

*Federal Court Bill*

pensions and appeals from Canadian Pension Commission decisions. The wording of the clause relating to jurisdiction with respect to appeals is very broad. It appears to give a right of appeal to the federal court of appeal from any federal court, board or commission. But the appendix to the bill does not mention the question of veterans' disability pensions or appeals from the Canadian Pension Commission. To that extent the bill contains an anomaly which ought to be cleared up, and I ask the minister to examine that aspect of the matter. I am also intrigued to see that marshals are to be *ex officio* officers of federal courts.

**An hon. Member:** You can almost smell the gunsmoke.

**Mr. Aiken:** The idea stems, I suppose, from our establishing in this way a federal presence; and we must distinguish and continue to distinguish in courts under federal jurisdiction, between the federal jurisdiction of marshals and the provincial jurisdictions of sheriffs. Will the minister advise us why it was necessary to include both marshals and sheriffs in the bill? Certainly, all this brings to mind the annals of the old American west.

We hope the provisions of this bill will not create the kinds of difficulties which seem to arise south of the border. There jurisdictional conflicts arise when people acting under the federal power step into areas that seem to lie within the jurisdiction of the local or city power. This causes me some concern. Although I wanted to make some other remarks, in the interest of seeing this bill pass I shall say no more.

**Mr. Mark MacGuigan (Windsor-Walkerville):** Mr. Speaker, I had in any event intended to be brief, and since there are only a few moments left for me to speak I am forced to be. I had intended to heap encomiums on the minister's head, and to describe the rungs in the ladder of law reform he is building. However, may I instead touch on several substantive points, including two raised by the hon. member for Greenwood (Mr. Brewin).

It is true that there is a fairly complex relationship between clauses 18 and 28. Clause 18 apparently retains all the old rights to the prerogative writs and leaves jurisdiction over them in the hands of the trial division, while clause 28 relates to certain new rights of appeal. That clause would appear to supersede clause 18, if an appellant were to take advantage especially of 28 (3).

[Mr. Aiken.]

It can be argued that clause 18 is not necessary at all, and that clause 28 could even have eliminated all recourse to the old prerogative writs in matters pertaining to review of decisions of administrative boards. I think it is fairly safe to predict that clause 18 will not be used very much in the light of advantages of the appeal procedure stemming from clause 28. In fact, it is hard to imagine circumstances which might lead to review under clause 18 and not under clause 28. Therefore, it seems safe to predict that clause 28 will supersede clause 18 from the point of view of practice.

The hon. member for Greenwood also raised the question of the breadth of the grounds for appeal granted by clause 28. Possibly he also had in mind the question of the grounds for review under clause 18. When I was studying administrative law in law school some 12 or 13 years ago, the whole course was devoted to the question of prerogative writs and how to make certain that a case which had been heard by a board came before some reviewing body. Anyone who has experienced that kind of frustration in study or in practice will appreciate the advantages of the tidy and effective procedure provided by clause 28.

It seems that the minister and the department have hit a nice balance. They have not taken away the rightful and necessary freedom of action which a board must have in order to fulfil the purposes for which it was set up; at the same time they have provided that in cases where there is a violation of natural justice, where a body has operated beyond its jurisdiction or where there is an error of law, there is a right of appeal as laid out in clause 28.

I should like to deal with these matters in more detail, but considering the hour I will sit down and await the further proceedings of the House.

Motion agreed to, bill read the second time and referred to the Standing Committee on Justice and Legal Affairs.

**Mr. Macdonald (Rosedale):** Mr. Speaker, while I know this House abhors a vacuum of silence, since I have not suggested another item of business for the House to consider I wonder if we might not sit here in respectful silence until the Gentleman Usher of the Black Rod knocks.

**Mr. McCleave:** There you have it: the program of the Throne Speech is running dry already.