

statute of the Parliament of Canada; but they are subject at every turn in executing these powers to the control of the Governor representing His Majesty and acting on the advice of His Majesty's Privy Council for Canada, or of the Minister of Marine and Fisheries; they cannot take possession of any property belonging to the harbour property without the consent of, and only upon such terms as may be imposed by, the Government; they cannot acquire property or dispose of property without the same consent; they can only acquire capital funds by measures taken under the control of the Government; they can only apply capital funds in constructing works and facilities under a supervision and control, the character of which has been explained; the tolls and charges which are the sources of their revenue they can only impose under the authority of the Government; the expenditure of revenues in the maintenance of services is under the control and supervision of a Government Department; the salaries and compensation payable to officers and servants are determined under the authority of the Government; the regulations necessary for the control of the harbour, the harbour works, officers and servants, the proceedings of the Corporation, can only take effect under the same authority; the surplus of revenue after providing for costs of services and the interest on the debenture debt goes into a sinking fund under the direction of the Minister; finally, they are appointed by the Crown and hold office during pleasure.

"I cannot doubt that the services contemplated by this legislation are, not only public services in the broad sense, but also, in the strictest sense, Government services; or that the occupation of the Government property with which we are concerned is, in the meaning with which Lord Cairns used the words in the passage cited (and in the sense in which those words were interpreted by Lord Blackburn and Lord Watson), an occupation by persons 'using' that property 'exclusively in and for the service of the Crown'".

The powers given to the present Board by the Bill are very well summarized by the language of the Chief Justice above quoted. In view of the judgment above referred to, I am of the opinion that even if the words objected to by Mr. Cahan were left out, the court would still hold that this Board, for the purposes of this particular Bill, is the agent of His Majesty the King in the right of the Dominion of Canada and the purpose of inserting the words was simply to declare in the statute what I conceive to be the law on the subject as it exists at the present time and to clarify the matter so as to avoid the necessity of having this question litigated. As I

*Duff C.J.
in the Harbour
Case.*