bank because I do not want to spoil their business, but the bank was negligent. The second fellow with the same name had an account in the same bank with $21 in it. The fellow with $21 died. His will was probated. Probably the signatures of the two men were never compared in the bank. The estate got the $12,000 and the fellow still alive was left with only $21. He had not written any cheques for a number of years, but shortly after this occurrence he decided to return to Scotland and wanted to draw out some money for his trip. He then found he had only $21 in his account instead of $12,000. The mistake had been made by the bank. The conclusion I am drawing is that these great bankers can also make mistakes. Only under cross-examination can such errors be pointed out to a judge or jury, and that is why I am a little concerned about evidence going in by affidavit.

We know that officers of a company can refer to documents. That is the law today. A responsible officer of a company can give certain facts from reviewing certain even hearsay documents and have them admitted either in a criminal or civil case. There are no problems in that regard.

In his speech the minister threw out these amendments to us and made it sound like the proposed changes were coming from heaven. I thought the Crown might have gone a little farther to help out the subject.

I want to refer to a particular case, and I have never been quite sure whether the Exchequer Court has followed the decision laid down. It is the case of the City of Saint John *v.* Irving Oil Company Limited. What is it all about? It is very important in regard to the law of evidence. The case deals with the expropriation of land.

Mr. Turner (Ottawa-Carleton): What is the citation?

Mr. Woolliams: It is 1966 Canada Supreme Court Reports, at page 592. You will find it down at the bottom of the page. What is this all about? In order to value land that is expropriated you retain expert appraisers to come up with a value. They go out and talk to A, B, C, D and E about sales of similar land in the area under similar circumstances and of similar commercial value. From those discussions they arrive at an opinion as to what the land is worth.

In the last court case I had I was challenged on the ground that although the opinion evidence was admissible it could be disregarded because unless I called A, B, C, D, E, F, G and H—all these people—it would become straight hearsay. But fortunately the judge in that case had made a decision on this matter previously. That is why I am always thankful for the Supreme Court of Canada. The higher the court you go to, the more just it becomes. The judgment says:

> The nature of the source upon which such an opinion is based cannot, in my view, have any effect on the admissibility of the opinion itself. Any frailties which may be alleged concerning the information upon which the opinion was founded are in my view only relevant in assessing the weight to be attached to that opinion, and in the present case this was entirely a question for the arbitrators and not one upon which the Appeal Division could properly rest its decision.

This court really said, "Look, arbitrators and other courts have based their findings on valuations on opinions based on hearsay evidence. They have not scrutinized the hearsay evidence and examined and measured the weight of the opinion evidence for it to become admissible. That may seem quite a mouthful but basically it boils down to this, that I do not want to see that in the statutes. I read this opinion to the judge before whom I appeared and he then became silent. There is nothing worse to a counsel than a judge becoming silent. You do not know whether he is with you, and the final judgment may not be as good as your client anticipates.

Surely in a day when the Crown is reaching out with stronger tentacles to expropriate land for various reasons, a poor subject who has only a little piece of property and has to hire appraisers should not be put to the cost of calling as witnesses all the people who gave various opinions to the appraisers. If someone had an expert who had examined 110 sales in order to come to an opinion on a certain problem he might think it necessary to call all those people. If the Crown were really concerned—and I am sure the Department of Justice is aware of this situation—here is a case where the Crown could move in to help the subject. There is talk about waiving the hearsay rule. Here is one field in respect of which the Canada Evidence Act should be reviewed. I will ask the minister a question before the committee. I understand that ministers become witnesses now. It is nice to find out some of these things.

• (4:10 p.m.)

Mr. Turner (Ottawa-Carleton): Would you consider me a hostile witness?