

Federal Court Bill

[*English*]

The bill will also operate to increase the jurisdiction which has traditionally been exercised by the Exchequer Court of Canada. The court will, of course, continue to exercise its present jurisdiction in relation to industrial property, trademarks, patents and copyrights. It will administer the law of expropriation if Parliament in its good judgment passes the expropriation bill which is now before it. It will continue to be responsible for income tax appeals, estate tax appeals and appeals against decisions in citizenship cases. But it will also exercise new jurisdiction. For example, the new trial division of the federal court will exercise concurrent jurisdiction in relation to bills of exchange and promissory notes, in relation to aeronautics and in relation to works and undertakings extending beyond the limits of a province. This means that a member of the public will have resort to a national court exercising a national jurisdiction when enforcing a claim involving matters which frequently involve national elements.

In this way it will be possible for litigants who may often live in widely different parts of the country to find a common and convenient forum in which to enforce their legal rights. Consider what might happen after an unfortunate tragedy in connection with an aircraft. The passengers may reside in various provinces. Instead of being obliged to institute cases in the province which may have particular jurisdiction, all the claimants will be able to decide on a common forum, thus eliminating duplication of effort, and obtain one judgment.

I should mention also that the bill will give the trial division of the federal court jurisdiction in relation to persons and claims beyond provincial boundaries. Canada, as an international personality, enjoys rights and jurisdiction beyond the territorial limits of the provinces, and there must be a court that has competence to administer the rule of law in that regard.

As a result of the offshore mineral cases decided by the Supreme Court some years ago, provincial boundaries are held to extend only to the low-water mark. I suppose that according to the terms of the judgment this decision would be limited to British Columbia, but there are those who feel the judgment could be more widely interpreted. In any event, in terms of pollution control, in terms of admiralty jurisdiction, in terms of conflict over royalties and oil rights, or litiga-

tion involving similar matters beyond the territorial jurisdiction of provincial courts, a way is now open to litigate in the new federal court.

The bill also has important ramifications from the standpoint of navigation and shipping. The ancient and unsatisfactory Admiralty Act is to be repealed and the jurisdiction formerly exercised by the Exchequer Court on its admiralty side will from now on be exercised by the trial division of the federal court. The admiralty jurisdiction has been clarified and extended in relation to such matters as ships' mortgages, through bills of lading and state-owned ships.

[*Translation*]

Several other provisions in Bill C-192 should be stressed, but I must limit myself to the main points. With regard to the very structure of the courts, I should perhaps mention that the right of appeal from the court of first instance to the federal court of appeal entails no restrictions.

However, an appeal from the Federal Court of Appeal to the Supreme Court of Canada can be brought by right, when the value of the matter in controversy exceeds \$10,000, or with the authorization of the Supreme Court or the Federal Appeal Court.

It should also be pointed out that the new Federal Court of Canada will be presided by a Chief Justice and an Associate Chief Justice. The Chief Justice will be the president of the Court of Appeal and ex officio a member of the Trial Division, while the Associate Chief Justice will be the president of and a member of the Trial Division and ex officio a member of the Court of Appeal.

Transitional provisions stipulate that the persons who, at the coming into force of the new legislation, were holding the office of judges of the Exchequer Court, will continue in office as judges of the new Court so that their independence and security are preserved.

Furthermore, the bill provides that the Federal Court of Canada will consist at the most of twelve judges, including the Chief Justice and the Associate Chief Justice. Finally, four at least of these judges, that is at least one third of them, will be chosen among members of the Bar or the Queen's Bench of the Province of Quebec.

[*English*]

I should like to mention briefly the new provisions dealing with the publication of the