

Official Languages

in court? The bill then goes on further to say that he can admit evidence that is not admissible in court. You have given him all the powers a court has yet you say he has not got the functions of a court.

Mr. Turner (Ottawa-Carleton): He has no court functions whatsoever. He has the powers that are akin to the powers of an ombudsman. In fact, he is a linguistic ombudsman. He has no power to assess rights, or obligations, or duties on individuals. He will assess the status of access to the two official languages within the institutions of government. His power and his sanctions are persuasion and publicity; that is bringing facts to light to the minister of a department concerned, the head of a department and, more importantly, to parliament. He assesses no guilt and he attributes no blame. He makes an assessment as to what the situation may be and presents it to parliament. This language duplicates the statutory provisions, almost word for word, of the ombudsman legislation of New Brunswick, Quebec and Alberta. The power involved is the power to bring to light certain facts, not to decide civil rights or attribute blame or guilt.

Mr. Lewis: May I ask the minister a question? Earlier this evening I tried to express my view of the commissioner's functions, and I put them very much along the lines the minister has suggested, but some of his statements worry me. In his bill in clause 28(2) there is provision for a report or recommendation which may adversely affect any individual, any department or any other institution. Should not the minister qualify his statement that this man cannot lay any blame? Obviously, the minister meant to say that somebody might be blamed in the report or recommendation of the commission?

Mr. Turner (Ottawa-Carleton): In terms of reputation and in terms of blame the hon. member is quite right, but this situation is quite different from assessing or attributing guilt, inflicting penalty or deciding civil rights. In terms of reputation and blame, clause 28(2) now says that if any time during the course of an investigation it appears to the commissioner that there may be sufficient grounds for his reporting or making a recommendation that may adversely affect an individual, a department or other institution, he shall before completing the investigation take every reasonable measure to give that individual, department or institution a full and ample opportunity to answer any adverse

[Mr. Woolliams.]

allegation or criticism. This is exactly what it means and what I have suggested.

Mr. Lewis: Why not give him the opportunity to be heard in public?

Mr. Turner (Ottawa-Carleton): I think that in all fairness the hon. member should allow me to develop the argument I am attempting to develop. I will deal not only with the motion proposed by the hon. member for Cardigan (Mr. McQuaid), but also the amendment proposed by the hon. member for York South.

• (9:30 p.m.)

I think it is important when we analyse the powers and functions of the official languages commissioner to state quite clearly, as we attempted to do in committee and as I attempt to do now in this House of Commons, that he is not a judicial officer. He does not have the power of a court. He does not have the power to apply sanctions, to impose penalties. His only power is persuasion and to bring facts to light. His is an administrative, not a judicial, function. He does not decide rights. He does not assess guilt. He does not attach penalties.

Mr. Woolliams: What about an adverse ruling?

Mr. Turner (Ottawa-Carleton): It is not a ruling. He does not affect individual rights. His power is limited to assessing the equal status of two official languages as used by institutions, and through institutions by the people working in them. If there is blame, it is to be attached to the departmental head, the minister, but not to the individual. It is an institutional function, and not primarily an individual one. That being so, if the commissioner is effectively to perform his investigatory function, to ensure that the spirit and letter of this law is observed, he must have the power to summon witnesses and enforce their attendance.

Mr. Horner: And enforce.

Mr. Turner (Ottawa-Carleton): To enforce the attendance of witnesses; that is right. The commissioner must have the power to compel them to give evidence, because without this power he could not deal with the complexities of modern government. I believe those powers of forcing and compelling the testimony of witnesses are limited by the closing words of the clause which read "in the same manner and to the same extent as a superior court of record". This language imports all the privi-