

be followed here. If you are providing for an appeal to the minister, what is your position? In that regard the report of Lord Sankey's commission, which was tabled in the House of Commons and the House of Lords and has since been accepted as a cardinal contribution to the maintenance of the liberty of the subject, has this to say:

In future legislation parliament should proceed on the principle that no minister (in which word we include any officer of a minister acting under his orders) should give a judicial decision in any dispute . . . in which departmental interest prevails. If such cases appear likely to arise, parliament should provide for determination of the dispute by a ministerial tribunal functioning independently of the minister.

If you are going to deny that right of appeal, your position is this. If there is no appeal the servant is indeed the master, for the appeal is to the master. An appeal to the minister is merely illusory and a formality; in addition, an appeal to the minister places him in the position of being a judge in his own cause. There is also a further point in that connection, that a person should not be condemned unheard, that he has a right to equality under the law and to the application of the principle that one shall not be discriminated against unfairly within any one class. All these provisions and recommendations of the Sankey commission are set at naught by section 37, which simply provides that there is no appeal except to the minister which, at the risk of reiteration, I say is an appeal to the person concerned himself. It is interesting to read what the Sankey report has to say with regard to appeals to the minister from the decision of an administrative board:

Indeed we think it is clear that bias from strong and sincere conviction as to public policy may operate as a more serious disqualification than pecuniary interest. No honest man acting in a judicial capacity allows himself to be influenced by pecuniary interest; if anything, the danger is likely to be that through fear of yielding to motives of self-interest he may unconsciously do an injustice to the party with which his pecuniary interest may appear to others to identify him. But the bias to which a public-spirited man is subjected if he adjudicates in any case in which he is interested on public grounds is more subtle and less easy for him to detect and resist.

We are here considering questions of public policy and from the public point of view it is important to remember that the principle underlying all the decisions in regard to disqualification by reason of bias is that the mind of the judge ought to be free to decide on purely judicial grounds and should not be directly or indirectly influenced by, or exposed to the influence of, either motives of self-interest or opinions about policy or any other considerations not relevant to the issue.

We are of opinion that in considering the assignment of judicial functions to ministers parliament should keep clearly in view the

maxim that no man is to be judge in a cause in which he has an interest . . . Parliament would do well in such a case to provide that the minister himself should not be the judge, but that the case should be decided by an independent tribunal.

These views, as expressed by this commission which was representative of the greatest leader of both British houses of parliament and of the bench, deserve consideration. I realize that the minister takes the view that certain control is necessary in order that this legislation may be carried into effect, but surely any person whose rights are unjustly interfered with should have a right to appeal beyond the minister. I can see no reason why a question of one's liberty or of one's rights as a citizen should not be subject to appeal, while in connection with monetary matters there should be an appeal to the exchequer court. On the one hand the individual has no appeal when rights are swept aside. On the other hand if a question arises as to the fair value of any property, debt, obligation, claim or service, then there is the right of appeal to the exchequer court.

I ask the minister in what way this control would be interfered with if those who administer the law, the servants of the people, were to realize that when they did wrong or acted unfairly there would be a right on the part of the aggrieved person to appeal to the courts as is provided in section 38? I can do no more than say that, however desirous he may be to perpetuate these controls, surely he should be as anxious and as zealous to assure those whose rights are interfered with unfairly a right of recourse to the courts without which there can be no justice or equality under the law.

Mr. ABBOTT: I should be very glad to say a word on this question of appeal. I know my hon. friend will believe me when I say that I am just as anxious as he is that appeals to our courts should not be unduly curtailed. I hold with him that legislation which takes away from the subject the right of appeal to the courts in a proper case is not proper legislation.

Under this proposed measure there are three cases in which an appeal to the courts is provided. First, there is the case of the determination of fair value of property under section 38; second, there is an appeal from a prohibition made by the board under section 49 on dealings with a person's property in order to ensure the carrying out of the provisions of the act, and, third, there is an appeal from a decision of the board forfeiting currency valued at not over \$100 which has been dealt with contrary to the act. I do not