

"determination on a quasi-judicial basis". I suggest to my friend, particularly the hon. member for Peace River (Mr. Baldwin), that that is not very good drafting. I do not know whether it is quasi-judicial or judicial. If you set up a tribunal to determine the property or other rights of people, you can call it a quasi-judicial authority, but so far as I am concerned it is a judicial function it is performing even though it is not a court that is performing that function. The phrase "quasi-judicial basis" surely is of no consequence at all and is merely a use of words. The function is, in fact, a judicial function. That is all that is required.

Then what does the amendment further say? It says exactly the same as the clause now says, that the order in council will provide the time within which the complaints have to be made and the procedure to be followed. It states that the order in council shall deal respecting the determination and payment of compensation, and then it merely adds the words "and the fund from which compensation shall be payable". I imagine that any governor in council with any sense would have to say that. If somebody is to pay compensation, he would have to say where the compensation is to come from. It is not necessary to tell him that today is Thursday: presumably that is known. That adds nothing at all. I suggest that if the intention was to do what the hon. member for Regina East said, then the amendment should have been much more specific in setting out the precise rights to be covered and the precise points to be followed, and so on. I suggest that the amendment merely adds more confusion. The only addition is that there shall be an appeal from any decision of such tribunal to the Federal Court of Appeal.

The hon. member for Regina East says he has some doubt whether that is the case. I do not see how anyone can have doubt. It is not necessary to be a lawyer. Section 28 of the present Federal Court Act reads as follows:

(1) 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, made by or in the course of proceedings before a federal board, commission or other tribunal, upon the ground that the board, commission or tribunal

- (a) failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction;
- (b) erred in law in making its decision or order, whether or not the error appears on the face of the record; or
- (c) 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.

Mr. Speaker, the reason I recall this section in the act is that I was on the parliamentary committee which studied this bill when it was before that committee. I had a concern, as I still have, about the breadth of section 28 which makes it possible for the Court of Appeal of the Federal Court of Canada to hear cases without regard for the decision of fact by the tribunal. The unions are now—the postal unions have been to see me, as I am sure they have been to see others—finding that the decisions of the arbitrator, of the adjudicator, can be and are taken to the Court of Appeal of the Federal Court and that there the Court of Appeal is able to enter into facts as well as law, as well as interpretation and as well as the behaviour of the adjudicator. In other words, it is a complete trial on

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facts and law so far as section 28 of the Federal Court Act is concerned. So I suggest, Mr. Speaker, that it is clear that subclause 3 of the motion of my learned friend is unnecessary. I would not shed any tears if everybody agreed to put that clause in, but it is unnecessary in view of section 28 of the Federal Court Act.

When we come to subclause 4 of the motion, I object to this because in addition to the right of appeal to the Court of Appeal they also want to give the trial division of the Federal Court the right to deal with the same matter. That seems to me to be deliberately creating litigation on litigation, and if you are going to set up a tribunal under this act to deal with compensation for matters arising out of the allocation program and out of the authority given the board under this bill, what possible sense is there in giving exactly the same powers to the trial division of the Federal Court and also giving those powers to the Court of Appeal of the Federal Court? If I have ever seen a suggestion of duplication, surely this is it.

● (2210)

I do not see what my friends are trying to do, except to give the large oil companies and pipeline companies the opportunity to bypass the board set up under this bill, and to go to the trial division of the Federal Court and make the whole process either more expensive or the whole set up of the tribunal unnecessary and useless, because you may be certain that these large corporations will go to court instead of relying on the decisions of the tribunal. Therefore, I strongly object to the provision under subclause 4.

I want to make one or two more brief points as to why we cannot support the motion that is before us. As I have said, I have a great deal of sympathy with the general statement of philosophy which should govern the definition of the rights of people and the opportunity they may have to perfect those rights and to be compensated for any loss. But I am not interested, nor are my colleagues, in making it easier for the large oil and pipeline corporations to squeeze compensation out of the taxpayers of Canada in the case of a national emergency affecting the welfare of the Canadian people. We are just not interested in making it easier for them to squeeze that out of the Canadian taxpayer. We are interested in setting up a tribunal that would deal fairly with people whose rights have been infringed; but it should be a tribunal, as set up under this bill, that has some knowledge of the industry and some appreciation of the purposes of the bill before us and which acts in the interests of the Canadian people, not the interests of the oil and pipeline corporations.

That is why we are suspicious of any attempt to add to the definition of the deprivation of property or to add to the tribunals to which anyone having a complaint may go. We are suspicious—and I am not suggesting for one moment that the hon. member for Peace River, for whom I have always had the greatest respect and whose integrity I recognize, intended it—that the effect of this motion is to add further possibilities of complaint and more tribunals to which these corporations can go, whether or not he intended it. So far as we are concerned, we are not in favour of adding areas of complaint or tribunals to which these corporations can go.