

This procedure is not open to the other commissioners. I do not see why that discrimination should be practised within the board of transport commissioners. The ten-year term, on the whole, has worked satisfactorily now for forty years and more.

In the office of the chief commissioner of the railway board, or the transport board as it is now called, this country has enjoyed the benefit of the services of some very distinguished men. Some of the jurisprudence of the board has been laid down in the past by chief commissioners who were giants in stature. Not so many years ago a distinguished statesman of this country said that the position of chief commissioner of the board of railway commissioners, as it was then, was the most important and most powerful position in Canada outside the government itself.

A third anomaly is to be created by this legislation. It is an anomaly within the exchequer court itself. There is to be on the panel of judges of the exchequer court a member who is in the court but not of the court. He is to be on a different salary from that received by the judges of the court. Under this measure he is being appointed not for the purpose of taking his place on the exchequer court, but simply to qualify under the new legislation for appointment as chief commissioner. With all respect, I do not think that is the proper way to treat the exchequer court. If there is need of more judges to carry on the business of that court, they should be appointed for that purpose. But why should we resort to this device of appointing an additional member of the court who is never expected to sit in the court? There is no suggestion that he should sit in the court. As a matter of fact his duties as chief commissioner will occupy his time fully and will keep him extremely busy. We have this curious situation, in which the chief commissioner will be a member of the exchequer court, will never sit in the court, and yet will draw a higher salary than is received by the other members of the exchequer court who are discharging exclusively their duties as exchequer court judges.

I do not think that the device proposed by the Minister of Justice to take care of the present situation in order to open the way for the appointment of Mr. Justice Archibald as chief commissioner is a sound one. The minister ought to find some other way of inducing Mr. Justice Archibald, if he is to be the new commissioner, to accept this appointment. I submit that he certainly should not now bring in amendments to no fewer than three statutes, which amendments will intro-

duce anomalies into each of them. That is a short-sighted method of accomplishing the end that the government has in mind.

I recall that we had a comparable situation not long ago when a member of the supreme court of Saskatchewan was appointed to the diplomatic service and, although not discharging his judicial functions, for some years held a diplomatic office. An amendment was proposed to the Judges Act to effect this result. If the present situation is unique and so unusual that it is proposed to amend no fewer than three statutes, the case certainly should be reviewed and some other method devised. If we are to treat the statutes of parliament in this way; if we are to assume that they are open to frequent amendments to meet the exigencies of particular cases, I suggest that we are embarking on an entirely wrong course.

I repeat that in what I have said there is no intention to make the slightest reflection upon the suitability of Mr. Justice Archibald for appointment as chief commissioner. What I am criticizing is the method to which the government is resorting for the purpose of offering Mr. Justice Archibald sufficient inducement to accept this important office. I suggest to the minister that some other method be found in order to provide that inducement; and I suggest that the method adopted should not be one which seeks to introduce amendments to three general statutes in order to meet the exigencies of a particular case.

Mr. HANSELL: I rise, Mr. Chairman, not particularly to discuss the legal aspects of the resolution, because I see in it something for the constitutional lawyers to fight about, and I am not a constitutional lawyer. At the moment I wish to discuss what I believe to be a vital principle involved in the manner in which the resolution has been introduced. I refer to the fact that when the Prime Minister the other day made his announcement that certain changes were to be made, he announced as well the resignation of the present chairman of the board of transport commissioners and the acceptance of the position by Mr. Justice Archibald. This procedure appears to me to be a direct flouting of the principles of parliamentary government. I do not know whether hon. members will see the principle in the same light as I do. But when the Prime Minister stated that it was the intention of the government to bring down this legislation, he announced that Colonel Cross, the chairman of the board, had resigned, and that Mr. Justice Archibald had been approached and asked if he would accept the office of chairman of the newly-constituted transport board.