

Mr. GUTHRIE: I cannot give the information now.

Mr. PROULX: If the minister will look at section 35 he will find there a list of persons ineligible to act as returning officers

Mr. GUTHRIE: Section 35 gives the list of persons ineligible and excusable as returning officers. I suppose if any of these were appointed they would be disqualified.

Mr. CANNON: But clause 35 reads: None of the following persons shall be appointed—

So they cannot be appointed.

Mr. GUTHRIE: If they were appointed I suppose they would be disqualified.

Mr. CANNON: They would not be disqualified.

Mr. CURRIE: Yes.

Mr. CANNON: Not at all. Section 35 provides for people who shall not be appointed.

Mr. GUTHRIE: They would be ineligible and I suppose being such would be disqualified to act.

Mr. CANNON: "Disqualified" and "ineligible" are not synonymous terms.

The CHAIRMAN: Shall clause 24 carry?

Mr. CANNON: I move that it stand.

Mr. GUTHRIE: Let it stand.

Motion agreed to and section stands.

On section 25—deputy returning officers.

Mr. MCKENZIE: Does the minister propose to have some provision in the Act whereby the provincial polling subdivisions would be accepted, or is the power left entirely in the hands of the returning officer to make new subdivisions?

Mr. GUTHRIE: Well there is a provision but I do not know the number of it.

An hon. MEMBER: Read clause 28.

Mr. GUTHRIE: That refers to the polling subdivisions. I think we had better wait until we come to that, it is rather a comprehensive clause.

Section agreed to

On section 27—misfeasance and malfeasance—penalty:

Mr. CANNON: What procedure is to be followed in recovering that fine?

Mr. GUTHRIE: The penalty is recoverable by any person who sues therefor.

[Mr. Cannon.]

Mr. CANNON: But before what court? The clause does not indicate any court.

Mr. GUTHRIE: Any court of competent jurisdiction.

Mr. CANNON: It does not say so.

Mr. GUTHRIE: That is a time-honoured clause.

Mr. CANNON: But the clause does not mention that.

Mr. GUTHRIE: I think without mentioning it that is the plain meaning of the clause.

Mr. CANNON: I know. But my experience as a lawyer at the bar is that a clause generally mentions when and where a fine is to be recovered, and if the clause does not mention it we might have some trouble in instituting proceedings against a returning officer, because a court might deny its jurisdiction unless it is indicated in the law itself.

Mr. GUTHRIE: It is hardly a fine. It is "a sum recoverable by way of damages not exceeding five hundred dollars, in addition to the amount of all actual damages to such person thereby occasioned." Subsection 2 is:

Every election officer who refuses or neglects to perform any of the obligations or formalities required of him by this Act shall for such refusal or neglect forfeit the sum of two hundred dollars to any person who sues therefor.

In the first place, it is for damage or additional damage, and in the second place, it may be recovered by any person who sues therefor. For a sum of two hundred dollars you would have to sue in a court which has jurisdiction in the various provinces for the recovery of sums up to that amount.

Mr. CANNON: Does not the minister think we could add to the clause a few words to indicate that the proceedings should be taken before courts with the usual jurisdiction?

Mr. DOHERTY: I might point out to the hon. gentleman that the section declares that the election officer forfeits five hundred dollars to a particular person, and under the second clause that that officer becomes liable in the sum of two hundred dollars to whoever sues for it. The hon. gentleman knows that if he looks up the code of procedure he will find what court has jurisdiction when one puts forward a claim that somebody owes him five hundred dollars. Each province has already courts with perfectly clear jurisdiction to try such