

there by counsel, insisted that a sentence should be passed. The judge said: "I won't do it." What are you going to do in such a case? There is a case that could be appealed if the Attorney General deemed proper. I do not think it will occur very often.

Hon. Mr. CLORAN: Let us take a chance. There should be no increase.

The amendment of Hon. Mr. Lynch-Staunton was negatived.

Hon. Mr. GIRROIR: Honourable gentlemen, we have adopted the principle of the Bill. It is difficult for us off-hand to amend the Bill so that it will read properly, and I think the best thing to do would be for the committee to rise, report progress, and ask leave to sit again. In the meantime those who have amendments to offer could prepare them.

Progress was reported.

**JUDGES ACT AMENDMENT BILL.  
CONSIDERED IN COMMITTEE AND  
REPORTED.**

On motion of Hon. W. B. Ross, the Senate went into Committee on Bill C2, an Act to amend the Judges Act. Hon. Mr. Daniel in the Chair.

On section 1—repeal of annuity on retirement:

Hon. W. B. ROSS: Honourable gentlemen, as I explained on the second reading of this Bill, this clause is identical with one which we passed unanimously last year. It deals with superior court judges, railway commissioners, county court judges, and district judges. The effect of the legislation is to leave judges who now hold office with any right that they have under the statute, but to take away from judges appointed after the passing of the Act the retiring allowances that were provided for over and above the retiring allowance provided for by the legislation of Canada up to the passing of the Judges Act, chapter 138 of the Revised Statutes.

Hon. Mr. LYNCH-STAUNTON: Why?

Hon. W. B. ROSS: Because they stay on long after they are quite incompetent.

Section 1 was agreed to.

On section 2, subsection 1—judges restricted to judicial duties, definitions:

Hon. Mr. LYNCH-STAUNTON: When dealing with a Bill of this very serious character, I do not think we should be

asked to pass these sections without knowing what legislation is being repealed. We have here a whole series of sections that we are to repeal. What is the meaning or effect of section 2? It says in the margin: "Judges restricted to judicial duties; definitions." Does that mean that a judge in the High Court of Ontario cannot perform any duties imposed upon him by the statutes of Ontario?

Hon. W. B. ROSS: No. Subsection 1 defines what is a Dominion judge and what is a provincial judge. The distinction is drawn because the point has been raised that while the Dominion Parliament has, of course, complete power over its own judges, when it comes to provincial judges, even though the Dominion names them and pays them, the provinces deal with the constitution of the courts, and therefore to impose certain conditions on those judges would be ultra vires of this Parliament. This legislation is all worked out on the assumption that we have complete control of the Dominion judges, and that we can only control the provincial judges in so far as we pay them their salaries, by providing that if they draw salaries elsewhere the amount shall be deducted from the salary provided by the Dominion of Canada. You will find exceptions on page 3.

Hon. Mr. LYNCH-STAUNTON: That is in connection with judicial duties. A judge may be appointed Surrogate Court judge, or Master in Chancery, or auditor of county accounts, or to be police commissioner; there are several positions of that kind, a great many of which have fees attached to them. I happen to have in my pocket a new Act of the province of Ontario which I received to-day. It has just been passed, and it takes away all the fees from a county judge and substitutes certain allowances. For example, in the county of York, a judge is to be allowed \$2,600; in the county of Wentworth, \$1,600; in other counties \$1,500, down to \$1,300 or \$1,000 for juniors. These are allowances given in lieu of Surrogate Court fees and the Master in Chancery's fees.

Hon. Mr. DANDURAND: That is a county court judge.

Hon. Mr. LYNCH-STAUNTON: Yes. If this Bill is passed it will annul this whole provincial Act. The Bill before us says the money is to be paid to the judge in connection with judicial duties. If you define judicial duties to be duties imposed by