

Expropriation

The Exchequer Court is a most sophisticated court because it has jurisdiction in respect of federal actions. I do not intend to get into that today. I say there is a whale of a difference between the Exchequer Court and a court sitting every week in Calgary holding trials or where applications can be made in chambers to perfect the proceedings for trial. This is where you obtain judges orders which are sometimes necessary as conditions precedent to having the matter heard in court. Much time is saved then or at a later date. The case is tried and you either get judgment or judgment is reserved.

Practicing lawyers are more familiar with their own courts, and they are more experienced there. Most lawyers in western Canada, Ontario and, indeed, in the Maritimes may be specialists in their own provincial courts, but not in respect of the rules which govern the Exchequer Court of Canada. These rules to which I have referred are entirely different. Most practicing lawyers may have one or two Exchequer Court cases in their lifetime, yet the rules and procedures are entirely different. Hence, as I said, such counsel have to hire outside lawyers in order to make sure their clients get justice. What average man can afford this luxury?

You must start an action in the Exchequer Court, as I said, by petition. In most courts you start the action by a statement of claim. This is a very simple process. Then, you have an examination for discovery. In many cases they are fishing trips to find out the strength of each side's case. You examine the opposite party to discover his knowledge of the case and determine the evidence.

In the case of an expropriation action, it is necessary to get an officer of the Crown appointed. If you cannot agree on the person you get a person named by a court order and the lawyer examines that person for discovery, and vice versa. When you use the provincial courts, the examination for discovery can be held at the local courthouse.

As I said in the beginning, there have been new arrangements, and you can now have examinations in Exchequer Court cases held in the local area, as in the Lake Louise case. I must say that the Crown was co-operative in that regard. The discoveries were held in Calgary, but this is the point I put to you. The discoveries were held in Calgary and the Crown sent out three counsel who lived in a nice hotel in that city. I agree they should stay in a nice hotel in my city. They were there for several days. Who paid

[Mr. Woolliams.]

this cost? The minister says this was done to save the taxpayer's money. Let me assure you, Mr. Speaker, that there is no record of what it costs to send lawyers across the country to Calgary, Vancouver, Halifax or wherever it is, but it is expensive. The airfare return to Calgary is \$212. These three individuals had to stay in the hotel there for a number of days. We do not know how many thousands of dollars it cost the Crown to hold these discoveries in Calgary.

If we had concurrent jurisdiction in our provincial courts we could save the taxpayers that money. If the Crown is going to spend that money, it would be better to give it to the claimant in the first place rather than waste the taxpayer's money. My friend laughs but these are arguments he cannot refute. They are correct. They are arguments based on experience with this kind of litigation.

There is another point I should like to mention regarding environmental knowledge. I am sure most hon. members will agree with me in this regard. A judge is not entitled to make a decision outside of the evidence he hears. He must base his decision on the evidence adduced of the value of the land which, in expropriation cases, is generally given by an appraiser. The judge may choose to accept the evidence given by the appraiser hired by the claimant or the evidence of the appraiser hired by the Crown. He may make a decision somewhere in between. The judge may also, as in one case, decide not to accept the evidence of either appraiser, but on the basis of his own opinion. In any event, the judge comes to a decision on the evidence.

The point I want to make is that the judge of a provincial court knows the environment, knows the site of the property, knows the economics of the province and knows the basic situation. I say that he could come to a decision that would be fair to the taxpayers of Canada and that would be fair in respect of the claimant much easier than someone who is more familiar with the situation here in Ottawa or elsewhere in Canada. So, I say that a judge from the environment in which the land and property is situated would have a greater built-in knowledge concerning the worth of a piece of land. In other words, a western judge would know more about western properties than would an eastern judge. And I believe that you would agree that an eastern judge would know more about land expropriated near Toronto for a federal project than would a western judge.