

Official Languages

respect he has misread the duties of the commissioner as set out in the bill. They relate to government departments. So far as individual rights are concerned, these are preserved under collective agreements and under the Public Service Employment Act, and they are in no way jeopardized by the provisions of this bill. The hon. member has altogether misread the commissioner's powers.

Mr. Woolliams: Would the minister permit a question?

Mr. Deputy Speaker: Order, please. Is the hon. member for Calgary North rising to pose a question?

Mr. Woolliams: Yes, Mr. Speaker. The minister said he was familiar with the case law, particularly the Copithorne case. In that case, a cabinet minister acting on behalf of the Alberta cabinet made a decision in regard to a man by the name of Copithorne which affected that man's rights. As a result, the decision was appealed on the ground that the executive had gone beyond its powers.

I should like to ask the minister this. Assume that a deputy minister loses his job or is demoted; or perhaps he is discriminated against. Surely, such a person has the right to appeal and to say that the commissioner, or the executive, or the minister concerned, has done something that is against the law of natural justice.

Mr. Deputy Speaker: The hon. member for Greenwood.

Mr. Andrew Brewin (Greenwood): I do not know whether the minister wants to answer the question first, Mr. Speaker.

Mr. Woolliams: He cannot answer it.

• (5:30 p.m.)

Mr. Turner (Ottawa-Carleton): The question turned into a speech.

Mr. Brewin: Mr. Speaker, we in this party made it very clear that we do not think this is a perfect bill, or that we approve of all its principles. We want it to work. We have also made amendments. We felt that the failure to give a person the right to a public hearing in the case of an adverse report was a serious defect of the bill. We pointed this out to the minister, but he did not agree with us.

I must say that, although I listened to the predictably eloquent speech of the hon. member for Calgary North (Mr. Woolliams), I was not convinced by it. In my judgment, the

[Mr. Turner (Ottawa-Carleton).]

amendment is unnecessary. If it did anything, it would militate against a satisfactory working of the act. The reason the amendment is unnecessary was indicated by the hon. member for Calgary North. As a lawyer, he is naturally familiar with this. He pointed out that if the commissioner exceeds the authority given to him by the statute, if he declines to exercise the jurisdiction given to him, if he disregards the rules of natural justice or elementary fairness, he can be restrained by the courts by motions, writs or other processes that the court has.

The granting of the right of appeal is a very different thing indeed. The right of appeal means that even while the commissioner is still acting under the authority given to him, still acting in perfect fairness, the appeal can be dragged out for years. This would tie up the effective working of the commissioner and the act. One of the main reasons the appeal is inappropriate is the reason given by the Minister of Justice (Mr. Turner) a while ago. There is no such thing as an inherent right of appeal to the courts from every administrative tribunal, as was suggested by the hon. member for Calgary North. Quite the contrary is the case.

This is a matter that has been the subject of controversy for decades. In many cases the rights of appeal are being limited to the major items covered by such things as a prerogative writs, yet the amendment before us grants a right of appeal without any finding of fact, question of law or matter of the merits. This right would take something away from the commissioner appointed under this act and put the effective administration of this act in the hands of the courts. As much as I respect the courts, I want to make it clear I think they are entirely unsuitable tribunals for this particular purpose. When the Norris-LaGuardia bill, which confirmed or certified the rights of collective bargaining by unions, was passed in the United States, the process blew up because there were rights of appeal given. The appeals in relation to that matter were before the court for four years, and at the end of the four years the union was no longer in existence. There are many such cases. I think this is pre-eminently a case where the decisions of administrative tribunals should not be subject to appeal through the courts of the land.

As I have stated, the courts have their function. If there is a disregard of jurisdiction, unfairness, a breach of fundamental rights, they can be called into question in the courts which will consider every finding of