

## REINSTATEMENT IN CIVIL EMPLOYMENT BILL

### SECOND READING

Hon. J. H. KING moved the second reading of Bill 5, an Act to provide for the reinstatement in civil employment of discharged members of His Majesty's Forces or other designated classes of persons.

He said: Honourable senators, this Bill speaks for itself. It is intended that men and women who have served in the armed forces, the merchant marine, or the fire fighting forces, shall be included in the Bill. I may say that an Order in Council was passed which pretty well covers the same subject-matter. After an inquiry made by the leader of the Opposition last year, an undertaking was given to supplement the Order in Council by legislation, and this Bill is the result. It is similar to legislation now in effect in Great Britain, the United States, Australia and New Zealand. It was submitted to and considered favourably by the major labour organizations in Canada, an employers' association and the Canadian Legion, and was also given careful study by a special committee of the other House.

I do not think it is necessary for me to make any further remarks. I had it in mind that the Bill should go to Committee of the Whole; but as a question has been raised by the Law Clerk in regard to the last section, which sets no limitation to the penalties that the Governor in Council may impose for violations of orders and regulations, I should like to have the privilege of consulting the Minister. Therefore, if the House agrees, I would move that the Bill be now given second reading, after which I shall move that it be referred to the Standing Committee on Banking and Commerce, in order that any desirable amendments may be made expeditiously.

Hon. C. C. BALLANTYNE: I should like to direct the attention of the leader of the Government to clause (b) of the Bill, which reads:

"employer" in relation to any person accepted for service in His Majesty's forces, means a person carrying on any undertaking or service in which the person accepted for service had been employed for at least three months immediately prior to the date on which he was accepted for service.

I have in mind the many thousands of employees who have been taken on by munitions plants, and who will not be retained in that employment after the war is over. According to this Bill a man who has been employed for three months in a munitions plant, and who then joins the service, has the right to go back

Hon. Mr. SAUVE,

to his employer and ask to be reinstated in his former position at the salary he was earning when he enlisted. We all know that after the war is over these munitions plants will be discharging thousands of employees, and I should like to inquire how this clause can operate.

Hon. Mr. KING: I think section 4 of the Bill covers that situation, in part at least.

Hon. Mr. BALLANTYNE: Section 4 provides that it shall be a defence for the employer to prove:

(a) that the person formerly employed by him did not, within three months after discharge in Canada from the service or from hospital treatment following discharge in Canada, or within four months after discharge overseas or from hospital treatment following discharge overseas, apply to the employer for reinstatement—

Hon. Mr. MURDOCK: Look at paragraph (c) of section 4. I think that covers the point raised.

Hon. Mr. BALLANTYNE: Paragraphs (c) and (d) say it shall be a defence for the employer to prove:

(c) that, by reason of a change of circumstances, other than the engagement of some other person to replace him, it was not reasonably practicable to reinstate him or that his reinstatement in an occupation and under conditions not less favourable to him than those which would have been applicable to him had he not been accepted for service with the armed forces was impracticable, and that the employer has offered to reinstate him in the most favourable occupation and under the most favourable conditions reasonably practicable; or

(d) that he was physically or mentally incapable of performing work available in the employer's service.

It is a different matter if the employee is not physically or mentally fit. In such circumstances he could not ask for employment. I cannot see that that changes my argument.

Hon. Mr. MURDOCK: Section 9 provides for a showdown where necessary to determine whether the employer or employee is right.

Hon. Mr. BALLANTYNE: In that showdown the man who is seeking to be reinstated will incur no expense. All the onus and all the expense are on the employer of labour.

Hon. Mr. MURDOCK: That is right.

Hon. Mr. BALLANTYNE: And the decision might be against the employer, requiring him to reinstate a man when he is laying off employees by the hundred.

Hon. Mr. COPP: If an employer has gone out of business he cannot reinstate his former employees.

Hon. Mr. COTE: I have not read this Bill, but after listening to the honourable leader's