks. In these circumstances he would be precluded from bringing action because he could not give notice within seven days. I cannot see why there should be the definite limitation of seven days' notice in a matter arising out of damage through occupation of property.

Then there is a very general, perhaps unnecessarily general, provision here for the transfer of matters to the exchequer court. I think once you start in the provincial court you should stay there, unless the interpretation of a dominion statute might be involved. But after all there is always going to be the interpretation of a dominion statute involved. We will always have this act in front of us, and if the minister or his agent in Nova Scotia wishes to be technical or difficult, with or without instructions, he can apply to have the matter transferred to the exchequer court and thereby greatly limit the effect of this act. I am sure the present minister would not

[Mr. Nowlan.]

want to be a party to such a transaction, but I am sure he will admit that with that provision as it is, it will be open at any time to practically preclude the operation of this act.

These are matters which I think indicate that, while welcoming the act in general, as we do, we feel there are definite limitations here which may be amplified or explained before it finally passes.

Mr. J. H. Ferguson (Simcoe North): This afternoon we have heard interruptions from Liberal lawyers and such remarks as "Are you a lawyer?" In my opinion this is the highest court of the land, and thank goodness we have a diversification of occupations of hon. members sitting in the House of Commons. When a layman who is not a lawyer interjects on behalf of the district he represents in the Dominion of Canada, then lawyers on the Liberal benches interrupt him and ask the question: "Are you a lawyer?" By doing so they insinuate that otherwise you should not debate this question, you have not a drop of human kindness in your heart for your fellow citizens.

Well, I heard the same hon. members debate oil in Alberta, Manitoba and Saskatchewan, and no person to my knowledge said, "Are you a well digger? Have you been drilling for oil? Have you pushed around oil equipment?" No, they did not ask those questions. They believed that the Liberal lawyers of this house were trying to inquire into something that was beneficial to their constituencies. I listened to the remarks—

The Acting Speaker (Mr. Robinson): I would remind the hon. member for Simcoe North that we are discussing the principle on second reading of the bill respecting liability of the crown for torts and civil salvage, and we are not discussing the lawyers in the House of Commons. I would ask the hon. member to confine himself to the principle of the bill.

Mr. Ferguson: I was coming to that point; but I wanted to emphasize it in my opening remarks. From a layman's point of view this legislation should be altered to give greater protection to the people of the Dominion of Canada irrespective of the lawyers views. It is a fact that if an employee of the federal government today commits an illegal act the injured party cannot always sue.

Let me cite a case. In the city of Peterborough a federal government employee was driving a federal government truck. He was intoxicated during working hours and during the hours he was in the employ of the federal government. The truck got out of control and smashed the front of a residence. The