

cases, without our attempting to enumerate such courts.

Mr. CANNON: As the clause stands now a person has a right to claim five hundred dollars from a returning officer. Suppose he takes action before the Superior Court in the province of Quebec. When the action comes before that court the returning officer raises the point whether this clause is penal. If it is, the action taken is a penal action, in which case it is subject to all the formalities of such an action. But if it is an ordinary action for the recovery of a debt, the formalities are different. There is nothing in the clause to indicate what kind of action this is.

Mr. DOHERTY: I venture to say that if I were advising a client I would with a great deal of confidence take chances of any judge of the Superior Court of the province of Quebec saying: I have jurisdiction to condemn you to pay to this man the sum of money which you have forfeited to him, as well as damages. This is not in the nature of a penalty; it is something which the returning officer forfeits to an individual because he did that individual a wrong. Of course, we can conceive of all the pleas that might be made to such an action, and then insert provisions negating all those pleas, but I think we can trust the judges to dispose of any such pleas whenever they are made.

Mr. DAVIS: Section 92 covers what the member for Dorchester (Mr. Cannon) is worrying about.

Mr. MACKENZIE KING: This section is the same as that in the old Act.

Mr. GUTHRIE: Yes.

Mr. CANNON: I would like to have time to look up clause 92.

Mr. DOHERTY: The member for Neepawa (Mr. Davis) is right. Clause 92 says just what I said about the general law.

Mr. CANNON: As I pointed out to the Minister of Justice (Mr. Doherty) I was talking about a penal action. If he reads clause 27 in connection with clause 92, he will find the latter clause provides for penalties by way of forfeiture, so I think I was right.

Mr. DOHERTY: And it goes on to say that the penalties shall be recoverable or enforceable with full costs of suit by action of debt or information in any court of competent jurisdiction in the province in which the cause of action arises.

Section agreed to.

On section 35—who shall not be appointed election officers:

Mr. JACOBS: I notice that under paragraph (d) of subsection 1, among the persons who may not be appointed Chief Electoral Officer are included ecclesiastics. As the Parliamentary Counsel, who is about to be named Chief Electoral Officer, is the newly appointed Chancellor of a diocese, I should like to know whether he can be considered an ecclesiastic within the meaning of this section?

Mr. GUTHRIE: I should not think so.

Mr. PROULX: What is the Disfranchising Act, referred to in paragraph (g) of subsection 1?

Mr. GUTHRIE: The Disfranchising Act has been on our statute books for many years. It provides that any persons who are guilty of illegal practices at elections may be disfranchised by the courts.

Mr. CANNON: Does the minister not think that he ought to add a paragraph to section 35 to this effect: "No members of the Civil Service of Canada"?

Mr. GUTHRIE: I do not think that has ever been suggested before. I do not see that there is great objection to it. We do mention postmasters, customs officers, or clerks in post offices or customs offices among those who shall not be obliged to act. The section is word for word with the old law; it has not been altered except as regards Chief Electoral Officer.

Mr. MACKENZIE KING: Subsection 2 is the same as the old section except that in the latter, Saskatchewan, Alberta and the Yukon were excepted.

Mr. GUTHRIE: Yes, the provision now applies to the whole of Canada.

Mr. J. H. SINCLAIR: I notice that the returning officer is not included among those who must be residents of the electoral district within which they are to act. It strikes me that the returning officer should be a resident of the district in which he acts.

Mr. MCKENZIE: I am very glad indeed that the Government have in view the appointment as Chief Electoral Officer of the Parliamentary Counsel of the House of Commons; the selection is an excellent one. But after he takes office I do not want him to be disqualified in any way. I suggest that the word "ecclesiastics" be struck out of paragraph (d) of section 35. It is not