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THE CONSTITUTION OF CANADA

A SUGGESTED AMENDMENT RELATING
TO PROVINCIAL ADMINISTRATIVE TRIBUNALS

A Discussion Paper

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Minister of Justice and Attorney General of Canada

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PROVINCIAL ADMINISTRATIVE TRIBUNALS AND THE CONSTITUTION

1. *The Nature and Growth of Administrative Tribunals*

The last half century has seen a tremendous growth of administrative tribunals, in Canada as in most other countries sharing our legal systems. They are found in large numbers in both federal and provincial governmental structures. They may consist of one or more persons and may exercise vastly divergent powers. They are often created to deal with new kinds of social or economic problems, or to deal with old problems in a way not familiar to the Fathers of Confederation in 1867.

This paper will focus on provincially-created tribunals, and in particular on those on which provincial legislatures may seek to confer powers of a judicial nature. Because of certain provisions of the *Constitution Act, 1867*, particularly Section 96, limits have been imposed on the discretion otherwise available to provinces in creating tribunals and agencies for the administration of their laws.

2. *Constitution Act, 1867, Section 96*

This section reads as follows:

96. The Governor General shall appoint the Judges of <sup>Appointment
of Judges</sup> the Superior, District, and County Courts in each Province, except those of the Courts of Probate in Nova Scotia and New Brunswick.

While the federal authorities therefore appoint the judges of the provincial courts referred to in Section 96, it is the provincial legislatures which provide for the "constitution, maintenance, and organization" of those courts pursuant to Section 92[14] of the *Constitution Act, 1867*. This dual régime, where both orders of government are involved in the operation of the superior, district or county courts, strengthens the appearance of independence of those courts. This independence is further reinforced by other sections of that Act: especially Section 99, which guarantees security of tenure for judges of superior courts, and Section 100 which requires Parliament to fix and provide for the salaries of judges of Section 96 courts.

Section 96 is therefore seen as a guarantee of judicial independence for the courts covered by it. Related to, and perhaps because of, this pro-

tected position of Section 96 courts, it has come to be recognized more and more that the superior courts at least cannot constitutionally be denied certain forms of supervisory powers to ensure obedience to the constitution.¹ Any proposed constitutional change in Section 96 must therefore be examined with caution, to ensure that this special role of superior courts is not unduly affected.

3. *Provincial Government Concerns*

Several provincial governments, while accepting the general principle of judicial independence and the importance of the superior court role, find Section 96 to be unduly restrictive. Apart from its function as the source of the federal appointing power, this section has been used as an implied limitation on the power of provincial legislatures to assign functions to administrative tribunals. Where such functions are found to be essentially superior court functions, their assignment to a tribunal is invalid because it is said to constitute the creation of another superior court whose members are appointed, not by the Governor General in accordance with Section 96, but by provincial authorities. It is argued that such a limitation unduly restricts provincial choice of techniques and instruments for the administration of provincial laws. It is also argued that at best the nature and extent of this limitation is hard to define, with resulting uncertainty in provincial administration. An examination of some of the leading cases on Section 96 may assist in assessing these concerns.

4. *Jurisprudence on Section 96*

In the *Adoption Reference*², an early leading case on Section 96, the Supreme Court held that while the jurisdiction of inferior courts was not frozen at the limits in existence in 1867 and increases in jurisdiction or the establishment of new provincially appointed courts were within the legislative competence of the provinces, the new jurisdiction should broadly conform to a type of jurisdiction generally exercisable at Confederation by courts of summary conviction rather than a jurisdiction then exercised by courts now within the purview of Section 96.

In the *John East* case³ the Privy Council examined the position of provincial administrative tribunals in the course of considering the power of

¹ See, e.g., *Crevier v. Attorney General of Quebec*, [1981] 2 S.C.R. 220, 236; *Attorney General of Canada v. Law Society of British Columbia* (1982), 137 D.L.R.(3d) 1, 16-17.

² [1938] S.C.R. 398.

³ *Labour Relations Board of Saskatchewan v. John East Iron Works*, [1949] A.C.134, 111 Olmsted 557.

the Saskatchewan Labour Relations Board to order the reinstatement of an employee. The Privy Council approved the reasoning in the *Adoption Reference*, but varied its criteria slightly. It held that the question for determination was (a) whether the board exercises judicial powers; and (b) if so, whether in that exercise, it is a tribunal analogous to a superior, district or county Court. This has been viewed as a more favourable test for provincial administrative tribunals in that it appears to be more adaptable to changing needs.⁴

While this general test has been followed fairly consistently, the need for flexibility in allowing for the implementation of valid provincial objectives has rendered the definition of what is analogous to an 1867 superior court difficult to assess.⁵ It has been said that courts have frequently taken account of the context within which the impugned power was exercised and frequently upheld the power on the basis that it was an integral part of that context. It now seems to be the accepted position that provincially appointed tribunals may validly exercise their powers so long as they are primarily administrative and not judicial bodies and so long as the exercise of the questionable power is merely incidental to the efficient implementation of legislative policy.⁶ The present state of the law may be illustrated by reference to some of the more recent cases decided in the Supreme Court of Canada.

In *Tomko v. Labour Relations Board (Nova Scotia)*⁷, the Supreme Court was concerned primarily with the validity of Section 49 of the Nova Scotia *Trade Union Act*⁸ which authorizes the province's Labour Relations Board and its subsidiary body, the Construction Industry Panel, to issue cease and desist orders and orders of an affirmative nature in respect of a strike or lock-out prohibited by the Act, or in respect of a jurisdictional dispute over the assignment of work. It was argued that the power to issue cease and desist orders and allied mandatory orders was equivalent to a power to grant an injunction which has been traditionally a power of the superior court. However, viewing the matter in the context of the legislation which provided for continuing efforts towards dispute settlement both before and after the issue of any such order, the Supreme Court held that the power to issue orders conferred by Section 49 did not

⁴ Cf. *Re Residential Tenancies Act*, 1979, [1981] 1 S.C.R. 714, 730 - 731.

⁵ Cf. *Johnson v. Attorney General of Alberta*, [1954] S.C.R. 127; *City of Toronto v. Olympia Edward Recreation Club*, [1955] S.C.R. 454; *Dupont v. Inglis*, [1958] S.C.R. 535; *Attorney General for Ontario and Display Service Co. v. Victoria Medical Bldg.*, [1960] S.C.R. 32; *Attorney General of British Columbia v. McKenzie*, [1965] S.C.R. 490; *Séminaire de Chicoutimi v. City of Chicoutimi*, [1973] S.C.R. 681.

⁶ BRUN and TREMBLAY, *Droit constitutionnel*, 1982 pp.507-508.

⁷ [1977] 1 S.C.R. 112.

⁸ S.N.S. 1972 c.19:

violate the precepts attached to the interpretation of Section 96, since it was remedial only and should be given a large interpretation to assist the administrative agency to induce or compel settlement of a dispute which had led to an activity declared illegal by the *Trade Union Act*. It was the administrative arrangements in which the provision appeared, not the impugned section in isolation, which determined its validity.

Section 58(a) of the *Quebec Transport Act*⁹ under consideration in *Attorney General of Quebec v. Farrah* gave to the Transport Tribunal of that province "jurisdiction, to the exclusion of any other court, to hear and dispose of, in appeal, on any question of law, any decision of the [Transport] Commission which terminates a matter." Both the Quebec Superior Court and Court of Appeal¹⁰ held that this exclusive and final appellate jurisdiction on any question of law was *ultra vires* as being in conflict with Section 96, since it conferred a jurisdiction which could only be exercised by a superior court. The Supreme Court of Canada affirmed this conclusion.¹¹ It stated that it was open to a province to endow an administrative agency, which has adjudicative functions, with power to determine questions of law in the exercise of its authority under a valid provincial regulatory statute, and also to establish as part of a valid regulatory statute an administrative tribunal of appeal empowered to make decisions on questions of law in the course of exercising its appellate functions with respect to decisions of the first level of tribunals. However, the Supreme Court held the province had gone further by ousting the supervisory and review authority of the superior courts, and in such manner infringed upon Section 96.

Section 162 of the *Quebec Professional Code*¹², under consideration in *Crevier v. Attorney General of Quebec* established the Professions Tribunal as a general tribunal of appeal from the Discipline Committees of the 38 professions covered by the legislation. It provided as follows:

A Professions Tribunal is established, composed of six judges of the Provincial Court designated by the chief judge of such Court who shall designate a chairman among them.

An appeal shall lie to such tribunal from any decision of a committee on discipline, by the plaintiff or the respondent.

Under Section 175 of the Code, the tribunal was empowered to confirm, alter or quash any decision submitted to it and render the decision which

⁹ L.Q. 1972, c.55.

¹⁰ [1976] C.A. 467.

¹¹ [1978] 2 S.C.R. 638.

¹² R.S.Q. 1977, c.C-26.

it considered should have been rendered in first instance. These powers extended in effect to grounds of law or fact and jurisdiction. The tribunal's decisions were final.

The Supreme Court¹³ considered the scheme of the Act to offend Section 96. The Chief Justice stated:

In my opinion, when a provincial Legislature purports to insulate one of its statutory tribunals from any curial review of its adjudicative functions, the insulation encompassing jurisdiction, such provincial legislation must be struck down as unconstitutional by reason of having the effect of constituting the tribunal a s.96 court.¹⁴

This was the first time that the Court had declared unequivocally that a provincially-constituted statutory tribunal could not constitutionally be immunized from review of decisions on questions of jurisdiction.¹⁵

The Supreme Court also found that the Professions Tribunal had no other function than that of a general tribunal of appeal in respect of the professions designated in the Code. This jurisdiction could not be justified as part of an institutional arrangement for the regulation of the professions, and on this basis the case should be distinguished from the situation in the *Tomko* case.¹⁶

The Ontario *Residential Tenancies Act, 1979*¹⁷ which was the object of a reference, established a Residential Tenancies Commission whose central function was that of resolving disputes, in the final resort by a judicial form of hearing between landlords and tenants. Among the powers conferred upon the Commission were the powers to make orders evicting tenants from residential premises and require landlords and tenants to comply with obligations imposed under the Act. On a reference from the Ontario Executive Council the Ontario Court of Appeal¹⁸ found the grant of these powers *ultra vires*. The Supreme Court affirmed this opinion.¹⁹ The Court appears to have used this appeal to make a restatement of its views on the ambit of Section 96. A three-step test was applied for determining the validity of a provincial measure granting power to a provincially-appointed tribunal:

¹³ [1981] 2 S.C.R. 220.

¹⁴ *Idem*, p. 234.

¹⁵ *Idem*, p. 236, the Chief Justice's statement.

¹⁶ *Idem*, p. 233.

¹⁷ S.O. 1979, c.78.

¹⁸ (1980) 26 O.R.(2d) 609; (1980), 105 D.L.R.(3d) 193.

¹⁹ [1981] 1 S.C.R. 714.

- 1° Is the power broadly conformable to the jurisdiction formerly exercised by Section 96 courts? If not, the law is *intra vires*. If the power is identical or analogous to a power exercised by a Section 96 court at Confederation, one should proceed to step 2.
- 2° Can the function still be considered a "judicial" one when viewed within the institutional setting in which it appears? If not, the law is *intra vires*. If so, one should proceed to the third step.
- 3° If the power or jurisdiction is exercised in a judicial manner, is that power merely subsidiary or ancillary to the general administrative function of the tribunal or necessarily incidental to the achievement of a broader policy goal of the legislature, in which case it will be valid, or is it the sole or central function of the tribunal, in which case it will be held to be invalid.

Applying these tests the Supreme Court found that (1°) the making of orders such as the impugned eviction and compliance orders was historically a function of Section 96 courts; (2°) the function conferred on the Residential Tenancies Commission was essentially a judicial one; and (3°) the central function of the Commission was dispute settlement by means of a formal hearing between landlord and tenant, and none of the other provisions of the Act created a legislative scheme in which this function could be subsumed to an administrative purpose. The powers conferred upon the Commission were thus in conflict with Section 96.

This statement of the tests to be applied in Section 96 cases reduces the confusion which formerly attended such matters. By recognizing legislative policy goals as a criterion for establishing the validity of a power or function, the statement goes a long way towards limiting the effects of Section 96 except in obvious attempts to circumvent it.

5. *Summary of Present Position*

Following these cases, it would seem that the provinces are now in a position to create administrative tribunals with adjudicative powers provided the powers are merely ancillary to an administrative function or necessarily incidental to the achievement of a policy goal of the legislature.

The dispute-resolving function of the Residential Tenancies Commission was not ancillary to an administrative function. The Professional Tribunal's exclusive right to hear appeals from the Discipline Committees and that of the Quebec Transport Tribunal with respect to decisions of the Transport Commission were not necessarily incidental to the attainment of a policy goal of the legislature.

Yet some provinces remain critical of Section 96 for a number of reasons. They are concerned about the uncertainty it creates concerning the ability of the provinces to confer effective powers upon provincially appointed tribunals. Some find it an annoying anachronism to use in any way the pre-1867 powers of the Section 96-type courts as a criterion for establishing a valid tribunal. Others would wish their legislatures to be completely free to determine the forum in which, and bases on which, the decisions of their administrative tribunals will be reviewed.

6. *Suggested Amendment to the Constitution Act, 1867*

Federal and provincial Attorneys General and Ministers of Justice of Canada have been concerned with this issue for some time. It has been discussed at various constitutional conferences since 1978.

Certain principles were suggested in the course of these discussions which appeared to command considerable provincial support. They were to the effect that the Constitution should

- (1) guarantee the existence of a superior court of general jurisdiction in each province;
- (2) guarantee the independence of the judiciary;
- (3) enable a province to establish bodies to administer the application of its laws;
- (4) enshrine the power of judicial review in the superior court of general jurisdiction; and
- (5) provide that there not be a dual system of courts.

In the course of these discussions, with a view to assisting all concerned to focus on the points at issue, a draft new Section 96B of the *Constitution Act, 1867* was prepared. Representatives of the federal and provincial governments examined the principles set out in the draft. The Minister of Justice for Canada has, for his part, decided to consult publicly to obtain further views on the matter.

The suggested new section reads as follows:

96B. (1) Notwithstanding section 96, the Legislature of each Province may confer on any tribunal, board, commission or authority, other than a court, established pursuant to the laws of the Province, concurrent or exclusive jurisdiction in respect of any matter within the legislative authority of the Province.

Power of
Legislature
to confer
jurisdiction
on tribunals,
etc.

(2) Any decision of a tribunal, board, commission or authority on which any jurisdiction of a superior court is con-

Review by a
superior

ferred under subsection (1) is subject to review by a superior court of the Province for want or excess of jurisdiction.

.....

Attribution de
compétence par
les législatures
aux autorités
administratives

96B. (1) Par dérogation à l'article 96, la législature d'une province peut, dans les domaines ressortissant à son pouvoir législatif, attribuer compétence concurrente ou exclusive à tout tribunal, organisme ou autre autorité non judiciaire constituée en vertu d'une loi de la province.

Pouvoir des
cours
supérieures

(2) Les décisions de autorités à qui a été attribuée compétence de cour supérieure en vertu du paragraphe (1) sont susceptibles de révision par une cour supérieure de la province pour défaut ou excès de pouvoir.

Proposed new Section 96B would allow the provinces to confer on their tribunals, boards, commissions or other authorities, other than courts, a jurisdiction analogous to that of a superior court, for the administration of provincial laws. Yet the most essential role of the superior courts would be preserved, namely their supervisory function to ensure that the rule at law shall prevail.

It is necessary to consider some aspects of the draft in more detail.

"Court" vs. "Tribunal"

The tribunal would not be a court. To provide otherwise could give rise to the total undermining of Section 96 by opening the door to a transfer of superior court functions to another court. It is for consideration whether this wording is sufficient to protect superior courts.

The word "court" seems to have an accepted content although there have been difficulties in evolving a specific definition. The trappings are not necessarily determinative, as it would appear that although administrative tribunals may have many of the trappings of a court they can be differentiated. Acting judicially is not the sole criterion, as a "tribunal may act judicially, but still remain an administrative tribunal as distinguished from a Court, strictly so-called."²⁰ In a leading case on the question, the Privy Council noted:

[I]t may be useful to enumerate some negative propositions on this subject: 1. A tribunal is not necessarily a Court in this strict sense

²⁰ *Shell Co. of Australia v. Federal Commissioner of Taxation*, [1931] A.C. 275, 298 (P.C.), Lord Sankey.

because it gives a final decision. 2. Nor because it hears witnesses on oath. 3. Nor because two or more contending parties appear before it between whom it has to decide. 4. Nor because it gives decisions which affect the rights of subjects. 5. Nor because there is an appeal to a Court. 6. Nor because it is a body to which a matter is referred by another body. See *Rex v. Electricity Commissioners* ([1924] 1 K.B. 171).²¹

This negative definition was subsequently approved in a Manitoba case by Dennistoun J.A.²²

A more complete definition of an administrative tribunal as compared to a judicial tribunal, a court, has been given by the Ontario Court of Appeal quoting from a study by D.M. Gordon on "Administrative Tribunals and the Courts". Masten J.A. held:

The distinction between a judicial tribunal and an administrative tribunal has been well pointed out by a learned writer in 49 *Law Quarterly Review* at pp.106, 107 and 108:

"A tribunal that dispenses justice, *i.e.* every judicial tribunal, is concerned with legal rights and liabilities, which means rights and liabilities conferred or imposed by 'law'; and 'law' means statute or long settled principles. These legal rights and liabilities are treated by a judicial tribunal as pre-existing; such a tribunal professes merely to ascertain and give effect to them; it investigates the facts by hearing 'evidence' (as tested by long-settled rules), and it investigates the law by consulting precedents. Rights or liabilities so ascertained cannot, in theory, be refused recognition and enforcement, and no judicial tribunal claims the power of refusal.

"In contrast, non-judicial tribunals of the type called 'administrative' have invariably based their decisions and orders, not on legal rights and liabilities, but on policy and expediency.

"A judicial tribunal looks for some law to guide it; an 'administrative' tribunal, within its province, is a law unto itself."²³

This view was also adopted by Barlow J. of the Ontario High Court.²⁴

²¹ *Ibid*, p.297.

²² *In re Farmers Creditors Arrangement Act, 1934*, [1937] 1 W.W.R. 535, 537 (Man. C.A.).

²³ *Re Ashby et al.*, [1934] O.R. 421, 428 (Ont. C.A.).

²⁴ *Re Ness and Incorporated Canadian Racing Associations*, [1946] O.W.N. 54, affirmed [1946] O.R. 387(C.A.).

An administrative tribunal may exercise powers similar to those of a court. Lord Atkin noted that “the powers of examination, inspection and discovery of documents, even though couched in terms of similar powers of a Court of Justice, are not inconsistent with the powers of an administrative body whose duty it may be to ascertain the facts with which they are dealing.”²⁵

The Supreme Court of Canada acknowledged the difference between courts and administrative tribunals in interpreting the language rights established in section 133 of the *Constitution Act, 1867*. The Court held that the guarantees should extend to administrative tribunals although they are not courts in the traditional sense. It held that:

[T]he reference in s.133 to “any of the Courts of Quebec” ought to be considered broadly as including not only so called s.96 Courts but also Courts established by the Province and administered by provincially-appointed Judges. It is not a long distance from this latter class of tribunal to those which exercise judicial power, although they are not courts in the traditional sense. If they are statutory agencies which are adjudicative, applying legal principles to the assertion of claims under their constituent legislation, rather than settling issues on grounds of expediency or administrative policy, they are judicial bodies, however some of their procedures may differ not only from those of Courts but also from those of other adjudicative bodies. In the rudimentary state of administrative law in 1867, it is not surprising that there was no reference to non-curial adjudicative agencies. Today, they play a significant role in the control of a wide range of individual and corporate activities, subjecting them to various norms of conduct which are at the same time limitations on the jurisdiction of the agencies and on the legal position of those caught by them. The guarantee given for the use of French or English in Court proceedings should not be liable to curtailment by provincial substitution of adjudicative agencies for Courts to such extent as is compatible with s.96 of the *British North America Act*²⁶.

The meaning given to “court” was clearly extended in this case so that the intent of Section 133 would not be defeated. It would seem that the proviso in draft section 96B is concerned with “courts in the traditional sense” and not the “non-curial adjudicative agencies.”

The above draft of a proposed Section 96B assumes that our courts would be able to devise a useful distinction between “courts” and “tribunals”.

²⁵ *Toronto Corporation v. York Corporation*, [1938] A.C. 415, 428; 111 Olmsted 266, 277-278.

²⁶ *Attorney General of Quebec v. Blaikie*, [1979] 2 S.C.R. 1016, 1028.

Jurisdiction Assignable to Tribunals

Considering the draft further, it will be noted that the jurisdiction conferred may be exclusive or concurrent, but solely for the administration of provincial laws. The administration of federal laws and the Constitution of Canada are not affected.

Scope of Guaranteed Superior Court Jurisdiction

Sub-section 96B (2) would guarantee the power of judicial review of such tribunal decisions in a superior court of the province in all cases of "want or excess of jurisdiction". Without this provision, it might be argued that the entire jurisdiction of the superior court judges could be transferred to provincial tribunals.

Judicial review is a fundamental principle of the Canadian legal system which guarantees the observance of the rule of law. The power of review is inherent in the superior courts of general jurisdiction. Among the possible grounds for guaranteed judicial review are the following:

1° want or excess of jurisdiction.

This is the sole ground of review guaranteed in the draft, which on this point appears to be a restatement of the case-law that provincially-constituted statutory tribunals cannot constitutionally be immunized from review on questions of jurisdiction.²⁷ It is not yet clear, of course, what kinds of error may be embraced within the concept of review based on jurisdiction. For example, in the *Anisminic Case*²⁸ the House of Lords observed in *obiter* that a tribunal having jurisdiction over a matter in the first instance might exceed its jurisdiction by breaking the rules of natural justice, applying a wrong legal test and answering the wrong questions, failing to take relevant considerations into account or basing a decision on legally irrelevant considerations.²⁹

2° error of law.

Review on the basis of an error of law that did not also amount to a jurisdictional defect runs the risk of being transformed into a quasi-

²⁷ *Crevier v. Attorney General of Quebec*, [1981] 2 S.C.R. 220,236.

²⁸ *Anisminic Ltd. v. Foreign Compensation Commission*, [1969] 2 A.C. 147, 171 (H.L.).

²⁹ See de SMITH's *Judicial Review of Administrative Action*, 1980, pp.110-113, and H.W.R. WADE, *Administrative Law*, 1977, pp.40-45 and GARANT, *Droit administratif*, 1981, pp.641-642 for a discussion of the concept of jurisdiction in this context.

appeal process which could be extended to the merits of the case. Certainly, it may be argued that the very purposes of conferring particular administrative responsibilities on the executive arm of government might be undermined in part if in the course of judicial review the courts could examine the very substance of administrative decisions.

3° failure to observe a principle of natural justice.

On the basis of the case law as it presently stands, failure to observe a principle of natural justice, *i.e.* in general terms the right to be heard and the rule against bias, goes to the jurisdiction of the tribunal and therefore would appear to be adequately covered by a guaranteed review for want of jurisdiction.³⁰ It may also be, although it is too early to tell from the cases, that the principle of administrative fairness is jurisdictional in nature.³¹

4° infringement or denial of any of the rights or freedoms guaranteed by the *Canadian Charter of Rights and Freedoms*.

This ground for review would appear to be redundant in view of the terms of Sub-Section 24(1) of the *Charter* which reads as follows:

Anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances.

There is also some concern that a specific reference in the *Constitution Act, 1867* to a remedy for *Charter* violations may have negative implications for Section 24 of the *Charter*.

For the reasons given above, the draft presently suggests that judicial review be granted on the bases of want or excess of jurisdiction. These grounds seem broad enough to ensure the observance of the rule of law as developed by the courts. The expressions appear to allow some considerable scope for development in order to meet changing circumstances.

7. *Request for Comments*

The Minister of Justice invites the comments of interested persons and bodies as to whether it would be opportune to pursue the question of add-

³⁰ *Bakery and Confectionery Workers International Union of America v. White Lunch Ltd.*, [1966] S.C.R. 282, 295; GARANT, *op. cit.*, p.743; REID and DAVID, *Administrative Law and Practice*, 1978, p. 213.

³¹ *Nicholson v. Haldimand-Norfolk Reg. Police Commrs.*, [1979] 1 S.C.R. 311, 324-335.

ing a new section to the *Constitution Act, 1867* along the lines of the draft discussed in this paper.

It may be that the law in its current state is adequate to meet the needs of Canadians. On the other hand, it may be that the provinces would be in a position to exercise better the powers ascribed to them in the Constitution if they had greater flexibility in assigning powers to provincially-appointed administrative tribunals. Yet, there may be reason to guarantee the continued existence of a superior court in each province with a certain core of jurisdiction. Comment on these and any other matters related to the suggested amendment would be most useful in determining the course of action best suited to meet the needs and protect and enhance the freedoms of Canadians.