

Electoral Boundaries Commission

Mr. Winch: Whom would Diefenbaker submit his recommendations to?

Mr. Nielsen: I wish proper references might be made in this house to the officers of the house. I am sure the hon. member for Vancouver East is referring to the right hon. Leader of the Opposition. I think he should abide by the rules and refer to him as such.

Mr. Winch: Then may I ask to whom would the right hon. Leader of the Opposition refer his recommendations, so as to make it non-political?

Mr. Nielsen: I had made myself quite clear, I thought, when I was referring to this point. The danger of political partisanship creeping into this is in my view very real in the circumstances which would be brought about by the amendment if it were passed. I do not care whether the present government is in office or whether any other government is in office. The danger would be for the government of the day to influence the giving of that approval or the withholding of that approval. That is the weakness, and it arises out of those particular words used.

Surely we cannot have that impartial selection by a judge if we are going to subject that selection to the approval of someone else. I would suggest to the Minister of Justice and to his colleague the hon. member for Winnipeg North Centre that they get together again and reconsider this particular subclause, perhaps with a view to removing those words entirely, because I think they present a real danger to the very thing we are trying to achieve.

Another point was raised by the hon. member for Edmonton West. I refer to the question of the federal government's authority or power to clothe a judge of a province with the right to appoint in some cases what might be a provincial official. Perhaps this is a matter which is deserving of the consideration of the premiers of the various provinces, because there may very well be objections raised by the provincial governments to having any of their officials act as a member of such a commission. Certainly we have not been given any assurances by the ministers concerned that such consultation has taken place or that the provincial governments concerned are agreeable to their provincial officials so acting. This is a very real criticism in my view.

Perhaps I might also point out that the hon. member for Winnipeg South Centre and the hon. member for Bow River made a very knowledgeable appeal last night to the gov-

ernment to set up one commission. The great concern that has been expressed here today about the impartiality of judges making these selections and about the other difficulties which confront us if we adopt the amendment or the subamendment is a further argument for setting up one central commission, because if this were done all these difficulties would be avoided entirely. Even though it now seems to be completely out of the minds of those who form the government, this suggestion of one centralized commission might be once again considered with some care.

I think I should also say, Mr. Chairman, that I am sure none of us here argues about the independence of the judiciary. The judiciary have always displayed, when dealing with those matters with which they are charged, that impartiality and judicial capability of which I am sure all of us are proud. I think I said when participating in the debate at the resolution stage that we should not get our courts or judges involved in politics. I suggest to the hon. member for Winnipeg North Centre, who has also made much of this fact, that by having the judges make these appointments he would be doing just that. All he would be doing would be to transfer the partisanship that the hon. member suggests is going to be displayed if the Prime Minister and Leader of the Opposition make the selection. He would just be transferring that partisanship over to a judge. I am sure we all believe that a judge will not display any partisanship when making these appointments, and let us all hope that no judge will display any more partisanship in making these selections than judges have in the past in the case of controverted election cases which have come before them, when some have allowed an examination of the poll books and some have not. Perhaps we are seeking that kind of impartiality.

May I suggest to the hon. member for Winnipeg North Centre that all he is doing by his amendment is involving the judges in the very partisanship that he wishes to avoid. All that is happening is that you are transferring a political decision from officers of this house, who are very able to make that decision because of their background and experience, and laying it in the lap of a judge. It is very, very dangerous and very wrong to involve our judges and courts in political decisions with regard to whatever selection is made, and members of this house and political parties of this house are going to be completely dissatisfied with that decision. If that is not involving our judges in a partisan problem, then I do not know what is.