

Expropriation

compare one case which he happened to have had in the Exchequer Court as against a comparable case in the Supreme Court of Alberta.

I want to say also that when we look at the expropriation bill itself, which is the bill currently before the House, we should recall some of its provisions. Clause 36 (2) puts the question of costs in proper perspective because if the amount awarded by the court, if the matter goes to litigation, exceeds the amount offered by the Crown, costs are payable by the Crown on a solicitor and client basis. In other words, as a matter of law, if negotiation is unsuccessful, and a Canadian citizen involved refuses to accept the offer by the government of Canada as the price of his property to be expropriated, and on going to court obtains an amount from the court in excess of the Crown's offer, then all costs are payable by the Crown.

• (4:00 p.m.)

Clause 27 makes it quite clear that all legal costs and appraisal costs are allowable costs, not only in successful litigation but prior to litigation, and are added to the price of the expropriated property payable by the Crown. If the award by the court is the same or less than the offer of the Crown, the costs are discretionary and may be awarded by the court depending on the validity of the expropriated owner's case. Costs prior to litigation are automatically, by law, payable by the Crown. Those costs incurred in legitimate negotiation are payable by the Crown and, as I say, litigation costs are awarded automatically by the court if the offer by the Crown is less than the award by the court.

I want to repeat the argument I made in committee, Mr. Speaker, that in terms of the itemized costs of the Exchequer Court of Canada as against those of the superior courts of this country there is virtually no difference and, if there is any comparison, the comparison is in favour of the Exchequer Court. That evidence is before the committee.

Mr. Woolliams: What page is that?

Mr. Turner (Ottawa-Carleton): I think the hon. member will find it, if he looks, and certainly after I have finished this speech I will consult with him. Although the hon. member was diligent in his attendance at the committee maybe he was not present on the morning that I introduced that evidence. In any event, the variable taxable costs which he talked about in an autobiographical way

[Mr. Turner (Ottawa-Carleton).]

would depend on the case he had, the amount of time and skill spent on preparation, and the amount of money at stake. I want to suggest to the House that that type of evidence which he offered is not too convincing.

The hon. member went on to say that the Exchequer Court of Canada was not as accessible to litigants as the superior courts of the provinces, and that its rules were more complicated than those of the superior courts. I would point out that its rules have just been revised and recently published in both official languages. As the hon. member knows, I have had my share of practice before the Exchequer Court. I have compared its new rules with those of the Supreme Court of Ontario, and the hon. member has admitted today that the rules in Alberta are very similar to the Ontario rules. I have also compared them with the rules of the Supreme Court of Quebec, and I say that they compare favourably in terms of speed and availability of the court to the average lawyer.

The rules may be slightly different in Alberta, and I want to congratulate the Chief Justice of the Alberta Supreme Court if its rules are as expeditious as the hon. member says, because elsewhere in Canada provincial courts do not enjoy that happy situation. The time of delay for a civil trial in Montreal runs from two to three years, and in Toronto it is about the same. In most of our major cities, there is a considerable delay between setting an action down for trial and the actual hearing of the case before a superior court.

Mr. Woolliams: That is an awful admission to make. Why don't you appoint more judges?

Mr. Turner (Ottawa-Carleton): It is not a question of appointing judges. This is something that I and my brother Attorneys General across the country will be discussing on a future occasion because, as the hon. member knows, the daily administration of the courts is within their jurisdiction and not mine directly.

To get back to the Exchequer Court of Canada, normally a case can be set down for trial within two or three months after issue is joined. The hon. member knows that. He admits that the Exchequer court now goes on circuit. It travels right across the country. A trial before it is available in all major centres. It is not necessary for lawyers and their clients to come to Ottawa to plead their cases before the Exchequer Court. Motions can be heard at any major city in Canada. Whenever an interlocutory proceeding is necessary, the court will send a judge to hear that matter.