

an individual gentleman, when in enacting a statute it is provided that a man holding another and a different office from his shall be the person called upon to do a particular work. I do not think there is any reflection upon a gentleman because he is an assistant judge while someone else is the judge, nor any reflection because one may be a puisne judge and somebody else a chief justice. It might appear proper, and there are not wanting instances where powers and functions are conferred upon the chief justice as such. Does anybody say that that is a reflection on any one else? I entertain the highest respect for Mr. Justice Audette, and I am very sorry it should be insisted upon that this is in any way intended to cast the slightest reflection upon him. It is not a question of personality at all. Parliament in its wisdom thought it was right that there should not be two judges on absolutely the same footing in the Exchequer Court. Parliament so provided, and the gentleman who holds the position of assistant judge accepted that office and accepted that decision of Parliament. I am very sorry the personal equation should be introduced in a matter in which there is nothing personal at all. Whatever the distinction was that Parliament intended to create between a judge and an assistant judge, when we are dealing with the question whether it is wiser and better for us to call upon someone in some other court to sit in the Supreme Court of Canada, and not to call upon the gentleman who holds the position of assistant judge of the Exchequer Court, I repeat, I am sorry it should be insisted that we are casting any reflection on the assistant judge. For my part there is no reflection intended.

Mr. MOWAT: After the explanation of the Minister of Justice, and the very generous remarks he has made about the assistant judge of the Exchequer Court, showing there is absolutely no personal question in the matter at all, but a distinction created by statute, which should govern, I think the amendment of my hon. friend from Maisonneuve might very well not be insisted on. We know this: the Supreme Court is supposed to represent the great judges of the Dominion. They are all great lawyers, and while men who are not as eminent lawyers as the judges in some of the Supreme Courts of the provinces, may, perhaps, get into the Supreme Court, yet the public looks upon the personnel of the Supreme Court of Canada as comprising the greatest lawyers in the whole Dominion. In

[Mr. Doherty.]

this Bill provision is made that the judge of the Exchequer Court shall be the judge to do this work. The question of personality does not enter into the matter at all, and I think it would be a pity, after the minister's explanation, for my hon. friend to insist upon his amendment. I might suggest here what has been in my mind for a long time, and that is that there is no reason why there should be six judges sitting in the Supreme Court of Canada all the time. In the greatest court in the Empire, the Judicial Committee of the Privy Council, composed of the hardest-headed and best lawyers that ever existed in any country, it does not matter how many judges sit; whether it is seven or only three, the opinions or advice of that tribunal is effective and is held in equal respect. I do not see why there should not be some such system here, whereby, say, four judges could sit equally as well as six. Furthermore, I think I represent the opinion of the vast majority of the bar of all the provinces when I say there are too many individual judgments given in the Supreme Court of Canada. The number of separate judgments given in all our courts is getting to be intolerable, when one has to read through them all to see the small points on which the judges may agree or disagree. It would be far better if the judges would adopt the practice of deputing to one of their number the task of reading the opinion of the majority and, if necessary, the opinion of the dissenting judges, so that we could have a clear-cut statement of the view the majority of the judges took, as well as the view taken by the minority. In the judicial committee of the Privy Council, we lawyers all know that it is a great advantage to get only one judgment; we do not have dissenting judgments there; we have but one judgment, or opinion, or advice, as you may call it, which is the judgment of the whole court. That judgment obtains, no matter how many or what judges sat. That judgment carries to the people in every corner of the British Empire the conclusive opinion of the Privy Council as to what is the law by which they are to be governed. I think it would be an excellent thing, and it would relieve the Supreme Court and the country of the great expense which is now proposed by providing for an ad hoc judge, if the court were to give two opinions, one declaratory of the law, the other of dissent, and then it would not matter how many judges sat. It would avoid the necessity of bringing in an ad hoc judge with all its attendant embarrassments.