

—if the judge lacking is from some other province and the cases come from some other province—be compelled to have three judges sitting from the province of Quebec. While we all want to see that the statutory rights are recognized, on the other hand, there is this to be considered from the point of view of the other provinces, that we should not impose upon them the possible absolute necessity of trying the cases in that way. I would suggest to the hon. gentleman that there is not anything of sufficient importance involved in his suggested amendment that should prevent him from reconsidering the desirability of insisting upon it.

Mr. LEMIEUX: I am not at all converted by the argument of the minister. It seems to me that the judges of the superior courts of the provinces should, only in exceptional circumstances, be called upon to sit as judges ad hoc in the Supreme Court of Canada. The first call of the chief justice of Canada—and in such case he would have to exercise his own judgment—should be at the Exchequer Court where he has two judges who heretofore would have been members of the Supreme Court; that is to say, under the old system that prevailed they would be members of the Supreme Court, the Exchequer jurisdiction being exercised by the Supreme Court. There he has two judges with exactly the same jurisdiction, except that the one is junior and the other is senior. Having those two men available, you provide for all contingencies and emergencies, and it seems to me, that in the interest of justice, without any additional cost, without any travelling expenses, the chief justice of the Supreme Court should call upon the one or the other. It may be that to-day Sir Walter Cassels is in British Columbia or Mr. Justice Audette is in Prince Edward Island, but at all events there is always one of the two in Ottawa, and the chief justice can call upon either of them to sit as ad hoc judge. It is only under extraordinary circumstances that we should rely on the Superior Courts of the provinces. We should not deprive the provinces of their judges, because, as the minister knows, the courts are generally congested, and they will be congested for a long period of time. The Exchequer Court is sitting in Ottawa. It is admitted that the two judges have equal jurisdiction. It seems to me, therefore, they should be called upon to sit, the one as well as the other. Why should we make this invidious comparison between the chief justice and his assistant? While one is the senior and the other is the junior,

they have exactly the same jurisdiction; they hear exactly the same cases; they interpret exactly the same statutes. By permitting the appointment of either of them as ad hoc judge, you would save money and you would save time in emergencies. Let us take a case in point. The minister informed the committee a moment ago that the legal fraternity could not proceed to-day before the Supreme Court because one or two of the judges are away. Mr. Justice Duff is sitting as Central Appeal Judge, and Sir Louis Davies is, I think, ill. The court, therefore, cannot sit. According to this first section, if it is not amended, the chief justice would have to inform, let us say, the chief justice of Ontario, that he is deprived of two of his brother judges on the bench. This would entail some correspondence, and the chief justice of Ontario would have to select two of his judges to sit in the Supreme Court. This means a lot of correspondence and delay, whilst the chief justice of the Supreme Court of Canada can, by pressing a button in his office, send for one of the two judges of the Exchequer Court and have him sit on that very day. The matter is so clear I am surprised that my good friend the Minister of Justice does not yield to my appeal.

Mr. DEVLIN: I am afraid I would make a poor member of a Union party. Just a moment ago I agreed with the Minister of Justice in saying that I believe the chief justice of the province was the better man to choose the judge. I now find myself in the position of differing from him in his idea of ostracizing one of the two judges of the Exchequer Court. I know the Minister of Justice is not doing this because he feels one is less competent than the other, but simply because the one is the assistant of the other. I support the amendment of my hon. friend (Mr. Lemieux) because in choosing one of the members of a certain bench to sit in special cases of the Supreme Court, I do not think it is right to cast the stigma on the other judge on that same bench that, simply because he is assistant judge, he is not qualified to sit with his brother judge and try the cases.

Mr. DOHERTY: I am very sorry indeed that one of my hon. friends should look upon this as being invidious, and the other as casting a stigma or ostracizing. Certainly nothing was farther from my mind. I must confess I fail to grasp why it is considered that there is any ostracism or any reflection whatever cast on the capacity of