

Sir LOMER GOUIN moved the second reading of the bill.

Motion agreed to, bill read the second time and the House went into committee thereon, Mr. Gordon in the chair.

On section 1—Salaries of judges of Supreme Court of Ontario.

Sir LOMER GOUIN: I move an amendment to clause 1, which will read as follows:

Provided further that any judge who enjoys immunity from taxes or deductions by reason of the provisions of section 11 of chapter 56 of the statutes of 1920, entitled "An Act to amend the Judges Act," shall continue to enjoy that immunity, but shall not, either in respect of the judicial office which he now holds, or in respect of any judicial office to which he may be hereafter appointed, the salary of which is provided for by this section, receive any salary in addition to that which he is receiving at the time of the passing of this act, unless he elect, as he may effectively do, at or within three months after his appointment to any such latter office, wholly to waive or forego such immunity from taxes or deductions.

In 1920 an exemption was granted to the judges whose salaries were increased, and the effect of the amendment was that those who refused the increased salary would be exempt from the income tax, changing the status of the judges of the Supreme Court of Ontario. But with respect to those who are to be removed to the Appellate Division of the Supreme Court of Ontario we thought we would make it clear that this would apply. If they do not accept the increased salary they will have the benefit of the exemption.

Sir HENRY DRAYTON: I have not the section before me, but I will take the minister's statement. The statement I understand to be that as these may be looked upon as new appointments under the new section, the minister desires that the same safeguards should be thrown around the new judges as the gentlemen who were judges before, and who still are judges enjoying under the present legislation. In other words, the minister does not change the legislation, but makes it clear.

Sir LOMER GOUIN: It is on account of the new commission we are going to give them.

The CHAIRMAN: The word "Division," occurring after the word "Exchequer" will be struck out.

Amendment agreed to.

Section as amended agreed to.

On section 3—Judges may act as arbitrators or assessors under Railway Act or public act.

Sir LOMER GOUIN: By this amendment which was referred to just now, it was provided that judges nominated by the Governor

in Council under the provision mentioned in this section shall act as commissioners or arbitrators, provided this enactment shall not interfere with judges who are at present acting as commissioners or arbitrators completing the work on which they are engaged. The amendment is to the effect that the judges will be authorized to act as arbitrators in railway matters. If hon. members will look at the Railway Act of Canada and some of the provincial railway acts, they will find that judges are acting as arbitrators. Under this amendment they are no longer allowed to act in that capacity. But arbitration in railway matters of expropriation is of a judicial character, and we do not see that there could be an objection to that. There could not be any such objection raised as was formerly raised, because under the amendment the judges will not be allowed to investigate any political matters. They will only investigate matters of a judicial character. They will be permitted to act as arbitrators in railway matters, and in matters for the fixing of damages in cases where provincial governments or the federal government may be interested.

Sir HENRY DRAYTON: Will the minister tell me that, in so far as railway questions are concerned, and in so far as the assessment of damages under the provincial acts is concerned, the old law is to be entirely restored?

Sir LOMER GOUIN: In regard to railway matters, it is provided in the statutes of 1919 that a judge may act as arbitrator. It is the same with regard to the provinces. The judges will not be prevented by the amendment of 1921 from acting in such cases.

Sir HENRY DRAYTON: This is something entirely new to me. I have not had a chance to look it up at all, but my impression was that all the amendment did before was to prevent any fees being paid.

Sir LOMER GOUIN: They are not allowed to receive any fees under this amendment.

Sir HENRY DRAYTON: They get no fees under the amendment.

Sir LOMER GOUIN: No.

Mr. CHURCH: I think the principle of permitting judges to act as arbitrators in railway matters is a very bad one. As everybody knows the railways are in politics all the time, and if we have judges acting as arbitrators in railway matters, we are going to have judges in politics, more or less, also. We had an illustration of the principle of this legislation in Ontario, where judges served on arbitrations as to electric railway matters, and in assessing damages or compensation in these