

Crown Liability

administration of justice in the provincial courts because judges of those courts are appointed by the governor in council on the recommendation of the Minister of Justice.

The difficulty of that theory, with which I do not propose to deal in detail, I think is sufficiently shown by one of the examples the hon. member employed to bolster his argument, and that was that two individuals accused of murder and found guilty by a jury had been freed on appeal to the Supreme Court of Ontario just a few days before the date of execution.

Mr. Diefenbaker: The trouble of course was that the judge did not seem to realize there was no case and he left a non-existent case to the jury.

Mr. Dickey: I think it is clear to everybody in the house and to anybody—

Mr. Croll: May I interrupt for a moment. I listened to the hon. gentleman and I hope that what he said was not considered to be a reflection upon the judge who tried them. I do not think he intended that. The judge is a personal friend of mine and I studied law under him. I just wanted to make sure that no reflection was intended.

Mr. Diefenbaker: Every time a counsel appears on appeal he naturally argues that what the judge placed before the jury or instructed them to do was not correct, that he erred. Judges are only human; judges err. There is certainly no reflection upon any judge to say that he erred, because to err is human.

Mr. Dickey: I must confess that I did think that the point the hon. member was trying to make was a little different from the question of appeal and the position of a barrister representing his client in an appeal to a higher court from a decision of a lower court. However, I do think the example cited by the hon. member shows the inconsistency and unreasonableness of his position.

I am sure that this debate will be read by members of the bar in all parts of Canada and I rose simply to point out on my own behalf, and I think on behalf of a good many of my colleagues in the house who are lawyers, that we do not agree with either the legal or the constitutional position taken by the hon. member this afternoon. In view of the fact that all his remarks during that part of his address were out of order on this particular bill, there is no necessity for any extended reply.

Mr. Ferguson: My hon. friend may be speaking for all Liberal lawyers when he says they are in agreement. They generally are.

Mr. Lesage: Are you a lawyer?

[Mr. Dickey.]

Mr. Ferguson: I may not be, but I know something about the law business. At least, I will always know as much as you know. I do know what my hon. friend has tried to put over to a group of Liberal lawyers when he was speaking to the highest court in the country for justice to the people, and he was not getting anywhere.

The Acting Speaker (Mr. Robinson): Order; the hon. member for Gloucester.

Mr. Fournier (Maisonneuve-Rosemont): Why not discuss it with us?

Mr. Ferguson: If I discussed it with you, you would not know what I was talking about anyway. You sit there and interject, but you do not know what we are talking about.

Mr. Lesage: Oh, horses.

Mr. Ferguson: You know all about horses.

Mr. Fournier (Maisonneuve-Rosemont): At your next national convention, why don't you vote for a change?

The Acting Speaker (Mr. Robinson): Order; the hon. member for Gloucester.

Mr. A. M. Robichaud (Gloucester): I should like to add a few brief remarks to the very pertinent suggestions which have been made by the hon. member for Lake Centre (Mr. Diefenbaker). I have carefully studied the bill now before the house, and I agree with the suggestions put forward by the hon. member for Lake Centre when he pointed out that there should be no limit imposed on the jurisdiction of our provincial courts in dealing with matters coming within the ambit of this bill.

Remarks were made from the other side of the house while the hon. member for Lake Centre was making a suggestion to the Minister of Justice (Mr. Garson) which, in my submission, was not tantamount in any way, shape or form to the underwriting—as the hon. member for Halifax (Mr. Dickey) has pointed out by repeating the words already put forward by the Minister of Justice—of the administration of justice in the provinces. I could not analyse the remarks of the hon. member for Lake Centre as amounting to that much.

Mr. Diefenbaker: They did not, either.

Mr. Lesage: Oh, oh.

Mr. Robichaud: If hon. members opposite like to interrupt—

Mr. Lesage: We want to understand.

Mr. Robichaud: You want to learn something?

Mr. Lesage: Yes.