

Sir ROBERT BORDEN: The Bill can be printed after it has gone through committee and before the third reading.

Mr. DOHERTY: We could have the Bill reprinted before it goes to third reading, and then everybody will have an opportunity to grasp its meaning and effect.

Mr. TWEEDIE: Will it be brought back into committee again after it is reprinted so that we may see the amendments? I have not heard a word the Minister of Justice has said to-day and I am particularly interested in the first clause of the Bill.

Sir ROBERT BORDEN: I understand that the Minister of Justice proposes to amend the Act by requiring the Chief Justice of the Supreme Court of Canada to ask the Chief Justice of a provincial court to designate a judge of his court who can be spared for the purpose of attending to the duties of an ad hoc judge in the Supreme Court of Canada, and thereupon it will become the duty of the Chief Justice of the Provincial Court to designate such a judge. When so designated, he becomes an ad hoc judge for the purpose of this Act.

Mr. TWEEDIE: What limitations are there as to the particular province in which the Chief Justice shall be requested to make an appointment?

Sir ROBERT BORDEN: If the judge is to supply the place of one of the judges from the province of Quebec, the application will be made to the Chief Justice of the province of Quebec. If the judge is to supply the place of one of those who have been selected in the other provinces, the Chief Justice of the Supreme Court would apply to the Chief Justice of the highest court of the other province.

Mr. DOHERTY: It is only in the one exceptional instance where these two things combine, namely, that the judge to be replaced is a judge originally from the province of Quebec, and secondly, that the case to be dealt with came from that province, that it is imperatively required that the Chief Justice shall go to a particular province. The reason for that is obvious: We have to meet the statutory requirements that there shall be two judges appointed from the province of Quebec. With regard to the other provinces, as the Act stands at present, the Chief Justice of the Supreme Court might apply to the Chief Justice of any province. It might be desirable to provide that where the judge who had to be replaced came from some province other than Quebec, and the case it-

[Mr. Doherty.]

self came from some other province than Quebec, in that case the Chief Justice should address himself to the Chief Justice of some of the other provinces. That was what I had in mind. I am not quite certain if that is made absolutely clear in the Bill, but I shall be very glad to make it quite clear if, in the judgment of the committee, that method is thought the most desirable.

Mr. TWEEDIE: Is there any objection to allowing the Governor in Council to make these temporary appointments? In my opinion there is no need to pass legislation which will involve restrictions as to the appointments which may be made by the Chief Justice of a province with the assistance of the Chief Justice of the Supreme Court of Canada. I think if the Governor in Council would simply take the responsibility of making these appointments, in the same way that he makes permanent appointments, our troubles would be at an end.

Mr. DOHERTY: It is hardly proper to speak of these as appointments. It is simply calling upon somebody to perform duties of essentially a temporary character, and if, to meet that requirement, we legislate, as we would have to legislate, to empower the Governor in Council to appoint an ad hoc judge, we should create a situation where an assistant judge was appointed to a specific office and would hold that judicial office for only a limited period of time. I would submit to the committee that it is not desirable to have men act as judges for only a little while—men who are taken from the practice of the profession to sit as judges for perhaps a month or two, and then return to the practice of that profession. I think that would hardly be consistent with the idea, which is a very important and very fundamental one, that judges dealing with cases should be men whose entire work is of a judicial nature—men set apart for that purpose. By the method we propose we secure that the men who will act are men who are already judges, and that the individual man will be designated by the man who is in the best position to judge which one of those judges can be spared to the best advantage, from the point of view of the ordinary business of his court. It is true we might by statute empower the Governor in Council to appoint a man and to select him from among the judges of the other courts, but that would be putting in the hands of the Governor in Council the determination as to which judge in any