

PUBLIC WORKS BILL.—[BILL No. 13]

(Mr. Mackenzie.)

CONSIDERED IN COMMITTEE.

House resolved itself into Committee on the said Bill.

(In the Committee.)

MR. MACKENZIE said this Bill was an amendment of the Act of 1871. He said a few evenings ago, in moving the second reading of this Bill, that he believed that the Act already sufficiently provided for the proposal that he intimated the Government had in view, of sending one of the arbitrators periodically over the line of the railway, and possibly over some of the other public works, in order to have a fair examination made of evidence taken in relation to accidents occurring at those places. He found, however, on examining the Act critically, that such claims must be sent in the first place to the Secretary of State, and by him to the Governor in Council, and a special order would have to be issued. He thought it would be advisable, therefore, to put a clause in this Act providing fully for the proposal which he intimated it was the intention of the Government to carry out, and he suggested that the following would meet the purpose:

"If any person or body corporate now has, or shall hereafter have, any supposed claim upon the Government of Canada for property taken, or for alleged direct or consequent damage to property, arising from the construction or connected with the execution of any Public Work undertaken, commenced or performed at the expense of such Government, or of the Government of the late Province of Canada or of Nova Scotia or of New Brunswick or of Prince Edward Island or of British Columbia or for the defence of Canada, or any claim arising out of or connected with the execution or fulfilment of any contract for the construction of any Public Work or arising out of any death or any injury to person or property on any Railway Canal or Public Work under the control and management of the Department of Public Works—such person or body corporate may give notice of such claim to the Minister of Public Works stating the particulars thereof, and how the same has arisen—and in case the Minister, from want of sufficient or reliable information as to the facts relating to the claim or on account of conflicting statement of facts, does not consider the case one in which a tender of satisfaction should be made, he may refer the

claim to one or more of the Official Arbitrators for examination and report both as to the matters of fact involved and as to the amount of damages—if any—sustained. And thereupon the Arbitrator or Arbitrators to whom the claim has been referred shall have all the powers in reference thereto as if such claim had been one coming within the purview of the said Act, entitled: 'An Act respecting the Public Works of Canada,' and had been referred to after tender of satisfaction made, but the Arbitrators' duty in such case shall be confined to reporting his or their findings upon the questions of facts and upon the amount of damages—if any—sustained and the principles upon which such amount has been computed."

MR. TUPPER: Does it say nothing with regard to expenses to be allowed under the Public Works Act.

MR. MACKENZIE said the Bill made no reference to that. Although there was a provision in the Act with reference to giving security, they had found that impracticable. Before any claim was made, under this or any other section of the Act, the claimant must give security to the satisfaction of the arbitrator for the payment of costs. They really had no rule with regard to the expenses of these arbitrators, except with respect to their salaries, and these were fixed by Parliament, and it had never seemed possible to fix a statement of costs with regard to any of the arbitrators. For instance, the arbitrators would need to arbitrate on half-a-dozen claims in reference to the Welland or Lachine Canal. These were all disposed of in one or two days, and it would be difficult to say what the costs were. The Act did not define it, and practically the question had never arisen, and he did not think it was worth while saying anything about that. He thought this clause would meet it, and certainly it had been prepared after careful consideration.

MR. PALMER: I do not understand how the arbitrator decides questions of liability?

MR. MACKENZIE: The arbitrator decides no questions of law.

MR. PALMER: Then, when the claim which he has allowed comes up, the Government may or may not pay it?