

JUDGES IN ADMIRALTY

Sir LOMER GOUIN (Minister of Justice) moved that the House go into committee to consider the following proposed resolution:

That it is expedient to amend the Admiralty Act, chapter one hundred and forty-one of the Revised Statutes of Canada, 1906, and to provide that the Governor in Council may, from time to time, appoint for any admiralty district one or more deputy local judges, and revoke such appointments; appoint for any district or registry division of any district a deputy registrar; and when the local judge of the Quebec Admiralty District resides in Montreal, the deputy local judge residing in Quebec shall be paid the salary which he would have received if he were the local judge of the district; and when the local judge resides at Quebec, the deputy local judge residing at Montreal shall receive the salary which he would have received if he were the local judge of the district; but not more than one deputy local judge in any district shall receive a salary.

Motion agreed to and the House went into committee, Mr. Gordon in the chair.

Sir LOMER GOUIN: By this resolution we propose to give to the Governor in Council power to appoint deputy local judges to act as Judges in Admiralty and we provide for a salary to be paid to the deputy local judge, which is not now provided for. We might take, for example, the province of Quebec, where we have two divisions of the Admiralty Court, one in Quebec and one in Montreal. At the present time the Judge in Admiralty is a judge of the Superior Court of Montreal. We have no deputy for the district of Quebec; We have only one registrar, whose office is in the city of Quebec; and we have no deputy registrar. As I have said, we propose by this suggested amendment to give to the Governor in Council power to appoint deputy local judges and, as well, power to revoke such appointments; also authority to appoint registrars. We provide further that when the local judge resides in Montreal and receives the salary which is provided for in the general statute, the deputy local judge residing in Quebec shall receive the same salary; and if the deputy local judge resides in Quebec the deputy local judge residing in Montreal shall also receive the same indemnity.

Mr. GUTHRIE: I am not very familiar with the provisions of the Admiralty Act. Is there any provision under that act empowering the Governor in Council to revoke the appointment of a judge?

Sir LOMER GOUIN: I am speaking only of deputy local judges.

Mr. GUTHRIE: But I refer to any judge. We have local judges in Ontario, for instance, in the Supreme Court, and certainly there is

no power in the Governor in Council to revoke their appointments. Is there a power under the Admiralty Act vested in the Governor in Council to revoke the appointment of a deputy local judge?

Sir LOMER GOUIN: Chapter 141 of the Revised Statutes of 1906, the Admiralty Act, provides in section 8 that:

The Governor in Council may, from time to time, appoint any judge of a superior or county court, or any barrister of not less than seven years' standing, to be a local judge in admiralty of the exchequer court in and for any admiralty district.

2. Every such local judge shall hold office during good behaviour, but shall be removable by the Governor General on address of the Senate and House of Commons.

3. Such judge shall be designated a local judge in Admiralty of the Exchequer Court.

As to the deputy local judges Section 11 provides:

A local judge in admiralty may, from time to time, with the approval of the Governor in Council, appoint a deputy judge; and such deputy judge shall have and exercise all such jurisdiction, powers and authority as are possessed by the local judge.

2. The appointment of a deputy judge shall not be determined by the occurrence of a vacancy in the office of the judge.

3. A local judge in admiralty may, with the approval of the Governor in Council, at any time revoke the appointment of a deputy judge.

Mr. MEIGHEN: If I may be permitted, I should like to call the attention of the Minister of Justice to a decision lately given by the Court of Appeal of Ontario. I see in the papers this morning is reported the appeal of the case of the Wholesale Grocers and the Attorney General of Ontario. The Court of Appeal has held unanimously that the Dominion criminal legislation, section 498, is ultra vires. The disastrous consequences of such a verdict, if it is to remain undisturbed, are manifest.

The Chief Justice of Ontario bases his judgment upon the late finding of the Privy Council in the Board of Commerce case, and distinctly states that had it not been for that finding, that is to say, had his judgment been given prior to that finding, he would have held that section to be within the competence of the Dominion parliament. I do not presume to comment on the finding of the Privy Council except to say that I think it was most unfortunate. It was unfortunate that there should have been an appeal on that portion of the Board of Commerce and Combines and Fair Prices Acts. It was prosecuted by the province of Ontario, and I think by the province of Quebec as well, but chiefly at the instance of the Attorney General of Ontario.