whatever court it may be, what you are really saying to the court and the only thing you can say to the court is: the board or commission has acted outside its jurisdiction or has not observed the principle of natural justice so that in section 18, although you refer merely to the prerogative writs, you are including the grounds in section 28. Unless I am very much mistaken, to speak in good Oxonian English which the Minister of Justice (Mr. Turner) will understand, there "ain't any other grounds you can ask for"—certainly not when the act gives the board or commission the authority. Then, the only ground on which you can go to court to say the decision is wrong is if you can persuade the court that the board has gone outside its jurisdiction and failed to observe the principle of natural justice or that there is an error on the face of the record. Roughly those are the only grounds. In section 18 you are embodying the grounds set out in section 28 and why do that?

Then, you go to section 28 subsections (1) and (3). Subsection (1) reads:

> Notwithstanding section 18 or the provisions of any other Act, the Court of Appeal has jurisdiction to hear and determine an application to review and set aside a decision or order, other than a decision or order of an administrative nature not required by law to be made on a judicial or quasi judicial basis...

When you read that in connection with section 28, subsection (3), which states that where the court of appeal has jurisdiction under this section the trial division has no jurisdiction, you put the two together and what have you got? It is a little doubtful what exactly you have got but as far as I can make out, what you are saying is in the case of no judicial or quasi-judicial decisions or errors of a board or commission, only the court of appeal has jurisdiction. In the case of an administrative matters only the trial division has jurisdiction.

Then, you get into the question of what is the line between an administrative and judicial or quasi-judicial decision where the cases, and there are many of them, show that under the common law courts have been very reluctant to interfere with an administrative decision. So, what would you have? I say seriously to the minister that you leave the trial division only with the administrative decisions. If you read the two sections together, that is all they can mean, to deal with administrative decisions by way of special remedies or special writs. In fact the courts hesitate to interfere with administrative decisions. That is all I want to say on this point, but I want to raise one other point briefly.

It seems to me that my hon. friend's suggestion ought to commend itself to the minister and his advisers. What the hon. member for Greenwood says is that since it is frequently difficult to draw the line between administrative decisions and decisions that are quasi judicial—and the extent to which you should interfere with an administrative decision is an important question—you refer all these questions to the appeal division of the federal court. The appeal division can then establish the jurisprudence as to where the line is drawn and as to how far it will go to interfere with administrative decisions which have not a judicial or quasi-judicial character, and as to how it will deal with the latter, judicial and quasi-judicial.

It seems to me that you also obviate the procedural nightmare for the client and the lawyer of deciding whether their application will be an application for a writ or an application for review. In the one case, it is an application to the trial division and in the other case it is an application to the court of appeal. In many cases I can see where a lawyer and his client will appear in trial court thinking it has jurisdiction and the trial court will decide it does not have jurisdiction but the court of appeal does. Alternatively, they may go to the court of appeal and be told it is an administrative matter and they should go to the trial division.

Why should Canadians be put to that kind of trouble? What purpose is there in it? What is lost by taking my hon. friend's very sensible, agreeable proposition? Combine the two, go before one tribunal and the question of whether it is administrative or quasi-judicial is out of the window: the tribunal has jurisdiction to deal with it.

As my hon. friend says quite properly, when you consider amendment No. 9, you not only give the appeal court the right to review under subsection (1) but you also give the appeal court the right to issue special remedies of certiorari and the other special remedies that are there. That makes sense. I want to say that the hon. member for Greenwood and I have always had a little disagreement on this point, a perfectly legitimate disagreement. I have very grave concern about an automatic right of review of a quasi-judicial or judicial decision of a board, commission or tribunal. I have not the same confidence in the greater infallibility of the court as compared with the potential infallibility of a board, commission or tribunal.

• (5:20 p.m.)

Mr. Brewin: Neither do I.

Mr. Lewis: My hon. friend says that neither does he. Therefore, I have as much confidence in a competent board, tribunal or commission as I have in the courts, and this automatic right of appeal in clause 28 bothers me. But if it is going to be there, then I appeal to the minister that it be there on the sensible basis that my hon. friend proposes, so that you do not have a man, a woman, a union, or an organization of any other kind having to decide whether to go to one court or another and then, coming to one court, being dumped back to the other court or being pushed up to the Court of Appeal. I do not think there is any sense in that, and I do not really understand why the minister insists upon it.

The other very brief point I want to make is to repeat and emphasize a point which the hon. member for Greenwood has already made, namely, that if you accept his proposal you would obviate the possibility of more litigation than is desirable. It is always desirable to have less rather than more courts, and less rather than more actions and steps in one case, because if you have more