

Official Languages

leges and protections that are available to witnesses who appear before superior courts.

Because the commissioner is merely an administrative officer, because he reports and recommends but does not decide rights or obligations, does not assess penalties or impose obligations upon individuals, he is really in the same position as any investigator and is not bound by the ordinary rules of evidence. Indeed, this has to be so because he must be free, as the hon. member for York South (Mr. Lewis) said so admirably in committee, to receive at times hearsay evidence and to receive and examine documents without having them proved as they would have to be proved in a court of law.

This is precisely why clause 30 authorizes the commissioner to accept and receive evidence and information that would not be admissible in a court of law. The same situation applies under the Public Service Staff Relations Act. The same situation applies under the acts establishing an ombudsman in Alberta, New Brunswick, Quebec and New Zealand. I say quite frankly that we have decided, as policy of the government, to set forth under clause 28 the power of summons, the power to administer an oath and to receive and accept evidence, so that those who have to administer the act, people involved in departmental responsibilities within the act, employees' associations and unions involved with responsibilities under this bill if it becomes law, will have a complete code in one statute outlining the power and authority of the commissioner. They will not have to refer to any other statute.

There is nothing in the Inquiries Act which goes beyond this bill. There is nothing of any substance in this bill that goes beyond the powers of the Inquiries Act. It is more convenient for the people who have to administer and fulfil the spirit and letter of this law to have the whole substance of the law contained in one document. This is because we will be dealing with people who will not be lawyers, who will not be sophisticated in legal interpretation—

Mr. Woolliams: They will not even know the law.

Mr. Turner (Ottawa-Carleton):—and who will want to have the complete substance of the bill in one document and they have it here. I want to make it very clear that clause 30 does not involve any invasion of civil liberties. Every effort has been made to protect the individual. Clause 28 of the bill is com-

pletely specific. Its intent, first of all, is that with this type of informal investigation the spirit and letter of the law can be observed more effectively. We believe that when dealing with institutions an informal investigation is more effective than the formality of a court procedure, because we are trying to assess how institutions are complying with the spirit and letter of the act which is to equate the official status of two languages.

We have set forth in the bill that investigations are to be conducted in private. This is to prevent any individual suffering adverse publicity through innuendo, rumour or any sort of hearsay evidence. Clause 28 (2) specifies completely that if the commissioner feels there is any ground for his making a report that may adversely affect any individual or department, he has an obligation before completing his investigation to take every reasonable measure to give the individual full and ample opportunity to answer any adverse allegation or criticism.

I should now like to turn to the wording of the amendment of the hon. member for Cardigan (Mr. McQuaid). Let us go through his amendment clause by clause. The first subclause of the hon. member's amendment goes to the question of whether the commissioner should under any circumstances conduct hearings in public. The policy of the government, which we have adopted and which we attempted to define in committee and now in this house, is that this type of administrative investigation, not a judicial investigation that will attribute guilt, assess rights and impose obligations, should not be held in public because of the risk to the reputation of individuals and government institutions. For this reason the commissioner's powers are those of investigation only. They do not trespass beyond the simple power of investigation. He is not a court. The right to be heard, the right to be represented at a public hearing, is in our view not entirely appropriate to these proceedings.

The bill provides, as I have already said, in clause 28(2) that the commissioner shall hear persons of departments when their reputation is impugned or when his recommendations may adversely affect them.

Subclause 2 of the hon. member's amendment reads as follows:

It is not necessary for the commissioner to hold any hearing but he may allow any person or any department or other institution concerned in an investigation, and shall allow any person or any department or other institution complained against in the course of such investigation, to be represented by counsel.