

Federal Court Bill

This bill adds a further dimension by allowing the courts of the country to ensure that administrative tribunals and federal boards are exercising their jurisdiction within that jurisdiction and in accordance with the law as set forth by Parliament, and without interfering with, interjecting or substituting policy or administrative discretion. I think that we in Parliament may have to look into an administrative procedures bill some day that will set minimum standards of procedure for these federal tribunals to ensure that federal boards and commissions operate procedurally in accordance with the principles of fair play and what the courts have called the principles of natural justice.

In any event, this measure does go some considerable way, I hope, toward improving an area of the law that has always been vague under the common law—public administrative law, the relationship between the courts and federal tribunals, and between the Crown and the citizen. I look forward to hearing what other members of the House will have to say about the matter.

Mr. Robert McCleave (Halifax-East Hants): Mr. Speaker, I think this is a rather interesting day in the House of Commons. Perhaps it is of more significance to those of us who are lawyers because we are dealing with this very important measure, but it is also significant because two lawyer members of the House have received a tribute from everybody here. I refer to the right hon. member for Prince Albert (Mr. Diefenbaker) and to the Solicitor General (Mr. McIlraith).

Ordinarily the hon. member for Calgary North (Mr. Woolliams) would be replying to the Minister of Justice (Mr. Turner). This is because the hon. member for Calgary North scrutinizes the Minister of Justice whereas I scrutinize the Solicitor General. However, the hon. member for Calgary North cannot be here today, and I think this is the kind of day on which it is safe to let the Solicitor General disappear from one's view for a while. I hope that after 30 years in the House he has earned at least some small celebration. As a matter of fact, I am going to be irreverent enough to hope that either the Solicitor General or the right hon. member for Prince Albert has bought the other a beer—just one beer; I do not want to be extravagant—and perhaps they are sharing it from two straws.

Mr. Knowles (Winnipeg North Centre): You don't know them very well.

Mr. McCleave: In any event, I join in the appreciations that have been expressed of their total of 60 years distinguished service.

Mr. Bigg: And sobriety.

Mr. McCleave: And sobriety. I think I know them well enough for that. Certainly they will be perfectly safe company for the hon. member for Winnipeg North Centre (Mr. Knowles) during an evening.

I think the minister is right in changing the name of the Exchequer Court since it has embraced wider purposes than those for which it was originally established. I have put down the irreverent note that we should call this bill the son of the Exchequer Court Act, but that is not really so; rather it is the creation of something that has the flexibility of provincial supreme courts, their ability to move about the country and exercise jurisdiction in certain fields. The aeronautics example given by the minister is probably as good as any. In this regard there will be no controversy. If there is controversy at all when the bill is examined in the Standing Committee on Justice and Legal Affairs, it will be as to certain of its details. In making a few remarks this afternoon I should like to mention one or two matters that bother me and my associates, so that the minister and his officials will have the chance to look at these points over the recess. I should also like to make a pitch for one important amendment to the schedule, one which I think could be made and would be very helpful to a lot of people to whom the new Divorce Act does not apply.

The minister has made much of the provisions of clause 28 concerning appeals from federal boards and commissions to the new federal court of Canada. I think this is an important step. However, I think its application will be a lot broader than the minister suggested. From reading the clause I would have thought some pretty good appeals could be launched on findings of fact, if only to determine whether those findings of fact were erroneous or not, in addition to whether they were perverse or capricious. All in all, I think the provisions relating to appeals from administrative boards, commissions, tribunals, and so on, are very generous and that anybody who feels aggrieved by decisions handed down by such tribunals will really be able to have his day in a federal court.