

replaced, does not some objection arise there?

Mr. MORPHY: I quite agree that there should be a provision in this Bill that where an ad hoc judge is to be chosen, he should be appointed from the province from which the judge whom he is to replace comes. I gathered from the remarks of the Minister of Justice that he really intended that, but I find no provision in the Bill which makes it plain. I quite agree that in case of an appeal from the province of Quebec there should be two judges from that province; but there is no interference with that arrangement because it is a statutory provision anyway.

Mr. DOHERTY: As far as regards existing legislation, the proviso is quite clear in its terms if the case is a Quebec case and the absent judge is a Quebec judge. As regards the other provinces, I am quite in the hands of the Committee as to what is the wisest course to pursue. All the other provinces have a common system of common law; Quebec is the only province which has a distinct common law system of its own. Now would there be any advantage in having an Ontario judge because a case comes from Ontario, or in having an Alberta judge because a case comes from Alberta? Both of these judges will be men versed and trained in the same common law. I must say that if it were not for this exceptional system of law which prevails in the province of Quebec, I would not dream of making any exception in the case of that province; it would probably be an advantage that the judge who is to go to the Supreme Court of Canada to try a case coming from Quebec should be a judge from some other province, because then we would avoid the suggested objections of the hon. member for Three Rivers (Mr. Bureau) of a possible relationship between judges from the same province who have been associated in the same court. Similarly with regard to the province of Ontario, if you could have an outstanding lawyer, trained and brought up in that province's system of common law, but who has had no relations with the judges upon whose judgments he is sitting in appeal, I think it would be a desirable thing. If it is considered that any advantage would be gained by getting a man from the same province I would not be disposed to strenuously oppose it, although I think it is wiser to leave the field as wide as it can be left.

Amendment negatived.

On subsection 2—Evidence of appointment.

Mr. Doherty moved to amend the subsection by adding after the word "judge" in the second line, "and where a judge of a provincial court is designated, the act of the letter designating him."

Amendment agreed to.

On subsection 3—Duties.

Mr. DOHERTY: I move the following words be added in the second line after the word "requested," "or has been so designated."

Mr. McMASTER: Should the word "or" in the phrase "or any conference" not be "on?"

Mr. DOHERTY: No. In that event he will get nothing when he attends a sitting of the court.

Mr. BUREAU: Would not the request be sufficient? A designation would correspond to a request.

Mr. DOHERTY: Yes. But if he is a provincial judge he cannot attend merely on the request. The Exchequer Court judge will attend simply on the request of the chief justice of the Supreme Court. But a judge coming from any other court, in order to be entitled to sit, must come in consequence of the request of the chief justice of the Supreme Court addressed to his chief justice, and the designation coming to him from his chief justice is the authority upon which he attends. And for that reason I thought it wise to say in the Bill "a judge who attends a sittings of the Supreme Court on such request or upon such designation." Then the reason why we say "or any conference of the judges" is in order that the judge so attending may get his travelling expenses, not only when he comes to attend a sittings of the court, but also when he comes to attend a conference of the judges with regard to the rendering of the judgment.

Mr. BOYS: Would it not make it plainer if you said "an ad hoc judge" and left out the words "on such request" in the second line of the section?

The CHAIRMAN: I would suggest that the words "on such request or upon such designation" be added after the word "who." The wording would then be: "A judge who, upon such request or upon such designation, attends a sittings of the Supreme Court or any conference of the