

*McAdam.* This assignment was subsequently, on November 27, cancelled by direction in writing from the chief justice, to the effect that Mr. Justice Martin should take the sittings at Nelson and Rossland, and that the other judges should hold the Special sittings in February, at which the appeal referred to was to be heard. The chief justice subsequently assigned Mr. Justice Irving, Mr. Justice Morrison and Mr. Justice Clement to be the Court to sit on the above appeal, and directed the registrar to notify all the judges and the counsel concerned of this arrangement. In all this the chief justice seemed to be within his rights.

It appears that Mr. Justice Martin did not take the sittings at Nelson and Rossland, but insisted upon what he claimed to be his right to sit on the above appeal on the footing of the cancelled assignment, which he contended could not be changed; and when the case came on for hearing he took his seat on the Bench along with the other three judges.

It is difficult to understand upon what principle such a claim could be maintained, but even if technically maintainable it was most undesirable that such a matter should have been brought up for discussion in open Court, and so provoke an unseemly wrangle, the blame for which, must, we fear, rest upon the shoulders of Mr. Justice Martin.

The three judges assigned to hear the appeal decided that they were the Court, and that Mr. Justice Martin, who was also present, had no right to sit. During the discussion the latter is reported to have said: "This matter should not be decided by this Court. It is not an independent tribunal—its members are so dominated by the extraordinary powers granted to the chief justice. I regret to have to say these things. I intend to go on sitting here as an enduring protest against these proceedings."

Mr. Justice Irving naturally took exception to the slur cast upon the Court, saying as is reported: "I regret that the Attorney-General is not here to hear the language which has been used on this Bench."