

Federal Court Bill

● (4:10 p.m.)

One thing on which I should like to question the minister—which of course will be a matter taken up later in committee—is whether there was any consultation with the provinces in respect of this change from the limited amount of appeal or scrutiny that exists by provincial supreme courts over decisions of federal boards, and so on. I believe we could get into a field, where provincial supreme courts would be scrutinizing the actions of provincial boards and tribunals and where a federal court would be doing likewise. One would hope common practice could develop. Also, I would hope the provincial legislatures might show the lead. The minister has suggested that a similar type of appeal should exist so that there would tend to be uniformity. Because administrative law is the fastest growing part of the law, I think it is important to have as much uniformity as possible.

The minister mentioned the work of the Statutory Instruments Committee headed by the hon. member for Windsor-Walkerville (Mr. MacGuigan) and recognized, I believe, quite fairly that we still have not yet reached the stage in this Parliament where we have scrutiny of regulations, Orders in Council, rules and examinations which direct changes of patterns of behaviour of people or corporations. We still have nothing like that in Parliament.

The report tabled by the hon. member on the very last day of the last session sets forth pretty useful remedies, I think. I hope we will get around to it sooner rather than later. I say this particularly because I believe scrutiny as a process is probably a pretty good thing. Perhaps this would provide for correction early in the game so that a person who may feel himself aggrieved by the actions of a federal board or commission would not have to shoulder the rather costly burden of taking his grievance to a federal court in order to seek a remedy. I think the minister agrees with my argument in that regard.

I shall move on very quickly because I understand we will probably hear a knock on the door in 45 minutes' time and I know other members wish to speak. I shall shorten my remarks considerably. If I may, Mr. Speaker, I should like to make this point for the minister through you. I think the provisions set forth in clause 31, in respect of a \$10,000 floor on the amount involved before an appeal could be considered, will be seriously questioned in the committee. Also, I believe the

[Mr. McCleave.]

provision in the same clause in respect of the appeal being to the Supreme Court of Canada by leave of the federal court will be questioned in the committee. I think there will be considerable questions on these two points. We will also have questions concerning clause 41—

Mr. Turner (Ottawa-Carleton): Mr. Speaker, I wonder whether I might ask the hon. member if he is aware that the \$10,000 figure is to be in harmony with the amount already involved in an appeal from a provincial superior court. Is he also aware that leave can be granted by the Supreme Court of Canada itself at any time?

Mr. McCleave: Yes, I think I can say I am aware of both those points, but I do have objections for the reasons I state. I may be a lone voice crying in the wilderness on both points, but in any event I thank the minister for his interjection. Perhaps in my hurry I am omitting the preamble and other important statements, as I did today in respect of a question relating to first-class mail service.

I think the provision that the minister may declare that certain documents should not go before a federal court represents a power which could be abused. I think that from a practical viewpoint we will have to examine that provision pretty carefully in the committee. One thing that delighted me is perhaps a small point. I refer to the provision that a person who has received an adverse decision of the court cannot be taken into custody under process of execution for debt. In some provinces it is still possible to issue a *capias* and put someone in jail. I think this is a good, civilized step. I do not suppose anyone has gone to jail for evasion of a federal statute. Perhaps they have, so I had better be careful.

In the schedules there is a reference to a change in the Divorce Act which rather interested me. I have a point in this regard. I hope the minister will consider it before the bill goes to the committee. This change would permit the federal court to hear both petitions for divorce if the two parties should file their petitions on the same day. This is a neat way to deal with such a problem. I have no quarrel with that. However, the point I wish to make is that there still are thousands, perhaps tens of thousands of Canadians—certainly all those Canadians who are temporarily out of Canada—who do not now have a remedy under the Divorce Act of Canada because they simply do not qualify under the residence requirements of that act. It seems to me that obviously they would have the