

Whatever judicial supervision is provided over provincial commissions is provided within the laws of each of the provinces. Provision exists for judicial review of the federal commission provided for under this law and this is properly done by the Federal Court. But a decision of the Federal Court cannot and should not be used as some means of judicially supervising provincial commissions.

Mr. Nowlan: I did not suggest that.

Mr. Woolliams: I wish to thank the Minister of Justice for indicating he would accept a question. I will be brief. I ask him, to the best of his ability, having read sections 28 and 18 of the Federal Court Act, if, on a pure question of fact—I do not mean a finding of perverse fact or capricious fact—there is an appeal?

I would ask the minister a second question and he can answer both. Did he not promise in committee when I raised this question that Section 28, which has been subjected to legal scrutiny, would be amended? Knowing the weaknesses of Section 28, will the minister not come clean and say that, under the circumstances, there is no proper, legal or just appeal from this bill?

Mr. Basford: Mr. Speaker, with regard to that question, the right of appeal on questions of fact is clearly set out in Section 28(1) of the Federal Court Act. A review may be made if the commission or tribunal bases its decision or order upon an erroneous finding of fact which it made in a perverse or capricious manner, or without regard to the material before it.

There is a whole line of cases dealing with questions of fact and how the Federal Court has exercised its jurisdiction under the section. I might refer the hon. member to *Mojica v. Minister of Manpower and Immigration*, (1977) 1 Federal Court, 458, and to—

Mr. Woolliams: Answer the question. Don't read off a bunch of names.

Mr. Basford: There is a whole line of cases which clearly give the legal interpretation which the Federal Court Act has given to Section 28(1)(c). I undertook in committee that the Federal Court Act, which I announced quite some time ago, would be subject to review. I did not—I want the hon. member clearly to understand this—undertake to amend Section 28. I said it was part of the review process to review Section 28.

Mr. Woolliams: Mr. Speaker, I rise on a point of privilege. I must say that this bill went ahead at report stage before all the committee reports were published; I checked that very carefully. The Minister of Justice did say in committee, and left no reservation whatever, that Section 28 would be reviewed.

Mr. Basford: That is what I have just said.

Mr. Woolliams: My other point of privilege is that the Minister of Justice knows, if he knows anything, that every (a), (b) and (c) of Section 28 concerns questions of law. On a question of pure fact there is no appeal from the tribunal. We

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are dealing with human rights and natural justice. We have been good friends over the years, but tonight I am shocked that he would mislead or try to mislead the press and the House as Attorney General and Minister of Justice of this country.

The Acting Speaker (Mr. Turner): Order, please. I suggest to the hon. member for Calgary North that that is not a question of privilege but a dispute over facts.

Hon. Marcel Lambert (Edmonton West): Mr. Speaker, the procedures which have been chosen by the Attorney General (Mr. Basford) for setting up the human rights commission seem indeed strange and extraordinarily complicated. It would have been far wiser, speaking primarily of the hierarchy for dealing with an appeal, to have either a one-man commission or more than one man, since there is provision for at least five members of the commission and at the most eight. Why go to all the trouble of appointing a tribunal? After all, the province of Ontario has had a great deal more experience in human rights codes. In 1971 it amended its human rights code, which was chapter 318 of the revised statutes of the province of Ontario, to provide specifically under new section 14d(1) the following:

● (2220)

Any party to a hearing before a board may appeal from the decision or order of the board to the Supreme Court in accordance with the rules of court.

In effect, that is all this amendment is saying.

An hon. Member: Hear, hear!

Mr. Lambert (Edmonton West): There should be no tribunal. This is another blessed bureaucracy. According to Section 39, people will be chosen from a panel of prospective members, which will be established and maintained by the governor in council. Mr. Speaker, that is nothing but a panel of fat cats who are going to have the opportunity to be paid a salary to be prescribed by a bylaw of the commission. Why on earth go through the process of a tribunal, if the procedure to the Federal Court is directly from the Immigration Appeal Board, the Tax Review Board, the Canadian Transport Commission or from CRTC? Why have a tribunal set up which is to consist of three on an ad hoc basis from a panel established by the governor in council? Why have a tribunal, and then have to rely upon devious wording in the Federal Court Act at Section 28?

It is a matter of law. We have seen it in many cases, where the federal court has denied its jurisdiction because an appeal purported to be on a matter of fact. In the provincial legislation of the province of Alberta there is parallel right of appeal from the provincial human rights commission to the Supreme Court of that province. In Ontario it is an appeal de novo to a judge of the Supreme Court.

Why have this sort of practice? Why have this complicated procedure where there is some doubt? The hon. member for Calgary North (Mr. Woolliams) is entitled to his legal opinion as much as the Attorney General of Canada is to his. The hon.