

*Canadian Forces Act*

who, like the hon. member, can afford two cars permits someone else to drive one of them he is statutorily bound, and so is the insurance company, to take cognizance of that. But if somebody steals his car, or takes it without authority, I think his position is entirely different. In that regard the same applies to crown vehicles as to private vehicles. If there is negligence on the part of the driver of a crown vehicle, if the driving is done in the course of his employment, as I understand it the crown is liable. But if he takes a car that belongs to the crown and without the permission of the crown goes joy-riding on his own, the crown is not liable, nor would any other employer be liable, so far as I am aware.

**Mr. Ferrie:** Suppose that man is killed. Who is going to take care of the family if he is a married man?

**Mr. Fulton:** I do not know whether or not the parliamentary assistant recalls, but in British Columbia we have a fund called the unsatisfied judgments fund, which was instituted for the very purpose of taking care of judgments against persons who have killed or otherwise maimed others in motor vehicle accidents and are not able to pay the amount of the damages to the injured person. After certain requirements have been gone through and it can be proven that the guilty party has no assets, the injured person can recover from the unsatisfied judgments fund. That is why it was put there. Every time the hon. member for Fraser Valley buys a motor vehicle licence a portion of his payment goes into a fund to build up the unsatisfied judgments fund.

**Mr. Cruickshank:** Other hon. members ought to compliment me, through you, Mr. Chairman, on getting a little free legal advice around here. I have had a lot to do with legal cases, but I have had very little free advice from lawyers. I am thinking of a case in Chilliwack. It had to do with a motorcycle accident. Am I to understand that whether it is an army jeep or an army motorcycle that law would apply?

**Mr. Fulton:** This is a very dangerous thing to be doing. In such a case a judgment would be given personally against the soldier who had driven negligently. That is subject to correction. My understanding would be that if that soldier did not have sufficient assets to pay the judgment, and the crown said, "In this case we do not accept liability because it was outside the scope of his employment", then as I say, subject to correction because I would have to check up on the details of the unsatisfied judgments act, I would think

the person could recover from that fund, if a judgment had been given against the soldier personally for negligent driving.

**Mr. Cruickshank:** I appreciate very much the free legal advice I have received on behalf of one of my constituents, as has been pointed out by a very distinguished member of the bar of my province. But what I am getting at, sir—

**Mr. Brown (Essex West):** You get what you pay for.

**Mr. Cruickshank:** —is this. Take this case. I will not mention the name. A person from my province gets a judgment against an individual. He owns a Ford car and nothing else. What good does that do him? But what I want to know, sir—and I would like, with all respect, to have an opinion from a far more responsible member of the bar of my province than I have received so far—is this. Suppose a judgment is given against myself as an individual and I am covered by an insurance company. That insurance company protects the injured person or me as the owner of the vehicle. I submit that I am responsible in a court of law irrespective of whether I am right or wrong in the accident, and irrespective of whether my brother, my sister, my wife or somebody else was driving the car.

This happened in my riding, and that is why I want the information. The decision was given by a man who should know, who is responsible and capable both in his majestic qualities as a parliamentary assistant and as a legal light in my province. If a vehicle is owned and operated by a soldier, is he not in the same position as a private individual who carries private insurance? Suppose a soldier is driving a car owned by the crown without the consent of the department, and he is involved in an accident. Whether the accident is fatal or otherwise, who is responsible? Is the department responsible, or has that private individual the right of recourse? I am going to get some great legal advice for the benefit of the people of British Columbia. In this connection fortunately there are two Rhodes scholars—

**Mr. Sinclair:** I have no intention of giving any advice whatever to the hon. member.

**Mr. Graydon:** He is not the only Rhodes scholar.

**Mr. Cruickshank:** My hon. friend just overstepped himself. I knew he was not capable of giving me any advice in this connection. I knew before that he knew nothing about law and confined himself to mining engineering. I was referring to two other lawyers. I think they can help me.