

be, we will be in trouble. I sincerely hope that the Committee on Constitutional and Legal Affairs will give this subject very serious attention.

**Hon. Chesley W. Carter:** Honourable senators, when our leader introduced the resolution before us, he opened up a vast but very timely topic, and I should like to join with all those who have complimented him on his very lucid and scholarly presentation.

Before going further, I should also like to congratulate all who have preceded me in this debate on the excellence of their contributions. Seldom has such a high quality of debate been sustained through so many speeches, from laymen as well as from eminent legal authorities, as we have already heard on this subject.

My interest in the subject matter of this resolution stems from my experience as a sitting member of the House of Commons. I was no sooner elected than I came face to face with the fact that the Canadian National Railway as a crown corporation was a law unto itself and could make decisions drastically affecting the lives of my constituents against which they had no redress. It was of no use to write to the minister. He merely passed my letter on to top management of the C.N.R. and a few months later he would transmit back to me the reply he had received.

The same was true of the then Board of Transport Commissioners which had some power of regulation over the C.N.R., but I had the impression that most of the decisions made by that body were in favour of the crown corporation.

Louis J. Jaffe in his book entitled *Judicial Control of Administrative Action*, after studying the operations of the Interstate Commerce Commission and its dealings with the United States railroads, asserts that such bodies tend to become "industry-oriented" and "regulation-minded". "They develop a presumption in favour of regulation." This is perhaps one aspect that the Senate Committee on Legal and Constitutional Affairs, if this resolution passes, might inquire into with respect to such tribunals as the Canadian Transport Commission, the National Energy Board, the Canadian Radio-Television Commission, as well as the National Capital Commission, the Unemployment Insurance Commission and other bodies with similar powers.

We have to think back only a few years to the decisions made in connection with the location of the new railway station here in Ottawa and the failure to remove the Beach-

burg Line to see that the C.N.R., the N.C.C. and the Board of Transport Commissioners all acted in a very arbitrary manner without any thought or regard whatsoever for the rights and interests of the citizens affected.

As a result, people who bought lots and built homes near the Beachburg Line with the understanding that this line would be removed in accordance with the Greber plan, which had been accepted by the Canadian Parliament, suddenly found that the line would remain, with consequent devaluation of their property, and that they had no redress whatsoever.

Shortly after I was elected Member of Parliament, while investigating the claim of one of my veteran constituents, I discovered section 65, subsection (3), of the Pension Act, which says:

Except as hereinafter otherwise provided, every decision of an Appeal Board of the Commission is final.

And that is so, despite the fact that the appeal board may consist of one or more of the commissioners who had already adjudicated that veteran's claim. The phrase "as hereinafter provided" means that under certain circumstances the appeal board may, and I stress the word "may", grant the veteran leave to have his case re-opened.

As honourable senators are aware, most of my constituents were fishermen and merchant seamen. One very silly regulation that came to my attention was made under the Merchant Seamen's Compensation Act. In this case the father, a merchant seaman, and the mother had both died leaving one child, and a home in a dilapidated condition. The obvious person to look after the child was his married sister who had a family of her own and, though in poor circumstances, had a much better and more comfortable home than that left by the parents.

The extra burden of providing for her little brother would drastically lower their living standard, but because of this silly regulation she could not get the financial payments provided for her brother under the Merchant Seamen's Compensation Act unless she left her better home and took her family to live in the dilapidated home left by her parents.

Quite frequently in this chamber we pass bills which, while they have nothing whatever to do with fisheries, nevertheless include the provision of section 64 of the Fisheries Act.