

That the organization of the staff of the Library of Parliament, as heretofore authorized, be amended, as from April 1, 1936, by,

(a) Striking out one position of Library Assistant,

(b) Adding one position of Senior Library Assistant.

(signed) M. Burrell,  
Parliamentary Librarian.

(signed) Felix Desrochers,  
General Librarian.

I might explain that the proposed amendments would mean no increase in the staff, but \$45 increase in salary, for which there is provision in the estimates. I might further state that the recommendation has been passed upon by the other House.

Hon. Mr. ROBINSON moved that the recommendation be adopted.

The motion was agreed to.

## SUPREME COURT BILL

### SECOND READING

Hon. RAOUL DANDURAND moved the second reading of Bill 78, an Act to amend the Supreme Court Act.

He said: Honourable senators, the purpose of this Bill is merely to clarify the meaning of the present section 37 of the Supreme Court Act. Under that section there is a right of appeal per saltum when parties agree and consent is given by the court of final resort in the province. This Bill is intended to make it clear that the appeal must be from a judgment which is applicable to that court of final resort as well.

Per saltum appeals are appeals that are allowed to jump over one tribunal, as it were, and to reach a higher tribunal directly.

I may say that the interpretation of the present section 37 has given some difficulty to the Supreme Court of Canada, because part of the section is anything but clear. The Court has suggested the clarification which is the object of this Bill. I can and will give the Senate further information as to the difficulty which the justices of the Supreme Court have had in interpreting this section, but I feel that when I have finished honourable members will not be much more enlightened than they are after the short explanation I have given so far. I am citing from a memorandum of the Minister of Justice. Section 37, which is to be amended, and which is reproduced in the explanatory notes to the Bill, is the section of the Supreme Court Act that provides for per saltum appeals. The other sections deal with appeals de plano. When in 1930 the section was amended, the intention was that the leave

of the court of final resort in the province should be required, as well as the consent of the parties, as a condition precedent to an appeal being permitted without the case going to the court of appeal of the province. But the language of the section does not express the intention as clearly as it should have been expressed. Perhaps I had better read the present section 37:

Where the amount or value of the matter in controversy in the appeal exceeds the sum of two thousand dollars, subject to section thirty-eight, an appeal shall lie directly to the Supreme Court from any final judgment of a provincial court, whether of appellate or original jurisdiction, other than the highest court of final resort in the province, pronounced in a judicial proceeding, which is not one of those specifically excepted in section thirty-six,

(a) by leave of the highest court of final resort having jurisdiction in the province in which the proceedings were originally instituted; and

(b) by consent in writing of the parties, or their solicitors, verified by affidavit and filed with the registrar of the Supreme Court and with the registrar, clerk or prothonotary of the court to be appealed from—

This amendment was made in 1930 at the request of the judges of the Supreme Court themselves, and the intention was that both conditions should be fulfilled, namely, the consent of the parties to pass over one tribunal, plus the leave of the court of final resort; but apparently it has been considered by some that the conditions were alternative, and this is the kernel of the difficulty. Cases in which the two conditions have not been complied with have come to the Supreme Court here. Although the Supreme Court has maintained that it was intended both should be required, it is thought better to clarify the situation so that no ambiguity may continue to exist.

The purposes of the present amendment are expressed very clearly. The judges of the Supreme Court had a hand in the preparation of the Bill. Those purposes are: first, that no suitor who has obtained judgment in his favour in a provincial court shall, without his consent, be brought by way of appeal before the Supreme Court without the opportunity of having judgment pronounced upon his case by the court of last resort in the province; second, that on public grounds the consent of the parties shall not in itself be sufficient to entitle either of them to come before the Supreme Court per saltum, but shall be supplemented by leave of the provincial court of final resort; third, that there shall be no right of appeal per saltum except upon some question of law, for it seems obvious that questions of fact, before coming to the Supreme Court, should be pronounced upon by the court of last resort in the province; and

The Hon. the SPEAKER.