

recover his health in many of the health resorts of this continent, and also in those of Europe. At the present time I think he is in Florence, from which place I had a letter from him the other day informing me that his health was improved, but he was still far from well. I question whether Judge Dugas' health would permit him to accept a position in any part of Canada at the present time. I have great pleasure in testifying to the high character of the judicial work done by these gentlemen in that north land. They have been judges there for a number of years. In the early history of that territory each of these gentlemen did a very large amount of work, and did it with eminent satisfaction to the people of that country. I regret very much that circumstances make it necessary to retire these two gentlemen from the bench.

Sir WILFRID LAURIER. I wish to call the attention of the Minister of Justice to the fact that in one of the previous clauses he has substituted the Court of Appeal of the province of British Columbia to the Supreme Court of Canada. But in case of a criminal appeal he proposes to pass over the appeal court of British Columbia and come direct to the Supreme Court of Canada.

Mr. DOHERTY. I had the advantage of reading what the hon. gentleman said yesterday in that connection. Looking into it, I find that the reason why the provision came to be enacted in this way was that the gentleman who drafted the Bill went back to the law as it stood before there were three judges, and at that time the provision was for an appeal in criminal matters direct to the Supreme Court of Canada. It was further considered, in adhering to that position, instead of allowing the appeal in criminal matters as it is provided in civil matters, to the Court of Appeal of British Columbia, that the cases in which there would be appeals are exceedingly rare and usually of great importance, and that the probable result would be that if they went to the Court of Appeal of British Columbia that would be followed by an appeal to the Supreme Court of Canada, bringing the parties twice outside the territory itself. However, upon reflection it does seem to me that perhaps it would be better to allow this appeal in criminal matters to the Court of Appeal in British Columbia, as I understand the right hon. gentleman suggested. The appeal in civil matters being to that court, it is perhaps more regular that we should treat that court for all purposes as the court of appeal for the Yukon territory, and I am disposed to amend the section so as to meet that suggestion.

Sir WILFRID LAURIER. I speak with some diffidence upon this subject, my hon. friend from the Yukon (Mr. Thompson) knows better than I do. But it does seem to me that when the distance from British Columbia to Ottawa is so great, it would be preferable that all matters of this kind should first go to the Court of Appeal of British Columbia, and then if there is no dissenting judge on the bench, there should be no appeal, but if there is a dissenting judge, then there might be an appeal to the Supreme Court.

Mr. THOMPSON (Yukon). I think the suggestion a very good one. Before the erection of the court by the late government appeals lay direct from the Yukon to the Supreme Court of British Columbia. Judge Dugas was the only judge in the Yukon at that time. After Judge Craig and Judge McAulay were appointed, we had an appeal to the three judges sitting en banc in the territory, and appeals lay from that court en banc direct to the Supreme Court of Canada. I think it would be in the interest of the Territories to have an appeal direct to the Supreme Court of British Columbia, both in civil and criminal cases.

Mr. DOHERTY. I beg to move that section 4 be amended by substituting the words 'Court of Appeal of British Columbia' for the words 'Supreme Court of Canada' in the 6th and 7th lines.

Amendment agreed to.

Mr. DOHERTY. My attention has been called to the fact that the court being left under this Bill with but one judge, serious inconvenience might arise if that judge were temporarily ill or absent or in other way prevented from performing his duties. I propose to move to amend the Bill by adding clauses providing for the appointment of a deputy judge in case of necessity.

I therefore beg to move to add as sections 6, 7, 8 and 9, the following:

6. In case of the illness of the judge of the court, or if the judge be absent, the Governor in Council may specially appoint any barrister or advocate of at least ten years' standing to discharge the duties of the judge during his illness or absence, and the person so appointed shall, during the period aforesaid, have all the powers incident to the office of the judge of the court.

7. If the judge of the court.  
(a) Is interested in any cause or matter, or is qualified by kinship to any party, or,  
(b) has been professionally engaged in any cause or matter as counsel or solicitor for any party previously to his appointment to the office of judge, and considers himself thereby incapacitated from sitting or adjudicating therein.

The Governor in Council may, upon the written application of the judge, setting out