



March 1, 2016

Judicial Compensation and Benefits Commission
99 Metcalfe Street, 8th floor
Ottawa, Ontario K1A 1E3

Dear Commissioners:

I make this respectful submission to bring to your attention a small gap that I have discovered in the *Judges Act*. It concerns the availability of the removal allowance to the survivor of a justice who dies while sitting in Labrador.

In November of 2009 I was granted the privilege of presiding in Labrador as the only Supreme Court justice resident there. Prior to my appointment, I practiced law in St. John's, as had four of my five predecessors (the fifth had been a Provincial Court Judge sitting in the central part of the Island).

Upon appointment, I gave our Chief Justice a commitment to sit in Labrador for up to 5 years. He had wisely decided that appointments to Labrador should be for several years. This is in fairness to the community so as to ensure that Labrador is not always "training in the new judge". By the same token, a soft commitment to ultimately repatriate a Labrador appointment is made in order to attract a reasonable level of candidate to this remote and isolated region of the Province. The commitment to me was honoured by my transfer to the judicial centre of St. John's in September of 2013.

The remoteness of Labrador is reflected in the higher cost of living there. By way of example, in addition to higher costs for groceries and other necessities, a return airfare to St. John's costs, at a minimum, \$800. It is for this reason the Labrador justice is provided the s. 27(2) northern allowance, the same as for justices in the Territories.

The cost of my family's move to Labrador was covered under s. 40(1)(a) and our transfer to St. John's was reimbursed pursuant to s. 40(1)(b). Each of these moves cost in the order of \$25,000 for my wife and me – obviously it would be more for a family with children who were moving with them.

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Sections 40(1)(c) and (d) of the Act provide removal allowances for a justice in any of the three Territories (or his or her survivor) in certain circumstances, including upon his or her death. These removal allowances are not available to the Labrador justice. I respectfully submit that they ought to be.

I recognize that the allowances referred to contemplate a move to a province from a Territory. What I contemplate is a move from one part of a province to another. Nevertheless, the principles are the same. The allowances recognize that when a judicial vacancy occurs in one of the Territories, there may not always be suitable candidates for appointment resident in the area. In order to attract such candidates the cost of a move to the Territory and the cost of ultimate repatriation are covered. This is as it should be.

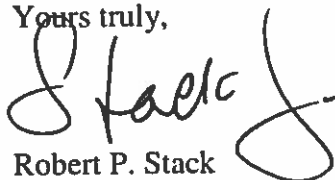
The same is true of Labrador. Although it is desirable to have a Labrador resident appointed to the Supreme Court bench there, the reality is that none of the justices appointed there to date has been from Labrador (my replacement was resident in Corner Brook). Each of us relocated from the Island and was eventually transferred back to the Island.

Although I was fortunate not to die during my tenure in Labrador, I naively assumed that in the case of such an eventuality my widow would be repatriated to the Island. I was very much surprised when glancing through the *Act* to see that such a benefit would not have been available to her.

I am aware that other provinces are also large and that justices relocate to remote locations upon appointment. Nevertheless, I also believe that upon a fair assessment it can be seen that the Newfoundland and Labrador scenario is closer in kind to a relocation from a province to a Territory. It is less likely that someone local will be appointed and it is more likely that the justice (or survivor) will want to repatriate at the end of his or her career.

One of the challenges our Chief Justice faces is getting superior candidates to agree to a Labrador appointment (I will let others assess whether this was a hit or a miss with me). For at least the foreseeable future it would be my guess that the Labrador resident justice will continue to come from Newfoundland. To the extent that the situation remains thus, I believe that it is in the best interests of the judiciary in this Province for the Labrador justice to be given the same s. 40 considerations as the Territorial justices.

Yours truly,



Robert P. Stack
JUSTICE