HOUSE OF COMMONS

Thursday, June 2, 1977

The House met at 11 a.m.

GOVERNMENT ORDERS

[*English*]

CANADIAN HUMAN RIGHTS ACT

MEASURE TO PROTECT PRIVACY OF INDIVIDUALS

The House resumed, from Tuesday, May 31, consideration of Bill C-25, to extend the present laws in Canada that proscribe discrimination and that protect the privacy of individuals, as reported (with amendments) from the Standing Committee on Justice and Legal Affairs; and the amendment thereto of Mr. Woolliams.

Mr. Robert McCleave (Halifax-East Hants): Mr. Speaker, I had about two minutes in which to start my speech the other night. Perhaps I could set the scene again this morning for those who might be unfamiliar with the issue raised by my friend, the hon. member for Calgary North (Mr. Woolliams). We are dealing with Bill C-25, an act to extend the present laws in Canada that proscribe discrimination and that protect the privacy of individuals. Most of us, however, call it—as indeed it calls itself in clause 1—the Canadian human rights act.

The measure before us presents a procedure for people who feel themselves aggrieved under a variety of circumstances. These are set forth in a series called "discriminatory practices" in clauses 5, 6, 7, 8, 9, 10, 11, 12 and 13. Then there are exceptions not considered to be discriminatory practices which follow. If one has a complaint under the human rights act, one can take it before the commission and an investigation may be launched. The official may say that the complaint will be taken up elswhere, that there is another act of parliament which offers a remedy. I presume, since we deal with dominion-provincial niceties and things like this, the commission might direct the person to take his complaint before a provincial ombudsman because that is where any remedy, if possible, lies.

There is a procedure for conciliation. The result of that conciliation may, by clause 38, be referred to the commission for its approval. All that failing, the person aggrieved can march on to the human rights tribunal. Its powers are set forth in clause 40 of the measure before us. It is possible to go to the Federal Court to make the finding of that human rights tribunal an enforcement. In effect, the Minister of Justice and the government are saying that while the human rights tribunal can adjudicate and make a decision, the power of enforcement must be found somewhere else. They place that power in the Federal Court.

If I can complete the reference to the Federal Court as specifically set out in the measure before us, in clause 44 there are other rules set out for the court. However, the act goes no further than that and a person who is aggrieved by the finding of a human rights tribunal must ask himself where he can go from there. In the Federal Court Act is section 28 which provides the right of appeal from administrative decisions to the Federal Court in certain circumstances. It is on section 28 that the Minister of Justice (Mr. Basford) relied when he turned down the motion we are now debating. On the other hand, the Minister of Justice has to admit, as he did the other night, that there are some sections of the Federal Court Act which give rise to difficulty, that a study is being made, and so on. So it is possible we shall be faced with an amendment some time in the future to clear up imperfections in that act.

• (1110)

I have no quarrel with that, but I must quarrel with the contention of the Minister of Justice when he says the Federal Court Act will give an aggrieved person protection. If section 28 is doubtful at all—and I gather it is—then surely somebody who has a complaint about a human rights decision should not be placed in the position of having to spend a pile of money going through all the procedures, including a hearing before the tribunal, and then having to wonder whether, going one step further, section 28 really fits the purpose. This is why I support the proposition put forward by the hon. member for Calgary North. At least the motion before us does one thing. It gives a clear right, a positive right, and no one will find himself engaged in legal foofaraw in the courts to the extent of that right.

If we can send out of parliament a procedure which people can follow, which is easy to understand, which does not get people involved in the dreadful labyrinth of argument as to what exactly the legislation means, I say by all means do so. There is a virtue in having a clear right set forth, one which can be clearly understood by people who become enmeshed in the law. But if the minister still has any doubt about section 28, let him bring in his remedy at a future time and then repeal what is proposed by the hon. member for Calgary North. To my mind, it is as simple as that. We passed a motion presented by the hon. member for Calgary North as a good solution, one which makes sense, one which can be followed. If the Minister of Justice finds that section 28 does not serve the interests of people who have been confounded by the decisions of administrative tribunals, he can come along