Halifax-East Hants (Mr. McCleave). Although this subclause appears to be a very minor one and only deals with a technicality, it strikes me that it gets to the very root of justice itself. Apparently, in relation to subclause (2), we are only worried as to who should make the decision, but I do not think that is all that is involved. As I understand it, the whole purpose of the bill is to try to get our administrative law out of the morass in which it has been, so we are setting up a federal court, presumably with judges who will be well schooled in the administrative law and also well able to defend, where necessary, the rights of the Crown. They are appointed and maintained by the Crown. We expect them also to keep a very objective view throughout any litigation although they are on the side of the Crown.

No doubt in most of these cases, success will depend on whether or not certain documents are produced. In subclause (2) we are asked to broaden the circumstances in which certain documents are not disclosed. If taken to its logical conclusion, this means the almost complete exclusion of the documents if the judge gives a very technical or very literal interpretation to the law. Although we know that the best judges will be appointed, there will be a continual pressure put on them to remain objective when the litigant is fighting the Crown, of whom the judge is a servant.

I am well aware of how injurious certain documents might be in matters of international relations and I agree that they should be screened out if their disclosure interferes with the security and defence of Canada. However, the wording used here is "be injurious to federal-provincial relations". I venture to say that the term "injurious to federal-provincial relations" is very wide in scope and would affect the whole of our Canadian life. We rely on one man's opinion as to what might be injurious. When we say injurious do we mean something which might drive Quebec out of the Confederation? The answer is, yes. In such a situation, we would have unanimous agreement and we would all be willing to screen out any such documents.

Since I think that democracy is based on reasonable compromise, and there will be some difficulty here if someone wishes to screen out a document, I suggest that when either side asks for a document to be withheld the court could be told that it is a touchy document. The judge could then hear the evidence in camera. Subclause (2), of course, rules out such a possibility completely and the document is withheld without any examination of the document whatsoever. It is left entirely to the judgment of the cabinet minister involved. Since the litigation might be directed at the very department where this document resides or a document might be in the very possession of the cabinet minister himself, he might well have an interest in not disclosing it. It seems to me that a great deal of discretion is put into the hands of one person.

Since I have full confidence in the judges of our courts, I can see nothing wrong with the suggestion that the proposal not to disclose the document be heard in camera. It seems to me that our judges will certainly not be so perverse, on seeing that a document might be injurious to the interests of Canada, as to rule that it should be disclosed. If we adopt the amendment, we will have more than one person's opinion and nothing would be done in secret or behind closed doors, nothing would be left to the opinion of one man. As confidence in our law officers and in our governments at all levels is in some jeopardy, I think it would be very wise at this stage of the development of federal-provincial relations, and in our attempts to improve the whole administration of our administrative law in Canada, that we lean over backwards by saying that ministers of the Crown should not make judicial decisions on their own. We should ask the judge, the litigants and perhaps the cabinet minister, to get together in camera to explain why a document should not be disclosed, and thus reach a reasonable compromise.

Another way of dealing with this situation would be to separate the document in the presence of all interested people. I venture to say there are few cases in which all of a document is secret or all of it is injurious to the public interest. Some parts of a document might be very relevant to the proper adjudication of a case, and other parts might have to be screened out with the approval of all parties. Some of it could be used for the purpose for which the document had been requested in court in the first place. It seems to me that that part of a document which may be injurious to the security of the people of Canada or to the best relations between the provinces—and that is the crux of the present argument—could be screened out to everyone's satisfaction.

Therefore, I support the amendment, Mr. Speaker.

Hon. Marcel Lambert (Edmonton West): I have examined the text of the committee's hearings with regard to the present clause and I find nothing of great import. As a matter of fact, I can find no discussion at all with regard to this subclause except for the statement which is recorded at page 3312 that clause 41 is carried. In other words, the clause was carried without previous discussion.

Mr. Woolliams: That is not correct. If you look at other parts of the committee's proceedings, you will find that we did discuss the clause.

Mr. Lambert (Edmonton West): I am saying there was no discussion at that time, that is when the clause was passed. It may have been discussed when the briefs were being presented, but we do not know who was present at the time. We do know that on certain occasions members were not able to be present at the meetings because they either had to be in the House or elsewhere. In any event, they were not there. I want to hear an explanation from the parliamentary secretary, and I am sure other members in the House would also want it, and a clear definition from him of what is meant by federal-provincial relations. If the term is as wide in scope and as all embracing as suggested by my colleagues and by the hon. member for Greenwood (Mr. Brewin), then of course one