

it. There may be some advantage in that. If we carry that out, or if the chief justice—

Mr. BUREAU: Or the assistant chief justice. I do not know how it is in other provinces, but talking with my confreres I think Quebec is the only province with that situation. I understand that in other provinces there is only one judicial district for the whole province. The chief justice, whether in Montreal or Quebec, could take necessary action.

Mr. DOHERTY: The chief justice could undoubtedly draw from the whole province.

Mr. BUREAU: I admit that.

Mr. DOHERTY: If we are going to provide for the case of his absence, we will have to nominate the acting chief justice or the senior puisne judge, because if we are going to foresee it is possible that both will be absent, and if we specifically provide—

Mr. BUREAU: Supposing it happens that you have only one chief justice?

Mr. DOHERTY: In Ontario they have four or five chief justices. They are rich in chief justices in Ontario.

Mr. BUREAU: They are luckier than we are. I was not assuming any knowledge other than that of conditions in my own province. Under the circumstances, how would the Minister of Justice get around it if our chief justice was away or absent from the province of Quebec?

Mr. DOHERTY: If we insert the words "or the acting chief justice," would not that meet such a case?

Mr. BUREAU: Suppose both were away?

Mr. BOYS: We had better make it read "the senior puisne judge."

Mr. DOHERTY: If we make provision for the absence of the chief justice, then we ought to make a provision which will give assurance that there will always be somebody competent to act. Perhaps we might add the words "or acting chief justice, or senior puisne judge," or perhaps it might read "or in the absence of either or both, the senior puisne judge."

Mr. Du TREMBLAY: Does this Bill not provide for the calling of more than one ad hoc judge at a time?

Mr. DOHERTY: No, there is no power for the calling of more than one ad hoc judge. This is the first time that there has been

any provision for an ad hoc judge in the Supreme Court of Canada, and I think that if we make provision to fill the absence of one judge we are, perhaps, going as far as is necessary at present. There are six judges, five being required for a quorum, and, therefore, unless two are incapacitated for some reason, there is no need of resorting to any such provision. I did give thought to the possibility of two being needed, but I came to the conclusion that it would not be wise to create the possibility of more than one ad hoc judge sitting at a time in the Supreme Court.

Mr. Du TREMBLAY: The clause does not seem to be very clear on that point. It seems to me that under the Bill more than one judge could be called to replace judges who were absent. A couple of judges of the Superior Court of Quebec might be called, or two or three from other provinces.

Mr. DOHERTY: I think the language of the section makes it amply clear that the power is limited to calling for one judge. The Exchequer Court judge is first called upon, and in his absence only one other judge. There is something to be said for the suggestion that power should, perhaps, be extended to the calling of two, but for myself I do not think that desirable. I think it is undesirable except in case of absolute necessity to have sitting in the Supreme Court a judge or judges ad hoc.

Mr. BUREAU: The Minister of Justice has stated my case exactly. I agree that it would be extraordinary if three Supreme Court judges at the same time should not be in a position to sit; therefore, this provision is for the appointment of only one ad hoc judge. The only difficulty that might be experienced in replacing the absent judge would be to comply with the Supreme Court Act in the case of judges from the province of Quebec. If this legislation is passed, I think the minister had better reconstitute the Supreme Court and be able to show whether or not the increase in business justifies an increase in the number of judges, or whether the inclemency of the weather or other circumstances will result in our being obliged to having a spare man in the background for emergencies. I was suggesting that this point should be taken into consideration, and the suggestion of the minister with regard to the provision for the emergency for a judge being absent makes my request a little bit stronger than it was before.

Mr. MORPHY: The member for Three Rivers has raised a very important point.