

Federal Court

The first point I wish to make is this. Under this new measure, much of the business which would normally have come before the ordinary trial courts and courts of appeal of the various provinces will now fall under the sole jurisdiction of the federal court or of the court of appeal. The minister has been gracious enough to admit this. At the present time, there is no provision under this legislation for an appeal court as such. Judges of the Exchequer Court sit for most of the time in Ottawa. All matters have to be tried in Ottawa and all applications in chambers have to be made here, usually through agents. The minister has lent an ear to representations from members of this party, members of the New Democratic Party and others and, as a result, judges nowadays do visit various centres in Canada from time to time. With that in mind, may I congratulate the minister.

● (3:20 p.m.)

I now want to refer to some of the evidence concerning the jurisdiction that the court has. During the last few weeks we have seen that Canada is made up of many regions. Every region has a different kind of environment. Every environment has to be understood by the people living in those regions. If a trial judge is able to weigh the evidence given in any matter in the light of the environment within which he was raised and understands, he can come to a more just decision.

What my amendment is asking is that judges live permanently in areas other than Ottawa, such as in Montreal, in the Maritimes, in Toronto, in Winnipeg, in Calgary, in Edmonton and in Vancouver. A court that has assumed much of the powers of the provincial courts should be accessible to the public who are seeking the remedies set out in the jurisdiction of the court. This is why I argued in the committee for concurrent jurisdiction, though I was ruled out of order.

More than that, Mr. Speaker, in view of the kind of jurisdiction the court has—and I will enlarge on this in a few moments—even one judge living in Calgary, one in Edmonton and one in Winnipeg could not possibly handle the amount of litigation that can be anticipated, since the new court has now taken over much of the role of other courts. In many of our cities there is a big backlog of cases, both civil and criminal. As far as my own home province is concerned, I do not know whether it is because of the character of the judges or our ability to get work done, there is no backlog. However, I understand that in some of the larger centres like Calgary and Toronto there is a backlog of cases.

Since I am talking about jurisdiction, let me examine what jurisdiction the court has and deal with the question why judges should sit elsewhere. I refer to page 9 of the bill, clause 17, which provides:

The Trial Division has original jurisdiction in all cases where relief is claimed against the Crown—

Pausing there, the crown is becoming a bigger body today. The state is becoming involved in more things than it did before. Since the crown is becoming involved more and more in matters that must be brought to the

[Mr. Woolliams.]

federal court, the backlog of cases will be tremendous. There will be a mountain of litigation that will have to be dealt with in this city. I suggest that the president of the court will be unable to cope with the work under the new act, even when his judges visit other centres. This is because of the extensive jurisdiction given to the court. The clause continues:

—and except where otherwise provided, the Trial Division has exclusive original jurisdiction in all such cases.

Subclause (2) provides:

Without restricting the generality of subsection (1), the Trial Division has exclusive jurisdiction, except where otherwise provided, in all cases in which the land,—

I pause to point out that the Crown owns a lot of land.—goods or money of any person are in the possession of the Crown—

To come to specific cases, let us consider the expropriation of land for national parks. There is a typical example that I should like to deal with briefly. I suggest that a judge who was born, raised and educated in western Canada would have a better appreciation of people's rights as they exist in national parks in the west. I believe I am not breaking the confidence of the Minister of Justice (Mr. Turner) when I say that he has stated that eventually he hopes, when the number of judges appointed to the court is extended, to appoint judges from western Canada on the same basis as appointments are made to the Supreme Court of Canada. I thought that this was a good idea because judges appointed from western Canada would give the court what I would call the western flavour.

Mr. Turner (Ottawa-Carleton): The president of the court is from Saskatchewan.

Mr. Woolliams: That is true. He was the deputy minister of justice for a long time, and did become somewhat central Canada oriented. He was educated at Saskatoon university, and if I may say this through you, Mr. Speaker, the president of the court was one of the great scholars in my home province. So it is clear that the court will deal with all disputes about land in which the crown becomes involved.

I want to deal with clause 18 which provides:

The Trial Division has exclusive original jurisdiction

(a) to issue an injunction, writ of certiorari, writ of prohibition, writ of mandamus or writ of quo warranto, or grant declaratory relief, against any federal board, commission or other tribunal; and

(b) to hear and determine any application or other proceeding for relief—

If the Industrial Relations Board meets in the city of Vancouver and exceeds its jurisdiction, normally the relief of the little man, if there were no appeal from the board, would be in the form of special remedy. If the board did not exercise its jurisdiction in accordance with the law, or if its decision was against natural justice, or if it did some other act which is one of the ingredients for going forward by special remedy—the prerogative