

*Canadian Human Rights*

**Mr. Woolliams:** I wish the Minister of Justice would stay with the facts. I am sure he knows the point I made. I do not know how long the minister practised. I am told it was two years before he became a member of parliament, but I am sure with a law degree he would know that everything in Section 28, no matter how he dishes it up, is a question of law. What I am saying and what I said is that I want to appeal from one person sitting in a tribunal alone. He said in committee that there could be an appeal to three—which is all part of the hanky-panky nonsense when we are dealing with human rights—on a question of fact. He can dish up perverse facts, capricious facts. They are all questions of law. I would hope that the Minister of Justice has not forgotten his first-year classes in law.

**Mr. Basford:** Mr. Speaker, that is not a question of privilege, it is debate, with deference. The hon. member for Calgary North made his speech in support of his amendment and I should like to make mine. If I misunderstood his heckle, then I withdraw my remarks.

**Mr. Woolliams:** Good.

**Mr. Basford:** I do quote and make clear to this House—because in some of the speeches it has not been made clear—that there is the right of appeal from a decision of the commission or any of its tribunals on the basis that the commission or tribunal, as Section 28 provides:

- (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.

It has been suggested in this debate that Section 28 is not very useful; that it is really not an appeal and therefore we should accept this amendment to supplant it. Since that section was passed in 1971, 1,507 cases have been heard by it on questions of natural justice, errors of law and decisions or orders based on an erroneous finding of fact, including decisions against the Canadian Transport Commission, the Department of Manpower and Immigration or the Immigration Appeal Board, actions against the Public Service Commission, and a whole range of administrative tribunals that are subject to judicial supervision as provided in this section.

If, as is alleged, Section 28 is not very effective, I doubt that 1,507 people would have gone to the trouble and expense—

**Mr. Woolliams:** Mr. Speaker, on a point of order, again the Minister of Justice is leaving the wrong impression with the media, hoping to bail himself out. I should like leave to ask the minister a question. He dealt with 1,507 cases. I suggest to him that they were all on points of law—

**The Acting Speaker (Mr. Turner):** That is not a point of order but a point of debate.

[The Acting Speaker (Mr. Turner).]

**Mr. Woolliams:** —and secondly, all of those were motions on a question of taxation. Let us be honest. Let us not misrepresent the facts.

**The Acting Speaker (Mr. Turner):** Order, please. I suggest to the hon. member for Calgary North that he is debating. That is not a point of order.

**Mr. Woolliams:** I say to you, Mr. Speaker, let the Attorney General and the Minister of Justice come clean with the facts and be honest tonight.

**Mr. Basford:** Mr. Speaker, if the hon. member wants the facts, I have with me a very comprehensive statement of those statistics which is far too extensive to read into the record. I would ask leave of the House to table it.

**Mr. Woolliams:** No. I want them explained.

**Mr. Basford:** Now the hon. member does not want them. I indicated at committee that of the some 1,500 cases, 1,100 involved appeals against decisions made under the Immigration Act, which is surely one of the very basic human rights of this country. It has nothing whatsoever to do with income tax and the Department of National Revenue. I believe that was 1,103, speaking from memory—

**Mr. Woolliams:** Taxation cases.

**Mr. Basford:** —involved manpower and immigration. I would ask the hon. member for Calgary North to pay some attention to the facts and some attention to the record of the Standing Committee on Justice and Legal Affairs where these facts were broken down. It was clear that the majority of cases using Section 28 involved manpower and immigration decisions, a basic human right in this country.

May I suggest that because of Section 28 this amendment is unnecessary. I should like to quote from the brief that the Canadian Bar Association presented to the Standing Committee on Justice and Legal Affairs. It had a number of comments to make on Bill C-25, including a section on appeal. They claimed that the bill did not seem to provide for any right of appeal and recommended that appeal should be available on questions of law or on jurisdictional facts, from decisions of the tribunal. They questioned whether judicial review of the tribunal's decision would provide a speedier remedy.

Let me deal with those three sentences and those three recommendations. In complaining that the bill does not seem to provide for any right of appeal, the Canadian Bar Association failed to take cognizance of Section 18 or Section 28 of the Federal Court Act. They recommended that appeals should be available on questions of law or jurisdictional facts from decisions of the tribunal. But those two grounds, law and jurisdictional facts, are clearly contained within the rights of appeal provided in Section 28. In fact Section 28 goes further.

● (2200)

The third sentence says, "We question whether judicial review of the tribunal's decision would provide a speedier