

under these circumstances? I do not know. I find it very difficult to imagine any. I suppose it might be argued that there is no such regulation, or that the regulation does not mean what it says, or something of the kind. But it is not with that sort of argument that any licensee would take to court; it would be on the facts, as to whether the article in question is libellous, whether it violates the regulations.

The idea of an appeal is not mine. I did not draw this section; nobody in this house drew this section; and nobody here, perhaps, is much concerned about whether there is to be an appeal or not, at least under these circumstances. But I say that if there is to be an appeal it should be a real appeal: we should not deliberately so tie the hands of the appeal judge that he cannot inquire into the facts of the case as well as the law before he comes to his decision. Far better to have no right of appeal at all than one which is jug-handled, which hog-ties the judge so that his decision is not such as will command the respect of the public. If there is to be a right of appeal to a judge, let the judge be free to inquire into the facts and, as I have said, to consider and determine questions both of law and of fact. It was with this idea in mind that I moved the amendment. Subsection (7) of section 7 of the bill is as follows:

Where the corporation orders the suspension of the licence of a private station under subsection six, the licensee may be made by leave of a judge of the Exchequer Court of Canada appeal against such order to the said court . . .

The amendment would strike out the words following:

. . . on any question of law arising out of the making of such order . . .

Then the section continues:

. . . and the said court may stay the operation of such order or suspension pending its final decision and may affirm, alter or rescind the order appealed against.

We dropped the words:

. . . on any question of law arising out of the making of such order

And so we left it open to appeal on questions of law or of fact, or on mixed questions of law and fact, which are perhaps the most important. In this way we have established a real appeal instead of an illusionary one, and I think all honourable senators will agree that an illusionary appeal is worse than no appeal at all.

I submit to my colleagues that the amendment should carry, and that the report of the committee should be concurred in. Let me point out that a number of lawyers, including the chairman, took part in the deliberations of this committee and, with the exception of the honourable gentleman from Inkerman (Hon.

Mr. Hugessen), every lawyer on the committee voted in favour of the amendment.

Hon. Mr. Beaubien: That does not make it right.

Hon. Mr. Roebuck: No, but it is something that you cannot brush aside.

Hon. Mr. Beaubien: I voted against the amendment myself.

Hon. Mr. Roebuck: Yes, and that fact is also a matter for consideration.

Hon. Mr. Beaubien: Thank you.

Hon. Mr. Roebuck: I shall record that as a point scored by the opposition, but surely we cannot brush aside as unimportant the fact that all but one lawyer on the committee voted in favour of the amendment, which after all involves a question of law.

Hon. Mr. Beaubien: Is it not true that many of the lawyers on the committee were themselves confused?

Some Hon. Senators: Oh, oh.

Hon. Mr. Roebuck: I know of no one who was confused except the gentleman who did not hear the discussion because he came in late. I am unaware of any confusion about the amendment. It is perfectly clear, and so is its purpose. It is also clear that if the amendment is not carried we shall have an appeal which is not worth a hoot.

Hon. Mr. Dupuis: Was a vote recorded on the amendment?

Hon. Mr. Roebuck: Yes, and the amendment carried, I think, eight to five.

Hon. Mr. Fogo: May I ask the honourable senator from Toronto-Trinity (Hon. Mr. Roebuck) a question? Is it not a fact that this is the usual type of appeal from administrative boards such as the Workmen's Compensation Board and the Board of Transport Commissioners? I am sure the honourable gentleman is familiar with such legislation, and I do not think he intended to leave the impression that this was something unique, and that courts are not ordinarily dealing with appeals on questions of law only.

Hon. Mr. Roebuck: These are cases in which provincial legislation has had a tendency to give boards arbitrary powers. One measure that has been in the public eye very much of late is the labour legislation in the Province of Ontario, where the legislature provided that the decisions of the Labour Relations Board should be absolutely final. An appeal was made and the judge held that such a provision was contrary to natural justice. There have been many attempts to make the decisions of board absolute and final; and if