

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

On section 1—Exclusive original jurisdiction.

Mr. LAPOINTE (Quebec East): As the hon. member for St. Lawrence-St. George (Mr. Cahan) has said, this amendment was advocated more particularly by himself and the right hon. leader of the opposition (Mr. Bennett). I must say that on various occasions the courts have made a similar suggestion. Chief Justice Duff was pretty emphatic in the Dubois case about the need of eliminating these words and giving more protection to those who suffered injury while working for the government. The words "upon any public work" have been the cause of many denials of claims which otherwise seemed to be fair.

Mr. CAHAN: And have been the subject of several apparently conflicting decisions.

Mr. LAPOINTE (Quebec East): Interpretations.

Mr. BENNETT: And have brought about the dismissal of many actions.

Mr. LAPOINTE (Quebec East): There is no doubt that this amendment will increase the number of claims by working men who are injured while employed by the government.

Section agreed to.

Bill reported, read the third time and passed.

NATIONAL HARBOURS BOARD

AMENDMENT WITH RESPECT TO RIGHT OF ACTION AGAINST THE BOARD

Right Hon. ERNEST LAPOINTE (Minister of Justice) moved the second reading of Bill No. 108, to amend the National Harbours Board Act.

Hon. C. H. CAHAN (St. Lawrence-St. George): Mr. Speaker, to a certain extent this bill must be considered as ancillary to Bill No. 109, which has just received its third reading. When the National Harbours Board Act was up for discussion about two years ago I moved the following amendment:

That section 37 of the bill be amended by adding the following subsections:

(3) That the board shall become and be liable to be sued in tort, and that in the case of any such suit in tort, the same procedure shall apply as that which regulates the conduct of similar cases between subjects, including such matters as discovery, the receiving and paying of costs by the board, and the like.

In discussing that amendment and suggesting the postponement of its further consideration, the Minister of Justice (Mr. Lapointe) said as reported at page 3111 of Hansard of May 26, 1936:

Of course, I am going to vote against my hon. friend's amendment, though with some diffidence, because as I have said I believe that the method is an antiquated one and should be changed, but it should be changed all along the line and not only with respect to a particular part of the public property of Canada. I may say on behalf of my department and, I believe, of the government that before next session we shall prepare a bill which will cover not only the harbours but all public property. We shall try to meet the wishes of my hon. friend, and we believe it would be better to enact general legislation doing away with the petition of right, and doing so with respect to all claims for torts and injuries against the crown in future.

The proposed amendment was lost because of the protest of the right hon. Minister of Justice. At various meetings of the bar association of Canada committees have been appointed to consider the suggestion then made by the Minister of Justice, and from time to time in the most courteous manner possible for me I have asked in the house when the proposed measure would be introduced. This year I was promised that it would be introduced before the close of the present session. I must confess that this amendment carries out, practically to the full extent, the proposition which I first made, but it does not cover all cases of tort.

The amendment provides that any claim against the board may be proceeded with in respect of cases "arising out of any death or injury to the person or to property resulting from the negligence of any officer or servant of the board while acting within the scope of his employment." That is going a long way, and upon that the minister is to be congratulated. It does not go so far as to meet the views which have been presented to the public at several annual meetings of the bar association by its committee, but large bodies move slowly and great minds always take considerable time for reflection before action.

Mr. LAPOINTE (Quebec East): That is the way to achieve real progress.

Mr. CAHAN: I am grateful that we have achieved very considerable progress in the two bills which the right hon. gentleman has introduced. In the discussion on the clauses there are one or two matters to which I should like to draw attention, but I am certainly in favour of the bill so far as it goes, and I