

*Official Languages*

So, according to the Secretary of State, the commissioner is charged with the enforcement of the law.

The advisory Committee on bilingual districts and the Governor in Council according to this clause have authority to determine the bilingual districts, while the Commissioner rather has the authority to make sure that this law is enforced.

I do not agree with the statements made by the ministers of the Crown. I venture to suggest there is not a man or woman in the public service of Canada today who is not going to be terribly afraid of the powers of this commissioner, and I think with some justification. This commissioner does not just conduct an investigation; he conducts an investigation with power to report and to make recommendations.

Suppose, Mr. Speaker, that a complaint is made to the commissioner that a civil servant employed in the Post Office Department in a certain area is not carrying out the provisions of the act. Do you mean to tell me that that man will not be called on the mat to give an account of why he is not carrying out the provisions of the act? Of course, he will be.

The commissioner is empowered to make a report and also to make a recommendation. This is why I contend that this employee of the Post Office Department has the right, the inherent right of everybody who is charged with a serious offence, to be heard in public. Why should the charge be heard behind closed doors? The charge should be heard in public and the public given the right to listen to the case. In such event the person accused—I use that word advisedly because the man may be accused of not carrying out the provisions of the act—will be satisfied that he is being given a fair hearing and can rest assured that those interested are able to hear his side of the case.

The government has seen fit to prescribe that the commissioner shall conduct his investigations in private. No discretion at all is left to him; he must conduct his investigations in private. The motion before the house, which I hope will meet with the approval of all members of the house, provides that if a man whose conduct is being investigated requests that the inquiry be conducted in public, there shall be a public hearing; that he shall have the opportunity to present his case not only to the commissioner and the chosen few who might be invited to hear it, but to everybody who may be interested. I think this is only fair and in accordance with just practice. I think hon. members will find that

[Mr. McQuaid.]

the courts are very reluctant to conduct hearings behind closed doors; a very strong case indeed has to be made before a judge will decide to exclude the public.

I draw the attention of the house to clause 28 (2):

It is not necessary for the Commissioner to hold any hearing—

I ask the house to note those words.

—and no person is entitled as of right to be heard by the Commissioner—

Did you ever hear, Mr. Speaker, anything so ridiculous? Surely, if a man is going to be charged—and I use that word advisedly—as a result of a complaint laid against him, then according to the principles of justice he should be entitled to the right to be heard. How can the government possibly take that right from him?

No doubt the minister will reply that the commissioner is not conducting a court or conducting legal proceedings. I agree. But again I remind the members of the house that this commissioner has the power to make recommendations and to report. I do not think anyone would seriously challenge that there is not a man or woman in the public service today who would not be terribly afraid of the tremendous powers of this commissioner.

The government then tries to correct the situation by making this provision in the clause:

—but if at any time during the course of an investigation it appears to the Commissioner that there may be sufficient grounds for his making a report or recommendation that may adversely affect any individual or any department or other institution, he shall, before completing the investigation, take every reasonable measure to give to that individual—

—the chance to be heard. This provision does not help a person against whom a complaint has been made because it uses the words “if...it appears to the Commissioner” during the course of an investigation that there are sufficient grounds for making an adverse report. At that stage it would be too late, I suggest, for the man to be heard.

● (7:50 p.m.)

Why should he not be there from the very beginning? After all a complaint has been made against him. Surely, it is only fair and just that he should be entitled to sit in on the hearing from the very time the investigation begins. But, no; it is only if it appears to the commissioner—he is the man who will exercise the discretion and who will perhaps suddenly make the decision in the middle of the