

judges called for the consideration of judgments," and so on.

Mr. BOYS: Would it not simplify it still more to strike out the words "on such request" in the second line, and to begin the subsection with the words "an *ad hoc* judge?"

Mr. DOHERTY: That will be all right.

The CHAIRMAN: The section as amended now reads:

An *ad hoc* judge who attends a sittings of the Supreme Court or any conference of the judges called for the consideration of judgments in cases in which he sat, shall be paid his travelling expenses and shall receive a *per diem* allowance for living expenses of ten dollars for each day that he is necessarily absent from his place of residence, as provided by section eighteen of the Judges Act.

Subsection as amended agreed to.

On subsection (2)—Valuations in assessment appeals.

Some hon. MEMBERS: Explain.

Mr. DOHERTY: This amendment deals with appeals of a special nature provided for by section 41 of the Supreme Court Act, which provides that an appeal shall lie to the Supreme Court from the judgment of any court of last resort created under provincial legislation to adjudicate concerning the assessment of property for provincial or municipal purposes, in cases where the person, or persons, presiding over such court is, or are, by provincial or municipal authority authorized to adjudicate, and the judgment appealed from involves the assessment of property at a value of not less than ten thousand dollars. This is an appeal especially with regard to the assessment of property for provincial and municipal purposes, and, as will be seen, provides for a general right of appeal if the value of the property is not less than ten thousand dollars. I understand that in certain of the provinces there have been constituted assessment boards, who have been constituted the final valuers or judges without further appeal, or which are courts of last resort practically for valuations of this sort. It is not proposed to withdraw the appeal in cases of judgments or determinations of such valuations, but to add a proviso to the effect that the Supreme Court of Canada shall not disturb or vary the judgment unless it is satisfied that in fixing or affirming it such court of last resort in the province has proceeded upon an erroneous principle, and, instead of its fixing the amount of the assessment, which in its opinion should be

[The Chairman.]

varied, the court may remit the case to the court of last resort in the province to fix the same according to the principle which the court declares to be applicable. In other words, there is not to be an appeal to the Supreme Court of Canada for the mere purpose of valuating or estimating values. If this proviso be added to the section, the court is not to disturb the judgment merely upon the simple question of valuation if it finds in the principles upon which the original courts have proceeded that there is no error.

Sir WILFRID LAURIER: Is that not the present jurisprudence?

Mr. DOHERTY: That principle is very generally laid down, but inasmuch as these very questions themselves are questions of valuation, and that there is a special section giving an appeal in this particular kind of valuation, it did appear that there was room for the suggestion that since the cases are cases that involve nothing but valuations, and the especial appeal is created for them, there might be the inference that the intention is that the Supreme Court should substitute itself as a valuator pure and simple.

Mr. BUREAU: Would that be a limitation of the prerogative of the court?

Mr. DOHERTY: It will be a limitation of its power, certainly.

Mr. BUREAU: Why should we do that?

Mr. DOHERTY: Because it seems to me that so long as you keep this to the exclusive question of valuation with no principle involved at all, and the province has provided for a board to make that valuation in the place itself, and has determined that in its judgment that valuation ought to be final, the Supreme Court of Canada seems to be rather a peculiar body to substitute as a board of valuers for the exclusive purpose of correcting valuations, in portions of the country which, in a large number of cases, the judges, even if they were expert valuers, are not at all familiar with, and it seems to me, as suggested by the right hon. gentleman, that it is only clearing, where the case is purely on a question of valuation, the right of the court to decide what it practically, I think, decides in the great number of cases, that is to say of ordinary appeals, that it will not interfere where it is a question purely and simply of estimating values and there is no error whatever in the principle upon which the court below proceeded.