under clause 28 in respect to those decisions or orders of commissions and boards that are not of an administrative nature, or are not required by law to be made under the judicial or quasi-judicial basis, to review them when one of three things must happen.

These are where a board has:

—failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction;

Natural justice, as hon. members know, is the right to be heard, the right to receive notice, the right to cross-examine the other party, the right to have the opportunity to force production of documents, and the right to have the reasons for judgment, although that has sometimes been refused in some of the federal Boards with which hon. members are familiar.

Mr. Lewis: And that is the ground for writs of certiorari.

Mr. Turner (Ottawa-Carleton): I will go into that in a moment.

The second thing which could happen is if a board:

—erred in law in making its decision or order, whether or not the error appears on the face of the record;

And the third thing that could happen is where a board:

—based its decision or order on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it.

While it is true that the grounds for review may have been duplicated in some respects, may I suggest to hon. members that the grounds with respect to the prerogative writs under clause 18 contain some differences. First of all, it is clear that an error in law can be attacked, whether or not it appears on the face of the judgment, whether or not, in other words, reasons are given for judgment. In other words, it is apparent, under section 28(1) (b), that no federal tribunal can avoid a review process merely by refusing to give reasons for judgment. The case law on the prerogative writs is not entirely clear on the point, as I think my hon. friend for York South said.

• (5:30 p.m.)

Mr. Lewis: I agree.

Mr. Turner (Ottawa-Carleton): Paragraph (c) goes far beyond what the prerogative writs allow at the moment, particularly when they ensure that the federal board has at least to pay some regard to the evidence before it.

Mr. Brewin: Mr. Speaker, will the minister permit a question.

Mr. Turner (Ottawa-Carleton): Mr. Speaker, may I develop what I am saying. This is a rather complicated thought process and I am trying to point out distinctions as between clauses.

Finally, under clause 29 the present avenues of appeal that may be found under various statutes, whether those statutes be the Tariff Board Act, the Broadcasting Act, the Railway Act, the National Energy Board Act or the Industrial Relations and Disputes Investigation Act, are preserved. An appeal that may lie from any one of these boards by way of petition for leave to the Supreme Court of Canada is now preserved, with the intermediate step of the federal board of appeal being added. In other words, the statutory appeal right, by adding an intermediate step, is preserved in all statutes. In most of these statutes an appeal lies from a federal board or tribunal on a matter of law or a matter of jurisdiction and, in some statutes, on a matter of mixed law and fact. Thus the three review and appeal procedures found under clauses 18, 28 and 29 are alternative and cumulative.

Mr. Lewis: Would the minister mind explaining again how he reads clause 29?

Mr. Turner (Ottawa-Carleton): Yes, Mr. Speaker. If there is an appeal available from a board or commission under any statute currently in force, then that appeal is preserved; but there is an intermediate appeal to the federal court of appeal and thence to the Supreme Court of Canada. I think if you read clause 29 and then read section 31 which deals with appeals to the Supreme Court of Canada, this will be made clear.

Mr. Lewis: I do not see where the federal court of appeal comes in. I do not see where there is an intermediate step to the federal court of appeal. Does not clause 29 specifically say that where you have a right of appeal under another statute, then the right of review is removed?

Mr. Woolliams: That is right.

Mr. Turner (Ottawa-Carleton): Mr. Speaker, I do not read it that way. Let me say that clauses 18, 28 and 29 are not mutually exclusive provisions. They are alternative and cumulative. I think the opening words in clause 28 and the opening words in clause 29 make that quite clear. They say that a man who feels aggrieved or some entity that feels aggrieved may choose to proceed under clauses 18, 28 or 29, or under all at the same time, if that is open. That is the purpose of this; we hope that it will be so.

Why do we include all three clauses? Why should there not be some simplification? We want to make it perfectly clear, first of all, that we seek to preserve prerogative rights as they now exist, merely transferring them to the jurisdiction of the federal court instead of leaving them with the superior courts. The reason for that is this: one of the complaints of having multiple jurisdiction is that a federal board, such as the Canada Labour Relations Board, for example, could, under the present situation be deliberately harassed by a number of jurisdictions. Somebody who wants to attack a decision of the Canada