

*Official Languages*

**Mr. Andrew Brewin (Greenwood):** Mr. Speaker, I did second the motion and I should like to say a few words in support of it. The hon. member for York South (Mr. Lewis) has very clearly and eloquently put forward the reasons for the amendment that we are proposing. I too have spent a good deal of my professional career in the defence of civil liberties. Indeed, I feel second to no one in this house in my devotion to fundamental rights and human freedoms. However, I have found that it is possible to employ a phony rhetoric about these issues. It is possible to fail to use a moderate and sensible judgment as to the balance between different and opposing principles.

The first principle—and this has been illustrated many hundreds, perhaps thousands of times in every civilized country of the world—is that there is a need for administrative tribunals, that these administrative tribunals must not be courts or similar to courts. They are needed because expertise in specialized subjects is required that the courts fail to have. There is a need to find the facts in a different way from that used by the courts. As I say, there are innumerable illustrations of where this is necessary. Such tribunals must have a concentration of function which is entirely different from that of the courts. There are innumerable illustrations of this. It would be folly to set up these tribunals, and then to cripple them by tying them down with legal procedures, appropriate indeed to courts but totally inappropriate to these tribunals which have a very different task from the task of the courts.

Yet on the other side there is another principle, or another series of principles. The principles I have enunciated might be called the principles of expediency and efficiency of tribunals. However, these must be balanced against certain fundamental rules. These include the preservation of the rights of the court to ensure that statutory tribunals do not exceed the functions conferred on them by the statutes of parliament. Another one is that no one should be condemned, punished or deprived of his rights or reputation by any such public or administrative tribunal without first being given a hearing and without first being given the right to counsel as well as the right to know clearly the nature of the case against him. The present legislation amply illustrates both these principles. The legislation clearly restricts the functions of the commissioner, important though they are. It restricts them within limits which a court can enforce. If the commissioner steps outside

[Mr. Speaker.]

these functions or exceeds them, the courts can act quickly.

● (8:50 p.m.)

It will be necessary for the other side of these functions to be emphasized, Mr. Speaker. The amendment of the hon. member for York South (Mr. Lewis) emphasizes the other side of those functions, as did in a partial way the motion of the hon. member for Cardigan (Mr. McQuaid). As the hon. member for York South was careful to point out, in carrying out his many functions the commissioner will need to act with tact and to use persuasive instead of dictatorial powers. He will have to avoid exercising powers which will have an executive effect. In certain cases it will be a great mistake to hamper the commissioner by requiring him, when complaints come before him, to call in counsel and set up a public hearing. The amendment preserves the basic principle which was referred to by the hon. member for Cardigan, that principle being that, so far as is reasonable, the commissioner shall not take away any man's reputation or rights without giving that man full opportunity to be heard in public. That is an important principle and it is not contained in the bill as presently drafted.

I say to the minister that such omission is a serious defect in the bill as it present drafted. I hope the minister is paying attention to what I am saying.

**Mr. Douglas (Nanaimo-Cowichan-The Islands):** He is not.

**Mr. Brewin:** I say there is a serious defect in the bill because the commissioner, as the bill now reads, may bring in a report affecting the reputation of an individual without there being any right to a public hearing.

**Mr. Douglas (Nanaimo-Cowichan-The Islands):** Say it again; the minister is not listening.

**Mr. Brewin:** It may well be that in certain cases an individual may prefer a private hearing. On the other hand, if an individual feels that to vindicate his character it is necessary for him to be heard in public, there should be a right to a public hearing. I am afraid I am repeating myself but I do so in the vain hope that my words will penetrate to the minister. I repeat. The bill contains a great defect in that the commissioner may do something affecting a person's reputation without there being a right to a full hearing. For the government to say that hearings shall be conducted in private is inadequate in these