

Official Languages

We feel that his proposed wording "given reasonable notice of the complaint" and "full opportunity to be heard in public" is not an improvement on the words that are already found in clause 28 (2) which read:

—to give to that individual, department or institution a full and ample opportunity to answer any adverse allegation or criticism,

The only change that the hon. member is attempting to make is in bringing in the concept of a public hearing.

Mr. Douglas (Nanaimo-Cowichan-The Islands): At the election of the person affected.

Mr. Turner (Ottawa-Carleton): I think the hon. member may perhaps agree that, apart from that concept, the existing wording of clause 28 (2) provides, in terms of a potential adverse ruling, as much protection as his amendment. So, we are left with his feeling that there should be a public hearing at the election of the person adversely affected.

Mr. McQuaid: Mr. Speaker, may I ask the minister—

Mr. Turner (Ottawa-Carleton): I wonder if the hon. member would allow me to continue with this argument, after which I will be glad to entertain his question.

I believe that the election for a public hearing was involved in a discussion in the committee. We are of the view that in the purely administrative process, which is not a judicial process, which does not decide rights or impose obligations, which is an informal process to attempt to assess whether the spirit of this act is being applied by institutions and government departments, it is only fair to have these informal inquiries performed in private because of a risk to a reputation, particularly in the event that the complaint may prove to be without foundation. When we were in committee I put to the hon. member the following proposition: Supposing a member of a department elected to have the inquiry made public and the whole chain of command and other individuals were involved. Would he not, by exercising that election, involve others in publicity which they could not later control in an administrative fashion? I am not going to resurrect that debate, but suffice it to say that we made that policy decision feeling that in these administrative spheres, since we were not involved whatsoever in a judicial concept, it was probably fairer to the individuals involved to have the administrative function performed in pri-

vate. For that reason we rejected the suggestion and, since the hon. member did not pursue it in the committee, I feel we should reject it now. I know that the hon. member agrees with us that the essence of this bill cannot be enforced by court proceeding and by judicial inquiry, but can only be assessed by informal administrative proceedings affecting departments and not individuals. We want to ensure that in these investigations the individuals who work within these departments do not have their reputations blackened before the facts are completely assessed.

Obviously the results become public when the commissioner finds a transgression of this act. He then reports to the minister and to his department and ultimately to parliament. Before he can do that, any individual who is adversely affected has the right to a hearing before the commissioner. That is the reason for which we rejected the amendment in the committee. I can only repeat what I said during the informal discussion we had before the special committee. I believe the hon. member knows exactly the spirit of this bill. I have not finished yet, but I would be glad to entertain the question of the hon. member for Carignan (Mr. McQuaid).

• (9:50 p.m.)

Mr. McQuaid: Mr. Speaker, the minister allowed us to believe that clause 28(2) gives a person against whom a complaint has been lodged the right to be heard. This is at the discretion of the commissioner. But it may not be exercised until half the hearing has been completed. Does the minister really think it is fair that a person should be called in midway during the proceedings? What possible objection could he have to his presence from the very beginning, so that he could sit in on the whole of the proceedings? I am sure—

Mr. Speaker: Order. Since the hon. member does not have the floor he cannot make another speech. I believe he was given an opportunity to ask a question.

Mr. Turner (Ottawa-Carleton): In answer to the hon. member, all I can say is that the proceedings are not intended to try any individual. His rights, his obligations, any penalties under the law which may attach to him personally, are not in play in these proceedings. This is an administrative procedure affecting institutions only, and the individual is only indirectly affected. To answer the first part of the question, may I say it is mandatory upon the commissioner if it appears to him