

*Judges Act*

described this court as a costly one he probably was referring to the taxation process before the court which perhaps does not accord to counsel the same costs that would be accorded to them before a court of provincial jurisdiction. He might like to make that clear when he replies on second reading. I want to stress in the strongest terms my confidence in the Exchequer Court of Canada. I must rebut him with all the vigour I can summon.

With the greatest respect I must say that I think the accusation that the procedure of the exchequer court is cumbersome and costly should be rebutted also. It is my view, particularly in view of the recent revision of the rules undertaken by the president of the court, that it is probably the easiest court in the country, from a procedural point of view, for a private practitioner to practice before. Certainly in practice it was my experience that the proceedings moved faster and that the issues in a trial were reached quicker than in comparable courts of concurrent jurisdiction.

**Mr. Woolliams:** Mr. Speaker, I wonder whether the minister would permit a question. I can understand why he is now, as the Minister of Justice, making a defence of the court, but would he not admit that in cases of expropriation where land is taken by the crown from citizens of the country it is most costly to get experts to value the land and come into court to give evidence? Would he not also agree that there is a great deal of expense involved because of the necessity of making chambers applications in Ottawa from as far away as Vancouver and Calgary?

**Mr. Turner (Ottawa-Carleton):** I should like to take issue with the first example given by the hon. member. Surely any professional expenses incurred in an expropriation case relating to the fees of an assessor or the fees of a professional witness would be incurred by any litigant who would appear before any court. This does not relate to the procedure of the exchequer court but rather to the fact that professional witnesses are called by one or more of the litigants. On the question of counsel having to come to Ottawa, I may say that there is something to be said for decentralization of the administration of the court—

**Mr. Woolliams:** And the cost.

**Mr. Turner (Ottawa-Carleton):**—and I am looking into that. It has been my experience that it is easier for counsel and the parties to arrive at the real substance of the matter in

this court which is free from procedural wrangles and technical difficulties than it is before any other court of first instance.

As a matter of fact, I think it is worth considering the use of the exchequer court as a tribunal with general jurisdiction in appeal from administrative tribunals in this country. At the moment an appeal from the Canadian Transport Commission or from the tariff board can be made on a question of law or on a question of mixed fact and law only by way of a petition for leave to appeal to the Supreme Court of Canada. I think a good deal could be said for widening the jurisdiction of the exchequer court to give it a trial division and an appeal division. It seems to me that the right of appeal from fact-finding bodies is inadequate under our present law. I believe that if the exchequer court were broadened to include an appeal division this would fill that gap and also take some of the onus off the Supreme Court of Canada.

The hon. member for Fundy Royal (Mr. Fairweather) asked me how many county court judges in Ontario now occupy dual positions. He was speaking of judges who might assume temporary positions on boards and so on. I am afraid I cannot answer that question directly because no recent inventory along the line suggested by the the hon. member has been taken. So far as I know, however, we are not aware of any abuses and have had no complaints. I think the hon. member will recall that when the Judges Act was last amended it defined the position of judges fairly clearly. There is now a general provision in section 39 of the Judges Act which precludes a judge from receiving any additional salary or remuneration for performing any duty or service, whether judicial or executive, on behalf of the government of Canada or the government of a province, although of course he is entitled to reasonable travelling and other expenses while he is away from his ordinary place of residence.

The hon. member for Fundy Royal asked me what I thought of the ethics of retired judges returning to practice law before the courts. I should say that the practice has caused a good deal of controversy. I have found myself before the courts in an embarrassing situation against lawyers who have recently sat as judges on the bench of a court and are now practising again before that court. A good many barristers and judges feel that retired judges ought not to practice before the courts again and certainly not