

Crown Liability

been paid, but he has not made any reference to cases which were considered in the United Kingdom and in which on the basis of the facts compensation was not paid. I think upon reflection he will probably agree that the provision for taking care of cases of that kind is one which is wholly within the limits of the provincial responsibility, and should be made by the provincial authorities.

Motion agreed to, bill read the second time and the house went into committee thereon, Mr. Robinson in the chair.

On section 1—*Short title.*

Mr. Diefenbaker: In the British act the liability is for servants and agents but in this act "servant" is defined as follows:

(c) "servant" includes agent, but does not include any person appointed or employed by or under the authority of an ordinance of the Yukon Territory or the Northwest Territories.

What is the reason for that clause, having regard to the changes that are now taking place in the set-up of the government of the Yukon?

Mr. Garson: The employees of those territorial governments are not included because each of such governments has its own employees who are subject to the control of the local government. Therefore it was felt that damages in respect of any action should be taken care of by the local governments.

As my hon. friend knows, these territories are being given an increasing measure of self-government as the years go on; and we feel, rightly or wrongly—I think myself undoubtedly rightly—that in the discharge of that measure of self-government they should discharge their own responsibilities in all their aspects.

The Deputy Chairman: The question the minister has just answered would seem to come under section 2. Do I understand that section 1 has carried?

Mr. Knowles: Perhaps under clause 1 the minister might comment on the kind of case which I sought to bring to his attention when we were at the second reading stage. I was glad to hear his reaffirmation of the statement he made on January 29 to the effect that this legislation will broaden the basis upon which citizens who have suffered wrong or damages may try to obtain a settlement.

The case I have in mind is one which appears to have been turned down by the Minister of National Defence on the ground that there was no evidence of negligence. May I be quite specific and outline briefly the particulars of the case. Back in 1947 an R.C.A.F. aircraft crashed in British Columbia,

and a number of lives were lost in that crash. It was not until late in 1952 that the remains of the aircraft were found, and it was established that all those on board had lost their lives. Amongst those who have approached the government as a result of that crash is a certain gentleman whose name I have before me, who has brought forward the plight of three infant children of a man and wife, former Winnipeg people, who lost their lives in that crash. When the parents were killed, these three children were left without any visible means of support.

In due course, once the remains of the aircraft were found, an official letter went to the uncle of the children confirming the fact that the parents had been killed, and expressing sympathy and so on. That seems to be as far as the matter has gone thus far. At any rate, the uncle has not taken the matter to court, but rather has made an appeal to the government for compensation to assist in the bringing up and education of these three children who were so unfortunately orphaned as a result of that crash of an R.C.A.F. aircraft.

After certain other appeals had been rejected the matter was brought to my attention. As a matter of fact, if I were to give the minister the name he would recognize it as quite a well known family in Winnipeg. The Minister of National Defence gave some study to the matter, and finally wrote me to this effect on January 5, 1953:

I refer to your letter of November 21 in connection with the matter arising out of the crash of an R.C.A.F. aircraft in 1947.

I am informed by the legal advisers of the department that there is no evidence of any negligence on the part of the R.C.A.F. which contributed to the accident and that there would be no justification for making any payment in respect of the deaths of—

—the persons about whom we had been corresponding. He goes on to say:

Your concern in this matter is very much appreciated, but in view of the foregoing, I feel sure you will understand the position of this department.

The Minister of National Defence seems to take the position very clearly that his department would not be justified in doing anything, for the one reason that negligence was not established. If this type of legislation is passed so that the basis upon which the subject may sue for damages is broadened, will that not also change the attitude of the government generally and the advice of legal officers in other departments, as well as the advice of the Department of Justice in cases of this kind?

Mr. Garson: Well, Mr. Chairman, I hope my hon. friend will correct me if my remarks