

Since the Crown may from now on be sued generally either before a Provincial or a Federal Court, it is clear that the provisions dealing with the proper proceedings should be contained in a single legislation and no longer as in the past in both the State Liability Act and the Federal Court Act.

Now, the provisions regarding the proceedings contained in both of these acts are often concurrent. It would be therefore in order to carry out a complete overhaul of these legislations. Of course, things would be much simpler for ordinary citizens if all these provisions were found in one single act. That is exactly what Bill C-38 is doing by grouping together all these provisions under the Crown Liability and Proceedings Act. This new title clearly shows that the rules which we find in this legislation do not apply only to the Crown Liability Act, but to all proceedings against the Crown no matter before what Court it is being sued.

Honourable Senators, the Bill was not satisfied with simply carrying out a complete overhaul, but it made changes to Crown proceedings. First of all, I suggest that the provisions of the Crown Liability Act which are being repealed and amended and which dealt with the time of notice represented an obstacle for those who wanted to sue the Crown.

Second, the bill, once passed, will oblige the Crown to pay interest for the period before the ruling, if this ruling goes against the Crown.

Third, the Bill repeals the provisions which unfairly favoured the Crown with reference to the clause of a contract stipulating a penalty. I suggest that the effect of these changes is to put the Crown and the people on an equal footing and to eliminate a number of unnecessary privileges the Crown had enjoyed so far.

To conclude, Honourable Senators, the purpose of the amendment proposed in this Bill is to improve substantially the Federal justice system in civil matters. I strongly urge, therefore, all the Members of this House to give their full and enthusiastic support to this proposal. Thank you very much.

Senator Frith: Honourable senators, we support the principle of the bill, but I think its provisions justify a reference to committee.

As a general rule and for the reason advocated by Senator Beaudoin—this is a complicated bill, as he said—I ask that it be referred to committee.

We accept the principle of the bill and we support its adoption on second reading. Therefore we recommend that it be referred to the Senate Standing Committee on Legal and Constitutional Affairs.

Motion agreed to and bill read the second time.

REFERRED TO COMMITTEE

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this bill be read the third time?

On motion of Senator Beaudoin, bill referred to the Senate Standing Committee on Legal and Constitutional Affairs.

[Senator Beaudoin.]

● (1810)

[English]

GENEVA CONVENTIONS ACT NATIONAL DEFENCE ACT TRADE-MARKS ACT

BILL TO AMEND—SECOND READING

Hon. Heath Macquarrie moved the second reading of Bill C-25, to amend the Geneva Conventions Act, the National Defence Act and the Trade-marks Act.

He said: Honourable senators, I have not exactly drawn prime time today. While we are facing restrictions of time, I wish to remind you that we are only a few days away from Lent. When I think of 40 days of abstinence, I do not want to spend all my nights talking and listening even to great colleagues.

Honourable senators, the basic purpose of this legislation is to implement in Canada certain obligations that are contained in the two additional protocols of 1977 to the 1949 Geneva Conventions relating to the law in times of armed conflict. The enactment of this legislation will permit Canada to ratify these two important instruments, which, like the Geneva Conventions themselves, have become important cornerstones of international humanitarian protection.

Before I provide more detailed information on the nature of the legislation before us, it may be useful to place Bill C-25 in the appropriate context. Since the middle of the last century various international organizations, and most particularly the International Committee of the Red Cross, have sought to ameliorate the ravages of war and its effects on the most innocent of victims. In addition to its courageous relief work in the field, the Red Cross also sought, through international negotiation and consensus, to set out in binding treaties rules to govern the conduct of armed forces towards the weak and the defenseless. The Red Cross's efforts produced a gradual recognition among nations that armed forces could not conduct their conflicts free of all restrictions but, rather, were bound by protections owed to certain categories of persons. The culmination of these efforts was the adoption, in 1949, of the four Geneva Conventions which provided special protections for the wounded, prisoners of war and civilians, including women and children.

● (1820)

As important as the Geneva Conventions were—and still are today—we can all be thankful that the Red Cross has not ceased its efforts to elaborate new, more comprehensive protections and to ensure the widest possible acceptance of these norms. It was for this reason that the Red Cross convened a special diplomatic conference from 1974 to 1977 to codify more specific rules on the conduct of war. The results of that conference were the two protocols to the 1949 Geneva Conventions. Although these instruments are referred to as protocols, and indeed they are related in many ways to the subject matter of the conventions, they are important treaties in their own right. The protocols, one relating to international conflicts and the second to internal conflicts, expand and make more specif-