

lengthy resumé, summarizing every item of the evidence that is at all relevant, and that has to be prepared and read and signed by him before it goes to the committee. So that only about half his time is spent in hearing evidence. If he were sitting as a court, as any other court he could say "granted" or "rejected", as the case may be, without the necessity of writing a lengthy judgment—unless it were a contested case or some particular point of law were involved. At present, even in the most simple and clear-cut case, it is necessary to write these lengthy judgments or reports.

After the committee has approved it, there is a great deal more paper work involved. There are five different stages it has to pass through before the Senate completes dealing with it. The report of the committee has to be drawn up and signed by the chairman. The formal resolution has to be drawn up, it is signed by the chairman of the committee and by the commissioner who heard the case.

Then the journals of the Senate contain the introduction of the petitions. Then they contain the reports. On the next day, the reports are approved. Then, the same day or the day after that, the resolution has to be introduced. Then, after 48 hours, the resolution has to be approved. That makes five separate steps, all of which involve a great deal of paper work and are time consuming.

The CO-CHAIRMAN (*Senator Roebuck*): I can confirm that.

Mr. Justice WALSH: The third problem that arises under the present system is—as I think the chairman will agree—the appeal provisions, which are really hopelessly inadequate. Within 30 days after a resolution has been passed, either party can appeal. Presumably the person who gets the resolution is not going to wish to have it reopened. To do so, a person has to proceed by introducing an act of Parliament. Then there is a new hearing which in this case would take place before the committee itself—and not, I take it, by the commissioner. It is a very cumbersome thing. Unless there were new and different evidence, you are really asking the committee to consider reversing itself, because it is the same committee which has already heard the commissioner's report and read and approved that report. Therefore, to a certain extent, unless there are new factors or evidence, it really is a case of asking the committee to reverse itself.

It provides no appeal whatsoever for the losing party—which is perhaps the most serious and unavoidable defect in the present system. There is an appeal within 30 days after the resolution is passed; but if the petition is dismissed there is never a resolution so in that case there is no appeal because the case never goes to the Senate in the form of a resolution.

The CO-CHAIRMAN (*Senator Roebuck*): He could still introduce his bill.

Mr. Justice WALSH: Yes, he could introduce a bill.

The CO-CHAIRMAN (*Senator Roebuck*): He has the same appeal as the present respondent has. He has not under the provisions of the new act but he has the old provisions that have always existed.

Mr. Justice WALSH: I see. Under the old procedure. Another problem is that there is not adequate provision—again, the chairman and I have discussed this—for defaulting witnesses. The procedure whereby they could be brought before the bar of the Senate by the Gentleman Usher of the Black Rod is simply not practical. It cannot be done out of session; and during sessions we have not used it because it is cumbersome. So it means that a witness can ignore a subpoena and there is nothing you can do about it.

Those, I think, are valid reasons why the present system, although it is working reasonably well, has serious objections.

I feel, though there are many who will not agree with me, that the sooner these cases are referred to the Exchequer Court as such, the better. You have there is a federal court which gets its jurisdiction from the federal Parliament. Parliament can give it the jurisdiction, in the same manner as they can amend the grounds for divorce. They can amend the Judges Act, to provide additional