

Hon. Mr. Fogo: Section 8 repeals section 44 of chapter 39 of the Statutes of 1947-48, which reads as follows:

This Act shall come into force on the first day of November, one thousand nine hundred and forty-eight, except section thirty-five thereof which shall come into force on the first day of October, one thousand nine hundred and forty-nine.

For this section there is substituted a new section 44 which provides that section 35—that is new Part XVI of the Code—shall come into force on a date to be fixed by proclamation of the Governor in Council.

The section was agreed to.

On section 4 (reconsidered)—summary trial in certain cases:

Hon. Mr. Baird: Honourable members, I have a reply to the question raised by the honourable gentleman from Toronto-Trinity (Hon. Mr. Roebuck). I am informed that at present the English criminal law applies in Newfoundland. Any criminal statute passed in England becomes law automatically in Newfoundland within a year, unless the local legislature passes some law to the contrary.

Section 4 was agreed to.

The preamble and the title were agreed to.

The bill was reported, as amended.

THIRD READING

Hon. Mr. Robertson moved the third reading of the bill, as amended.

The motion was agreed to, and the bill, as amended, was read the third time, and passed.

EXCHEQUER COURT BILL

SECOND READING

Hon. Mr. Robertson moved the second reading of Bill B, an Act to amend the Exchequer Court Act.

He said: Honourable senators, I have asked the honourable gentleman from Inkerman (Hon. Mr. Hugessen) to explain this bill.

Hon. A. K. Hugessen: Honourable senators, this bill was given second reading in this chamber in the spring of this year, but fell by the wayside owing to the dissolution of parliament, which took place shortly thereafter. It again falls to my lot to explain it to this honourable chamber. It is a departmental measure which I think is unexceptionable, and brings into effect a number of desirable changes in the present Exchequer Court Act.

The first proposed change affects Section 18 of the Act. The present section is rather unusual. It reads as follows:

The Exchequer Court shall have exclusive original jurisdiction in all cases in which demand

is made or relief sought in respect of any matter which might, in England, be subject of a suit or action against the Crown, and for greater certainty, but not so as to restrict the generality of the foregoing terms, it shall have exclusive original jurisdiction in all cases in which the land, goods or money of the subject are in the possession of the Crown, or in which the claim arises out of a contract entered into by or on behalf of the Crown.

I direct the attention of honourable senators particularly to these words:

... in all cases in which demand is made or relief sought in respect of any matter which might, in England, be subject of a suit or action against the Crown ...

The effect of that is that an amendment to the laws of England, passed by the British parliament, enlarging or diminishing the right of action against the Crown, might affect the jurisdiction of the Exchequer Court without the parliament of Canada having anything to do with it. Obviously it is an old section, and under present circumstances is totally inapplicable. This bill purports to amend section 18 by omitting the reference to the laws of England, and providing simply that:

The Exchequer Court shall have exclusive original jurisdiction in all cases in which the land, goods or money of the subject are in the possession of the Crown, or in which the claim arises out of a contract entered into by or on behalf of the Crown.

That is the first proposed amendment.

Section 2 of the bill proposes to make three changes in the Exchequer Court Act, all of which I think will appeal to the judgment of honourable senators. First, it allows an appeal from an interlocutory judgment of the Exchequer Court to the Supreme Court of Canada in cases in which leave for such appeal has been granted by a Judge of the Supreme Court of Canada; second, it extends the period for appeal from a judgment of the Exchequer Court from thirty to sixty days, which corresponds with the usual period for appeal now allowed from the provincial courts to the Supreme Court; third, it varies and modernizes the procedure which an appellant must follow when he launches an appeal.

The procedure which the present Exchequer Court Act lays down for appeal is rather peculiar and very old-fashioned. It requires that the appellant shall give notice to the Registrar of the Supreme Court that he intends to appeal, and then the Registrar shall set the appeal down for hearing and shall notify the other party that the appeal has been launched. By the amendment now proposed the procedure would be modernized in this fashion: the appellant shall give notice of his appeal to the other parties in the case, and lodge his appeal with the Registrar, who then shall set the case down for hearing.

Hon. Mr. Leger: Before leaving section 4, will my friend state why it is necessary to