

remedies that you as a lawyer, Mr. Speaker, know so well—the person aggrieved can go to a trial judge of the high court in the province and get the order by which he was aggrieved quashed. What will be the situation if the bill were passed? The court would now have exclusive jurisdiction with regard to all of the prerogative writs and special remedies in matters pertaining to tribunals and administrative bodies that are set up by the federal government.

What size of court should we have? How will western Canada be served? How will even eastern Canada be served under this kind of legislation? This question has prompted some comment by one of the witnesses who gave evidence. I do not know who called the gentleman before the committee. I did not, and it may have been the chairman who called him before the committee, but I was quite impressed with some of the evidence he gave.

I contend that this federal court is going to be all powerful for the state. It will be too costly for the average citizen of Canada to go to the court, and the judges of the court will not be accessible to the people. As a result, justice in this country will become so costly that the average citizen of Canada who feels aggrieved by decisions handed down by government tribunals will be unable to get the kind of justice we had hoped, even the kind of justice he can obtain today.

Before I quote from the evidence, may I say that I think the government has confused the jurisdiction of the court. If I might be political for a few moments during the course of my legal argument, one thing about this government is that it is just great for chaos. Whenever we have a crisis there is chaos among the government, and then they claim to solve the crisis and become our great masters. I think this is going to be the case, too, with this bill.

Let me just read to the House what this witness said. Professor Watson studied the bill and had this to say, as reported at page 7 of minutes of proceedings and evidence No. 28:

I think, frankly, that the idea of a federal court in Canada other than the Supreme Court of Canada is misconceived.

I contend that it is misconceived in the sense that there will be an insufficient number of judges of the federal court to serve the average Canadian. Litigation will pile up and the backlog will be worse than the backlog before the immigration appeal board, which I understand has or had 1,500 cases waiting to be dealt with.

● (3:30 p.m.)

I think the first question we have to ask ourselves with regard to this bill is, has the Exchequer Court been successful and, if so, in what way? I suggest there are a number of problems associated with the Exchequer Court and many of them relate to its remoteness from the people and from the lawyers. It is physically a remote court and it is unknown to the layman. I could not say it as well as this.

I doubt that most laymen know that it even exists and it is not something with which most lawyers are familiar. I think it is fair to say that it is the bailiwick of a very small group of perhaps patent and tax lawyers.

### *Federal Court*

The point he is making there is that it will not be accessible, and because it is not accessible, it will not be known by laymen. The remedies normally now available in our high courts and the courts of appeal in the provinces will fall within the jurisdiction of this court, so the average Canadian will suffer. Professor Watson says in volume 28, as recorded at page 8:

It can really give this court only bits and pieces. When it gives it only bits and pieces there will only be a few types of people in a few situations who can resort to the court on any regular basis. Consequently it will remain the bailiwick of a small group of lawyers and this produces a real problem because some of the types of cases over which the court can have jurisdiction are the types of cases in which anybody in any small town or large city across Canada can become involved in, can be dragged into the Exchequer Court. He goes to his regular legal adviser and the legal adviser says, Exchequer Court?

This will be under the federal court. Mr. Watson continues:

I do not know too much about that. And from talking to people who are experienced in litigation, what happens? The normal pattern is that the lawyer gives it a try once, gets his fingers burnt and next time he sends a pink ribbon around the material and sends it to the small group of lawyers who practice regularly before the courts.

There, he has put his finger on the difficulty, having in mind the special remedies given to this court. That is what is going to happen. Even with judges who move across the country, with one judge here and one there, the majority of cases will have to be funnelled into Ottawa. The expenses of travel, the hiring of experts and coming here on chamber applications, will be so costly that these remedies will be out of reach of the average man. That is why I say that if we are going to have this court at all, which I am against, we should have judges—this means a duplication—appointed to sit in the large centres of Canada, wherever those centres may be.

Mr. Watson then goes on in his evidence to state:

If we look at our own history going back into English history, there are two notorious periods in English history, one when the King's Courts went out in England and deprived or fought with the local courts for jurisdiction and there were jurisdictional battles between the King's Courts and the local courts, and of course, the persons who suffered were the subjects.

He goes on to show the conflict. Unless there are judges that are accessible, and unless the members of the bar in various cities become familiar with the procedures and the jurisdiction of this court, these remedies the people should have will wither on the vine. Professor Watson then refers to analogies in the United States and Australia. My friend has talked about these. He suggests that both these countries have a federal court system, so why cannot we have a federal court system here. The fact we overlook is this. The judges of our superior court, our courts of appeal and our supreme courts, as well as the judges of this court in Canada will be appointed by the federal government, whereas in the United States and Australia the system is quite different. Again, this is a strong argument for having more judges appointed and that those judges must be placed in the various centres of Canada. Professor Watson goes on to say:

There is no sort of reason other than a political reason for establishing the court or continuing the Exchequer Court. But