

have already said, I consider that in order to assure the Board of the power to contract, to sue and be sued, that it was necessary to show beyond doubt that a contrary intention, as mentioned in the Interpretation Act, did not appear. In other words, that the intention should be declared so as to avoid any litigation on this question.

In the debate on the second reading I notice that Mr. Caham raised the question as to whether or not this Harbour Board as an agent of the Crown would be liable in case of tort. As to this I may say that a servant or agent of the Crown cannot be sued in tort with or without incorporation for a limited purpose if he is merely given the capacity to sue and be sued. In other words, such a provision does not give a right of action against the servant or agent of the Crown for any act done by him as such servant or agent.

Holland v. Air Council,
(1923) 39 2 L.R. 228;
39 T.L.R. 445 C.A.;
Holland and MacKenzie - Kennedy v. Air Council,
(1927) 96 L.J. Ch. 470;

MacKenzie - Kennedy v. Air Council,
(1927) 2 K.B. 517;

Gilleghan v. Minister of Health,
(1932) 1 Ch. 86;

Roper v. Public Works Commissioners,
(1915) 1 K.B. 45;

Hesler Bros. v. Earl of Derby,
(1918) 2 K.B. 671;

Peccin v. L'ornega & T. & N.O.Rly. (1934) O.R.701.

The decisive question in all these cases is whether under the terms of the legislation the relationship of principal and agent or of master and servant, exists as between the Crown and the corporate body concerned, and it is necessary in this connection to inquire whether the purposes for which the corporate body has been created are such as are required and created by the government of the country and, therefore, are to be deemed part of the use and service of the Crown.

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