

This clause extended the jurisdiction of the Exchequer Court of Canada; so that since 1910 action lies for damages for death, injury or loss to personal property arising out of a negligence of any officer or servant of the crown, while acting within the scope of his duties in connection with the management and operation of the Intercolonial railway. This clause creates a right of action against the crown, and is unlimited as to the amount of claim.

We find that the term "Intercolonial railway" is defined by chapter 173 of the revised statutes as follows:

83. All railways, and all branches and extensions thereof, and ferries in connection therewith, vested in His Majesty, under the control and management of the minister—

And the minister is defined as the Minister of Railways and Canals—

—and situated in the provinces of Quebec, Nova Scotia and New Brunswick, are hereby declared to constitute and form the Intercolonial railway.

Therefore actions for damages of the nature and kind I have mentioned may be brought in request of the Intercolonial railway, and the claims may be unrestricted as to amount.

Of course, this extends the Exchequer Court Act. In the discussion Wednesday last I had in mind the difficulties which have arisen in relation to the railway known as the harbour board railway, operated by the harbour board of the city of Montreal. It is clearly not a part of the Intercolonial railway, under the terms of the section I have read, and therefore in cases of negligence in the operation of that road which give rise to actions for damages they may not be brought under the provision of section 19 of chapter 34, which I have read. Moreover, the railways included in the Intercolonial railway are those which are under the management of the Minister of Railways, and the harbour board railway does not come under his administration.

Then, again, a discussion arose with regard to the Canadian National Railways. At the time I had not my notes in hand, and therefore I was unable to do more than to say that the various railways held by the Canadian National Railways, by reason of the Canadian National Railways holding the stock of those roads, are subject to actions under contract or in tort, or otherwise, exactly the same as the Canadian Pacific Railway is subject to such actions.

If hon. members will look at the Canadian National Railways Act, chapter 172 of the Revised Statutes of Canada, first enacted as

Chapter 13 of the statutes for 1919, they will find section 12 providing that the name Canadian National Railways may apply:—

As a collective or descriptive designation of all lines of railway or railway works under its control, without, however, affecting the rights or liabilities of any of the respective corporations, including His Majesty, for any of their respective acts or admissions.

This clearly creates the inference that while some of those constituent railways were brought under the Canadian National Railways by reason of the Canadian National Railways holding the stock of the constituent or subsidiary company, nevertheless each of those companies was liable as theretofore for all actions in contract or in tort, as in the case of the Canadian Pacific Railway.

Section 33 of the same act provides that,—

Actions, suits or other proceedings by or against the company in respect of its undertaking or in respect of the operation or management of the Canadian government railways may, in the name of the company, without a fiat, be brought in and may be heard by any judge or judges of any court of competent jurisdiction in Canada, with the same right of appeal as may be had from a judge sitting in court under the rules of court applicable thereto.

2. Any defence available to the respective corporations, including His Majesty, in respect of whose undertaking the cause of action arose shall be available to the company.

3. Any court having under the statutes or laws relating thereto jurisdiction to deal with any cause of action, suit or other proceeding, when arising between private parties shall, with respect to any similar cause of action, suit or other proceeding by or against the company, be a court of competent jurisdiction under the provisions of this section.

In respect, therefore, of the companies constituting the Canadian National Railways, which appear in the schedule to the Canadian National Railway Act, the prerogative of the crown is no defence in actions for tort. This refers to the thirty-one railways enumerated in the schedule to that act. Therefore it is hardly a conclusive argument to suggest that what we are asking in the amendment is special and unprecedented legislation dealing with one branch only of government properties, namely the harbours board as it will be constituted under the bill now before the committee.

The provision respecting the Canadian National Railways which I have just read clearly discloses that all the constituent members now operated by the Canadian National Railways, except the three railways, if my memory serves me correctly, namely the Transcontinental, the Intercolonial and the Prince Edward Island line, are all liable to actions in tort in exactly the same manner as is the Cana-