

*Emergency Powers Act*

Crestohl	MacKenzie
Cruickshank	MacNaught
Decore	McCann
Deslieries	McCulloch
Dickey	McCusker
Dumas	McIlraith
Dupuis	McIvor
Eudes	McWilliam
Eyre	Major
Ferrie	Maltais
Follwell	Masse
Fournier (Hull)	Monette
Fulford	Mott
Gardiner	Murray (Oxford)
Garland	Mutch
Garson	Nadon
Gauthier (Lake St. John)	Nixon
Gauthier (Portneuf)	Picard
George	Pouliot
Gingras	Proudfoot
Gingues	Prudham
Gour (Russell)	Riley
Harrison	Roberge
Healy	Robinson
Helme	Rocheport
Henry	Rousseau
Hetland	Schneider
Hosking	Simmons
Huffman	Sinclair
Jutras	Sinnott
Kickham	Smith (Queens- Shelburne)
Kirk (Antigonish- Guysborough)	Stick
Kirk (Digby-Yarmouth)	Stuart (Charlotte)
LaCroix	Tremblay
Lafontaine	Valois
Lapointe	Ward
Leduc	Weir
Leger	Welbourn
Lesage	Whiteside
Little	Whitman
Macdonald (Edmonton East)	Winters
MacDougall	Wood—107.

## NAYS

## Messrs:

Adamson	Herridge
Argue	Higgins
Balcer	Hodgson
Beyerstein	Johnston
Black (Cumberland)	Knowles
Blair	Lennard
Brooks	Low
Bryce	Macdonnell (Greenwood)
Casselman	MacInnis
Catherwood	MacLean (Queens)
Charlton	McGregor
Churchill	McLure
Coyle	Montgomery
Dinsdale	Murphy
Fair	Nickle
Fairclough, Mrs.	Pearkes
Ferguson	Quelch
Fleming	Robichaud
Fraser	Ross (Souris)
Gagnon	Rowe
Gillis	Shaw
Graydon	Starr
Green	Tustin
Hansell	White (Hastings- Peterborough)—50.
Harkness	
Hees	

Bill read the third time and passed.

[Mr. Knowles.]

## CROWN LIABILITY

## TORTS AND CIVIL SALVAGE

The house resumed, from Wednesday, March 25, consideration in committee of Bill No. 105, respecting the liability of the crown for torts and civil salvage—Mr. Garson—Mr. Beaudoin in the chair.

On section 3—*Liability in tort.*

**Mr. Fleming:** In section 3 we find the central section of this bill. I am sure there are many in this house who welcome the opportunity of legislating in the terms of this section, for many on this side of the house have been urging for years that the immunity enjoyed by the crown in respect of torts committed by the crown or its servants does not coincide with the facts of this day. We have moved in this parliament by slow stages to the moment we have now reached.

The exchequer court was established in 1875 and the Petition of Right Act was passed in 1876, but still the immunity of the crown continued. Section 19 of the Exchequer Court Act in 1887 opened the way for actions against the crown in certain limited cases of negligence. By degrees that provision was widened but was still confined to claims arising out of the negligence of servants of the crown.

Then in 1945 I recall a debate in this house, Mr. Chairman, when it seemed that the present Prime Minister had closed the door on any hope of removing what is, under present conditions, surely an anachronism in the medieval conception of the immunity of the crown from processual coercion and what Maitland has called "the grandest of the sovereign's immunities". This position certainly does not reflect the mind of the people in this day when there has been a change in the public attitude toward the royal prerogative and the royal immunity from process, a change in circumstances reflected in the extent to which the crown is engaged in business of all kinds and crown corporations are functioning alongside privately-owned corporations, and also reflected in the great increase in civil wrongs that the increasing number of employees of the crown have committed.

In 1945 I said that the present Prime Minister seemed to have dashed all hopes that this anachronism of the law might be removed. On December 13, 1945 during the consideration of the estimates of the Department of Justice, as recorded on page 3467 of *Hansard* for that date, I had the temerity