

provincial statute, the Bill will be all right; if you do not, it will repeal this provincial Act.

Hon. W. B. ROSS: I have never made any objection, nor do I see any objection at all, to money being paid to a provincial judge where the work to be performed by him is part of his official duty.

Hon. Mr. LYNCH-STAUNTON: Why not say statutory duties?

Hon. W. B. ROSS: He is a judge, and as judge has certain work assigned to him.

Hon. Mr. LYNCH-STAUNTON: It is in persona—he is the person himself. It has nothing to do with his commission as a judge.

Hon. W. B. ROSS: The duty is attached to the office, not to the person. Suppose one of these men died and another took his place, the Act would go on just the same.

Hon. Mr. LYNCH-STAUNTON: The subsection in the Ontario Act states:

The said annual sum shall be in lieu of fees and allowances payable to the judge in the county or district court for any services performed by him under any Act of this legislature, including fees as judge of the Surrogate Court and as Local Master of the Supreme Court.

They differentiate between the fees given him as a judge and the fees given him as a master; so surely, if our Act says he shall take nothing but judicial fees, that would exclude the fees he receives as master.

The Hon. the CHAIRMAN: I think the honourable gentleman had better leave that part of the discussion until we come to the clause to which it refers. At the present time we have before us section 2.

Subsection 1 of section 2 was agreed to.

On subsection 2 of section 2—judges not to be appointed for purposes of R. S., c. 104:

Hon. Mr. POWER: Perhaps the honourable gentleman from Middleton will tell us what is the effect of this subclause.

Hon. W. B. ROSS: I presume the honourable gentleman from Halifax is aware of the scope of the Inquiries Act. I have it here, but I did not think it was necessary to read it. Under that Act the Governor in Council may appoint commissions to deal with public matters, that is, legislation over which this Parliament has complete power; and this subsection provides that neither a Dominion nor a pro-

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vincial judge shall be appointed under that Act.

Hon. Mr. LYNCH-STAUNTON: In England it is common practice to appoint judges as commissioners for this purpose, but they are not given any fees. All the inquiries into great public scandals and public matters in England are made by judges. In this country there is more confidence in a judicial inquiry than in any other kind of inquiry. It seems to me the intention of this Bill is to prevent judges indiscriminately taking jobs for which they are paid; but if it provided that they should not be paid for them, it would still leave judges available to the Government for great public inquiries. I think it would be very improper to pass this section as it stands, and to say that no judge could be appointed by the Dominion Government to make any inquiry.

Hon. W. B. ROSS: There are strong objections to judges leaving the Bench and going into these inquiries when there are plenty of good men in the country leading and strong barristers, who can be got to do such work. I do not attach much value to the notion that the public rely more upon the findings of a judge than upon the findings of a good strong lawyer. As a matter of fact, the people in whose favour he decides usually think he is very good, and the people on the other side think he is no good at all—that he is corrupt and everything else.

I read something the other day with regard to this question in England. I referred to a case in which there was a good deal of objection taken.

Hon. Mr. LYNCH-STAUNTON: They allow it.

Hon. W. B. ROSS: They are not going to do very much of it judging from what I read. In the item I read, Lord Esher said that the judge never recovered from it, that he was accused of partiality; whereas, he, Lord Esher, knew personally that there was not a more judicial and honest man on the Bench. I was told by a judge in Canada that he would not act on any of these inquiries because, he said, he would not have any standing afterwards. If there is the slightest bit of politics in the matter, the reputation of the judge is more than likely to suffer. I think this is sound legislation.

Hon. Mr. BOSTOCK: I understand that subsection 3 of this section provides that a judge may sit as a commissioner under the Corrupt Practices Inquiries Act. My honour-