

The Honourable Jacqueline R. Matheson  
Chief Justice



Supreme Court of  
Prince Edward Island  
Trial Division

Sir Louis Henry Davies  
Law Courts

January 21, 2008

Judicial Compensation and Benefits Commission  
99 Metcalfe Street  
Ottawa, ON K1A 1E3

Attention: Ms Sheila Block

Dear Ms. Block:

I am writing at the request and on behalf of the judges of the Supreme Court of Prince Edward Island, Trial Division to advise of their disagreement with the proposal being made by some appellate judges to the Judicial Compensation and Benefits Commission, that appellate court judges receive greater remuneration than trial court judges. The majority of the trial judges of this court unanimously oppose such a salary differential. One judge has abstained from discussion on the issue as he is a member of the executive of the Superior Court Judges Association.

The Prince Edward Island Supreme Court consists of two divisions, Trial and Appeal. Judges of each division are ex officio members of the other division and may sit as ad hoc judges in the other division. There has been an increasing demand for the services of trial judges from the Appeal Division and a trial judge has participated in 36% of the decisions rendered by the Appeal Division in the past 12 months. This type of participation illustrates there is no differentiation between the degree of intellectual ability required to sit on an appeal as opposed to conducting a trial. Traditionally, trial and appellate judges have been regarded as having equal stature and the Supreme Court Act (R.S.P.E.I. 1988 Cap S-10) recognizes this in that seniority is based on the date of appointment to the court, not on the court to which one is appointed.

Hierarchy alone is insufficient to justify a salary differential and as Chief Justice Bowman has pointed out this proposal... "represents an unjustified diminution in the status of trial court judges and in the public perception of their essential role in the judicial system." Trial judges are the public face of justice in Canada. They have the same qualification requirements for appointment as do appellate court judges, but work individually. The responsibility of a trial judge is borne alone, not diffused among a

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panel of three. The arguments against a salary differential were ably articulated by our colleagues, Justice Campbell, Hugessen and Shaw in briefs already presented to you. The justices of this court adopt the views expressed by these judges, as well as those of Chief Justices Bowman, Green, Brennan and Smith.

On behalf of the judges of the Supreme Court of Prince Edward Island I submit the proposal for a salary differential between the trial and appellate judges should be rejected by the Judicial Compensation and Benefits Commission as there is no sound historical, constitutional, or principled basis for such a differentiation.

Yours very truly



Jacqueline R. Matheson