



Commissioner
of
Official
Languages

First
Annual
Report

1970 • 1971

Marc Thérien



Commissioner
of
Official
Languages

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Information Canada
Ottawa, 1971

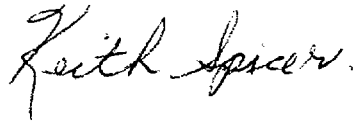
Cat. No. SF1-1971

The Speaker,
Senate,
Ottawa

Mr. Speaker,

Pursuant to Section 34(1) of the Official Languages Act, I hereby submit to Parliament through your good offices the first annual statement relating to the discharge of my duties under this Act, covering the fiscal year 1970-71.

Yours respectfully,

A handwritten signature in cursive script that reads "Keith Spicer". The signature is written in black ink and is positioned centrally below the typed name.

Commissioner of Official Languages

November 1971

The Speaker,
House of Commons,
Ottawa

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Commissioner of Official Languages

November 1971

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Preface

When I took up my present duties on April 1, 1970, the notion of a “Commissioner of Official Languages” existed only as a thoughtfully assembled skeleton. The law creating it—the Official Languages Act—described in some detail the Commissioner’s duties and powers; but it left him great discretion in shaping the scope, mood and means of his action. In this, since the job could lean on no precise precedent anywhere in the world, the Act was strong where it needed to be strong, and flexible where it needed to be flexible.

For such foresight, the parliamentarians of all parties who passed the Act in July 1969 deserve full credit. Even with the brief experience of one year, I view the Act as a bold and soundly constructed law.

Fleshing out the skeleton took many months. Should the Commissioner be Machiavelli or Maigret? Don Quixote or Dr. Kildare? The traditional ombudsman posture did not appear perfectly apt, though its spirit of simple, accessible mediation is indispensable. Neither did the role of auditor-general, however essential its powers of independent, systematic scrutiny.

The challenge of “mediating” and “auditing” language rights was greatly complicated by several factors: historical misunderstanding; controversy about the constitution; diversity of patriotic viewpoints in a multi-ethnic population; skepticism about the contemporary relevance of bilingualism; fears engendered by the very reforms Parliament deemed necessary. In short, the success of Canada’s linguistic revolution seemed to depend first on cooling the climate of discussion on language, on transforming a debate into a dialogue.

My colleagues and I, needless to say, do not believe that we alone, or even mainly, hold the responsibility for trying to improve the climate of linguistic dialogue in Canada. Every citizen, and in particular every public leader and commentator, has a part to play. But, by applying the

law with common sense, equity, and understanding, we think we can help. For whatever the letter of the law, we are convinced that it can work only by a constant remembrance of these qualities.

Everyone knows where roads paved with good intentions may lead. But realistic idealists must recognize that no reform as demanding and probing as the Official Languages Act—affecting, as it does, all the 150-odd agencies of the federal State—can succeed without an almost inexhaustible willingness to seek out, and resolve, its attendant human problems.

For as the jurisprudence of our complaints develops, and as the broader studies we initiate delve deeper into departments of government, we realize that on many of our recommendations rights may be secured or denied, lives enriched or diminished. The law's basic principle of equality for both official languages must be defended without compromise. But we consider that the movement of bilingualism in the whole array of federal agencies can progress only with a maximum of support by public servants. The State imposing new linguistic standards—however just and urgent these may be—has a duty to assist its own employees to meet the new norms with every reasonable encouragement and at public expense.

Broadly speaking, this has been the Federal Government's policy for many years—a policy backed by all parties. But now that the cadence and depth of reform are pressed by law, vigilance on behalf of the individual is needed still more. With the advice of employee associations, we have tried and will try to help potential casualties of linguistic change as deliberately as we do its immediate beneficiaries—the latter including both private citizens and public servants.

In sum, we are attempting to find a mixture of courage and discretion suited to each problem, stressing courage as the thrust of reform. Both these qualities, we hope, will serve the single aim of helping Canadians build a more secure linguistic justice.

* * * *

Since this first annual report may prove useful as a reference for later years, we shall devote some space here not only to the new office's current activities, but to its guiding outlook, its administrative basis and evolving procedures.

K.S.

Chapter I

A PHILOSOPHY OF REFORM

Book 1 of the Report of the Royal Commission on Bilingualism and Biculturalism appeared in October 1967, proposing a new charter for Canada's official languages—a charter to be founded on the concept of “equal partnership”. To this end, the Commission recommended that Parliament adopt an Official Languages Act and that the Government appoint a Commissioner of Official Languages charged with ensuring respect for the equal status of English and French in all federal agencies. After lengthy debate, Parliament passed the Official Languages Act in July 1969, and the Act came into force on September 7, 1969. On April 1, 1970, the first Commissioner of Official Languages for Canada took up his post after Parliament named him as its servant with a seven-year mandate.

A. The Commissioner's Mandate

The major role Parliament wished to assign the Commissioner is plain from a glance at the Act itself: 16 of its 40 sections define the Commissioner's status, tenure, functions, duties, powers and general procedures.

The core and touchstone of his role are found in Section 25, which reads:

It is the duty of the Commissioner to take all actions and measures within his authority with a view to ensuring recognition of the status of each of the official languages and compliance with the spirit and intent of this Act in the administration of the affairs of the institutions of the Parliament and Government of Canada and, for that purpose, to conduct and carry out investigations either on his own initiative or pursuant to any complaint made to him and to report and make recommendations with respect thereto as provided in this Act.

The generality of this wording in itself allows much scope for playing a substantial role. The word “duty”—the merely permissive

word “right” is not used—instils in the mandate a further compelling force. But the full possibility of practising a prudent yet steady activism emerges from reading Section 25 in relation to certain other key sections. This opportunity, in short, enables the Commissioner not simply to defend the institutional bilingualism prescribed by law, but actively, if indirectly, to help promote it.

The Act’s crucial article and the basis for the Commissioner’s interpretation of Section 25 is Section 2, entitled “Declaration of Status of Languages”. Its terms are simple, clear and all-encompassing:

The English and French languages are the official languages of Canada for all purposes of the Parliament and Government of Canada, and possess and enjoy equality of status and equal rights and privileges as to their use in all the institutions of the Parliament and Government of Canada.

This opening statement makes its weight felt on the Act as a whole in at least four ways. First, the section forms an integral part of the body of the Act. It is not a mere well-meaning and inspirational preamble. It carries binding force, heightened symbolically by its position as the Act’s first section of substance. Consequently, later sections spelling out, for example, specific obligations of the State concerning documents for the public (Section 3), territorially defined duties of departments (Section 9), and the travelling public (Section 10), cannot reasonably be construed in isolation, as the Act’s only concrete prescriptions. Such sections simply illustrate more precisely the intent of Section 2.

Second, the broad wording of Section 2 invites the Commissioner to concern himself with both aspects of institutional bilingualism: languages of service to the public, and languages of work. It is true that virtually all the later “illustrative” sections detail the State’s obligations to the public at large. But since Section 2 proclaims equal status, rights and privileges for the two languages “as to their use in” all federal institutions, it would be a dereliction of the “duty” imposed on the Commissioner by Section 25 not to uphold this equality in regard to “use” of either language “in” such institutions by federal employees as well as by members of the public.

Third, this responsibility for underpinning the language rights of federal employees is confirmed in Section 40 (4), which obliges the Public Service Commission or other State-directed hiring authority to take “due account” of the “purposes and provisions” of the Act. Section 40 (4) in no way allows the Commissioner to usurp the powers of the State to hire and promote its staff. Nor is there a question here of the Commissioner’s Office acting as a separate appeal mechanism duplicating existing procedures. But this section does, when read jointly with Sections 2 and 25, oblige the Commissioner to open recourse to federal employees should the above “due account” not be taken—

whether deliberately, by accident, or, as some of our complainants have alleged, when existing grievance procedures are inadequate, or are vitiated by fear of possible reprisals.

The Commissioner's duty is therefore one of overall surveillance of the agencies involved, including the Public Service Commission, with regard to their duties under the Act. If a complaint is received relating to obligations under Section 40 (4), the Commissioner must investigate it; similarly, he has the duty, according to the Act, to investigate on his own initiative any situation which might appear to him to disregard a duty imposed by Section 40 (4).

A final proof of the cumulative impact of Sections 2 and 25 comes in the invitation to a general and active role suggested by the words "take all actions", "spirit and intent of this Act" and "on his own initiative" in Section 25. Read in conjunction with the universal declaration of Section 2, these words enjoin the Commissioner actively to seek out and help to correct any situation not in conformity with the Act—any situation where the equal status, rights or privileges of either official language might be neglected. As explained further on, this broad view of the idea of initiative gave rise to a role for the Commissioner which goes beyond the traditional case-by-case approach of an ombudsman and even beyond the more systematic, yet essentially denunciatory, role of an auditor-general.

B. The Approach

Measuring one's mandate is but the first step in doing a job. Translating a text into action requires some kind of working philosophy, a set of guiding principles to meet the challenge in rational, as well as practical, terms. Certain analogies with the work of ombudsmen and auditors-general offered basic inspiration. So did the experience, successful or unhappy, of other multilingual countries. But at bottom, the uniqueness of Canada's linguistic challenge demanded an original blend of standards and outlooks. These could be summarized as follows:

1. A non-political humanism

Whatever political repercussions official bilingualism may inevitably provoke, the goal of helping to promote a trusting and relaxed dialogue on this subject demanded, at the outset, that the Commissioner stand visibly apart from politics. This meant first that he should act truly as a servant of Parliament, consulting and dealing impartially with all political parties.

Indeed, given the current debate about Canada's future structure, it seemed that the need for the broadest possible dialogue would best be

served by viewing the Office in isolation from our country's constitutional evolution. [In this perspective, the Office is not a vehicle to sell any particular constitutional option; rather it seeks, while respecting the constitution as it stands and democratically evolves, to consider justice in State bilingualism simply as an ideal of human dignity and as one of the much-needed long-term bridges to understanding among Canadians. Asserting this dignity and strengthening these bridges is not utopian. It is mere self-interest to try to preserve for Canadians as a whole, come what may, our singular heritage of two of the world's most useful and prestigious tongues.]

2. *A realistic view of Quebec's role*

This humanistic and non-political overview of Canada's linguistic challenge admits a special role for Quebec. Plainly, the decisive effort to protect and enrich Canada's French-language heritage cannot take place in the French-speaking communities of predominantly English-speaking provinces—or even in the Federal Government's language schools. Work in these areas is indispensable and deserves continued support. But the long-term future of French in North America will depend mainly on Quebec's ability to strengthen its principal language of culture as a language of work and general social use. In the end, the vitality of French everywhere in Canada will rest on the dynamism—indeed the healthy predominance—of French in this unique jurisdiction where francophones form a majority, and possess institutions reflecting this reality.

Obviously, it is not the Commissioner's business to suggest or predict the shape of the Quebec Government's language policy. It seems clear, however, that all of the hypotheses now discussed in Quebec concerning the status of French tend to heighten or entrench this status in one way or another. The Official Languages Act does not contradict these hypotheses. Indeed, the Commissioner's Office can support, within the Quebec sector of the federal administration, the often expressed will to make French Quebec's essential language of official, economic and social intercourse. This the Office can do first by insisting that all federal services in Quebec be guaranteed in French, as well, where required by law, as in English; and second by defending the right of federal employees to work in the official language of their choice—a policy of potential benefit to the French-speaking majority of the roughly 75,000 federal employees in Quebec.

By law, the Office is charged with upholding, within federal institutions, the equal status, rights and privileges of both French and English languages. This it will continue to do. But being realistic, one

must recognize that the English language, resting on the massive cultural infrastructure of some 225 million anglophones in North America, does not seem in danger of imminent disappearance in Quebec—particularly in federal agencies. Consequently, the Office's action, while fully at the disposal of Quebec's anglophones, is likely to prove of relatively greater practical benefit to French-speaking Quebeckers. The Commissioner's Office thus remains outside the political and constitutional debate on language; but in fact, it is the natural ally of all those in Quebec who are interested in promoting the French language.

3. *An informal diplomacy*

On paper, the Official Languages Act may seem to suggest that the Office is a somewhat intimidating, tribunal-like apparatus. This emerges starkly from Section 30 of the Act, conferring on the Commissioner stringent powers to summon witnesses, order the production of documents, administer oaths, and accept evidence not normally admissible in a court of law.

In practice, the Office has avoided an approach which might smack of coercion, judicial or otherwise. From the beginning, the powers of Section 30 appeared only as a last resort. In the first year of operations, the Commissioner did not meet a single situation, involving either a citizen or a Government agency, where he found it useful and timely to invoke these powers. As Chapter V indicates, however, he was considering use of these powers at fiscal year's end to obtain documents from one department which was offering legal arguments to limit its cooperation. In one other department, the somewhat lethargic cooperation of certain civil servants led him to appeal, with positive results, directly to the minister. But these were isolated cases, putting at stake the Commissioner's fundamental duty.

Instead of brandishing subpoenas at the first sign of reticence, the Office has proceeded through a kind of informal diplomacy based on low-key persuasion. This has never excluded frankness, and has occasionally demanded bluntness. But in general, the Office's action has aimed to be educational rather than admonishing, friendly rather than officious, constructive rather than negatively critical.

Certainly the success of this approach owes something to the very rigour of the Act the Office is helping to apply. Informal diplomacy no doubt carries greater credibility when backed up with an impressive, though discreetly held, legal arsenal. Still the Office holds a principled and pragmatic belief that the diplomatic route is not only the most acceptable, but the most workable, means of meeting the bilingual challenge.

This concern to apply the law with common sense and understanding in no way means dilution of the underlying principle of the equal status of Canada's two official languages. Reasonable interpretation does not include abandonment of the Commissioner's key responsibility. If the Official Languages Act is to carry any meaning, it must manage to incarnate bilingualism in the federal State as an administrative whole. This institutional bilingualism, by visibly strengthening the linguistic security of both language communities, offers a concrete basis for the mutual confidence indispensable to dialogue. In sum, a dialogue between equals demands that equality be clearly embodied in certain institutions. The Commissioner, as Parliament's custodian of this equality, must first and foremost seek linguistic justice.

How then can the twin preoccupations of duty and flexibility be reconciled? Perhaps they never can be, to the satisfaction of everyone in every case. But if there lies a hope of balancing principle with propriety, it is in rooting our whole approach in the premise that official bilingualism, even while binding on Government institutions, can succeed in the end only through the willing support of the Government's employees. One can lead a unilingual horse to water, so to speak, but forcing his total immersion is likely to prove cumbersome. Hence, a need for all concerned with implementing the Act to explain ceaselessly the thrust and value of bilingual reform; and a need honestly, indeed generously, to help Government employees fulfill the goals of Parliament.

Trust in the rational integrity of the average person, whether public servant or private citizen, is wise in any field affecting human rights. When the rights in question are linguistic, and therefore coloured by normal but potentially confusing emotions, diplomacy—engaging all its attributes of tact, patience and reasoned compromise on modalities and timing (though not on principles)—is indispensable. Beyond doubt, the first full year's experience has proven this basic policy decision right. It has even shown the value of an easy and open diplomatic mood: many problems brought to the Office's attention involved misunderstandings resulting from poor communication aggravated by more or less resolvable fears. Even if the medium as message is passé, it was plain that a relaxed, informative, indeed good-humoured, approach could foster a climate in which problems of substance could be seen more clearly, analyzed, and eventually overcome.

C. Principal Activities

This mandate and approach have marked most of the Office's activities, both supporting and operational.

1. Supporting activities

Even though linguistic complaints had begun arriving before April 1, 1970, the day the Office came into existence, much of the first year had to be spent in creating mechanisms enabling the Office to carry out its operational duties. The most immediate task was the material and legal one of establishing an administration, a subject to be covered specifically in Chapter II.

A second immediate concern was to settle on a working hypothesis defining the mandate and its resulting operations. After a brief review of the Official Languages Act, and even before the main permanent officer staff was hired, the Commissioner presented an outline of the Office's diplomatic approach and its two main functions, through individual meetings, to the Speakers of both Houses and to the leaders of all four parties in the House of Commons. This preliminary round of consultations helped greatly in refining the outline and in confirming that the general approach and types of operations proposed were acceptable both to the Office's constitutional reporting authorities (the two Speakers) and to all sectors of parliamentary opinion.

A third task consisted of establishing liaison with agencies and persons interested in the Office's work. At an early date, the two Speakers and four party leaders were asked to designate a colleague with whom the Commissioner could consult on a more regular basis. During the year such liaison, as well as later contacts with Speakers and leaders, proved invariably fruitful. It included briefing and question sessions with two party caucuses which were able to accommodate the Commissioner in their schedules.

Liaison, either through a visit by the Commissioner or by letter, was also initiated with administrative heads of all the roughly 150 federal institutions covered by the Official Languages Act. Agency heads were briefed on the Commissioner's approach and plans, and invited to name an officer to help the Commissioner's staff resolve complaints or undertake studies at an operational level. Completing the network of federal contacts were meetings with the chief officers of the two main staff associations, the Public Service Alliance of Canada and the Professional Institute of the Public Service of Canada. Cooperation with both these agencies, as well as with certain other employee groups within Crown Corporations, was not only cordial but concretely helpful.

The Office also set up channels of consultation and cooperation with provincial authorities. The Commissioner held general policy talks with the premiers of New Brunswick, Quebec, Ontario and Manitoba—the provinces dealing with minority-language questions on the largest scale. Visits to other premiers will be proposed during the second fiscal year. The four premiers whom the Commissioner met gave him valuable advice and designated officials with whom his Office could deal for

reciprocal referrals of jurisdiction. The Commissioner also sought the advice of all provincial ombudsmen named and working during his first year, namely those of New Brunswick, Quebec, Manitoba and Alberta. In Quebec, happy relationships were established with the Commissioner of Languages for Quebec and the Office de la langue française.

The Commissioner made a particular effort to elicit the views of various minority groups throughout the country. In the first days of office, he met with the Canada Ethnic Press Federation, and later in the year he attended the Mosaic Congress of ethnic minorities in Manitoba. He also began a long-term series of consultative visits to official-language minority groups, including those in New Brunswick, Quebec, Ontario, Manitoba, Alberta and British Columbia.

Given the unique status of the National Capital Region under Section 9 of the Act, the Commissioner sought the advice of the Chairman of the National Capital Commission and of the Mayor of Ottawa. He offered the Mayor the Office's support in carrying out the City's newly announced policy of developing a more bilingual municipal administration.

A final supporting activity which commanded attention from the start was publicity. Following an initial round of radio, television and print interviews at the time of his appointment, the Commissioner met the press regularly during trips outside Ottawa. These activities normally centred on a straightforward explanation of the Office's role. In all, and in addition to six public appearances by the Office's Director-General, the Commissioner made 15 public or semi-public speeches, and was interviewed on radio or television, in newspapers or magazines, 33 times.

In the early months of 1971, the Office was developing three basic documents to explain its role to the general public. A simple pamphlet had gone through several drafts, and will be completed and distributed in our second year. In March, the Office began widespread distribution of a large colour poster to all federal agencies in the National Capital Region and in certain other centres where federal agencies were dealing with the travelling public. This poster, as well as an identical but smaller counter card, was developed in consultation with staff associations, Air Canada, the CN and Members of Parliament from various political parties, and will be distributed gradually over the coming year in other parts of Canada and to Canadian missions and federal travel facilities abroad. Finally, the Office prepared a basic explanatory article on its purposes and methods, for publication, during the summer of 1971, in magazines of the major public service staff associations and for wider distribution in the form of an offprint. This article and the pamphlet, as well as texts of speeches and press clippings, will fill an information kit to be sent out in response to queries from the general public.

2. *Operational activities*

The need for a modest but useful information programme became obvious throughout the first year from the variety of requests private persons and public servants sent our Office concerning matters outside its jurisdiction. A large number asked for money to finance second-language schooling; others requested help for translating documents or interpreting at conventions. To these people we could only show a full heart but empty hands—although, where possible, we tried to direct them to a more likely and more affluent source of funds. The Commissioner's only "extra-curricular" activity was speech-making in favour of interprovincial visits by youth; as a result of this advice, the Office found itself drawn, not without some pleasure, into the role of intermediary and lobbyist for a highly successful exchange of 44 high school students between Sainte-Anne-de-la-Pocatière, Quebec, and Burlington, Ontario, subsidized by the Department of the Secretary of State.

Apart from these incidental dealings, however, the Office carried out two main operational roles, both derived from the Act's guiding Section 25. These will be analyzed in some detail in Chapters III and IV, but a word about them now might help to explain how each fits into the Office's mandate and approach.

The first function, that of a kind of "linguistic ombudsman", might be compared to curative medicine, in the sense that it tries to solve difficulties pointed out by complainants. A Complaints Service of eight officers under a Director with wide diplomatic and legal experience had opened, by March 31, 1971, a total of 181 files.

The second function, which might loosely be termed that of a "linguistic auditor-general", dispenses preventive medicine by helping federal agencies to avoid complaints, through recommendations about the best ways of meeting the Act's requirements. This role is carried out by a Special Studies Service composed, at fiscal year's end, of 11 officers and research assistants led by a Director with a strong background in research and administration. This Service was created in response to the duty imposed on the Commissioner in Section 25 "to conduct and carry out investigations . . . on his own initiative"—an obligation which significantly precedes, in the text, the duty to accomplish such investigations "pursuant to any complaint . . ." As of March 31, 1971, the Service had initiated or completed 11 independent audits of language of service in various federal agencies.

Together, the two Services effect reforms through different, but complementary, mechanisms. The Complaints Service corrects specific irregularities by studying allegations made by individuals or groups; the Special Studies Service, choosing its priorities in part by following trends in complaints, seeks reform by initiating general investigations.

Through daily coordination between the two Directors, the two Services should allow the Office to monitor fairly accurately the progress of bilingualism throughout federal agencies and, it is hoped, to offer Parliament a meaningful overview.

D. Impact of the Office on Government Agencies

The great majority of federal agencies cooperated readily with the Office's efforts. The Commissioner assured them all at the beginning that the Office would not adopt a threatening posture, but rather one of constructive encouragement to comply with the Act. Occasionally, as Chapters III and IV will indicate, encouragement had to become more insistent. Yet the general climate of collaboration was cordial, and the Office's recommendations were taken seriously.

This reaction by the federal administration as a whole was clear in both the direct and indirect influence of the Office. All federal agencies with which the Office dealt directly on complaints or special studies understood the Commissioner's general duty under Section 25 and agreed to the procedures he proposed for expediting investigations. This included establishing liaison at the working level to carry out investigations following notices of intent the Commissioner is obliged to send to administrative heads under Section 27.

Some agencies took the initiative of consulting the Commissioner and his staff before adopting a new policy affecting languages. Notable examples of this informal consultation—outside, but not against, the Commissioner's mandate—were the Chief Electoral Officer and Air Canada. The courtesy was returned by Air Canada, along with the Canadian National, in helping the Commissioner's Office to develop the above-mentioned poster as a document both helpful and pleasing to the public.

The Office's indirect influence, though hard to identify specifically, seemed to work through two channels. One was the network of departmental Bilingualism Advisers or "Coordinators", whom the Commissioner and his senior colleagues met as a group in November 1970, and individually on other occasions. The other means of influence might be termed, as it has been in the case of other ombudsmen, "anticipatory persuasion". This expression suggests, again, that as the Office's activities in certain departments become known, ministers and deputy ministers in other departments tend to effect reforms in expectation of the Office's later interest. This kind of influence cannot easily be documented; yet over its first year of operations, the Office found that awareness of, and concern for, matters bilingual throughout the federal administration sharpened noticeably. This more sensitive climate is no

doubt due to the whole pattern of initiatives taken by Parliament and the Government. But the Office forms part of this pattern and, more and more, an active and tangible part with a recognized, independent mandate.

Chapter II

ADMINISTRATIVE DIVERSIONS

The Office came into existence on April 1, 1970, when the Commissioner moved, with one secretary, into the nearly abandoned offices of the Royal Commission on Bilingualism and Biculturalism. Already, as a result of publicity surrounding his appointment, the Commissioner had to deal with about a dozen complaints, some of which demanded immediate action.

The task of creating a new agency of government while dealing with this business and thinking through the job's mandate proved challenging. The proverbial complexity of government administrations sometimes seemed understated; but the Commissioner's early explorations of Ottawa bureaucracy found willing guides, particularly in the Privy Council Office, the Public Service Commission, the Treasury Board and the Bureau of Management Consulting, an agency of the Department of Supply and Services. With help from these sources, the tedious work of inventing an office establishment, writing job descriptions, organizing competitions for permanent staff, and planning preliminary and long-term budgets was considerably lightened.

Further support came from ten bilingual university students the Commissioner hired for the summer of 1970 to help map out specific areas of policy and procedures. Reports from these students assisted the Commissioner in grasping the major dimensions and challenges of the job.

Finally, the Department of Justice lent the services of a young legal adviser, who was on call for six months until the Commissioner was able to retain a lawyer from outside the Government, as originally planned, to underline and maintain the Office's independent status.

After the first three months, the Office was beginning to take recognizable shape. But it reached full operational status only some ten months after the Commissioner's arrival in Ottawa. This time lapse owed

something to the need for reasonable care in developing long-term policies and exploring the Act's legal boundaries. It resulted partly too from the urgent task of initiating liaison with a great many officials and agencies affected by the Office's work and from the preparation of a basic publicity programme. But most of all, the Office was prevented from concentrating on its operations by the complex and unavoidably slow procedures required to create and bring to reality a wholly new government administration. The Office was and remains completely independent of the executive branch in terms of policy; but it was obliged by law to follow normal public service methods in planning its organization, recruitment and budget.

A. The Office Organization

The basic plan for the Office's organization grew out of the Commissioner's conception of his mandate and principal activities under Section 25 as outlined in Chapter I. The function of "linguistic ombudsman" plainly demanded a small team of highly skilled complaints officers; that of "linguistic auditor-general"—giving thrust to the notion of "initiative" specified by Section 25—required a somewhat larger team of diplomat-researchers. Thus came about the crucial decision to split the Office's operations into two distinct but complementary services: Complaints and Special Studies.

The second key decision identified a post, equivalent to that of a Deputy Commissioner, filled by a Director-General of Operations. From the outset, the Commissioner wished personally to stress the diplomatic and educational role of the Office. In this role, he expected to spend much of his time not only keeping in good repair the Office's bridges to government and private agencies dealing in, or touched by, bilingualism; he wished to make frequent visits to official-language communities, third-language groups, schools and service clubs throughout the country to help promote a better understanding of the Act and a positive, well-informed dialogue on languages.

This concept of a "travelling" Commissioner suggested a twinning of many of his day-to-day policy responsibilities in a deputy able to act with full powers in the Commissioner's absence. It also indicated the need for an administrative chief of staff who would free the Commissioner from most of his budgetary and personnel duties, allowing him to concentrate on planning long-term policies.

Building on these two decisions—the split in operations and another in his own duties—the Commissioner met the Treasury Board on May 4, 1970, with a detailed establishment outline including an organization chart and an explanatory narrative. With the Board's

approval that day, the establishment could then be broken down into individual job descriptions, the indispensable prelude to recruitment through Public Service competitions.

These job descriptions absorbed much of the Commissioner's time in the first three months. They were drafted in close consultation with the Public Service Commission to meet the standards of the Treasury Board's Compensation and Classification Division. Since the Commissioner wished to recruit a high-calibre staff to give substance to the Office's diplomatic approach, it usually took several weeks of negotiations between the Treasury Board, the Commissioner and the Public Service Commission to secure approval of ranks or classifications high enough to attract the quality of staff sought.

A second prosaic but absorbing task during the first ten months was the preparation of permanent office accommodation. Government regulations on rentals and furnishing transformed this exercise into a poignantly instructive cram course in bureaucratic survival. In the end, the Office settled into surroundings both pleasant and functional. As one of the first experiments in Ottawa with open-office landscaping, the new quarters offered economy, convenience and, for public as well as staff, a fitting reflection of the Office's philosophy of easy accessibility.

B. Recruitment

From the start, the Commissioner decided to hire permanent staff from the top downward, thereby leaving incumbents at each level of authority a predominant voice in choosing the persons they would work with. An urgent exception was an executive assistant, bearing the title of Liaison Officer, whom the Commissioner hired on contract on May 4, 1970, and the Public Service Commission appointed to permanent staff one month later. During this time, and even through the summer, certain officers, clerks and secretaries of the Royal Commission on Bilingualism and Biculturalism lent valuable technical support on an informal basis. The PSC also appointed by competition one complaints officer to meet the first wave of letters the Commissioner had received while obliged to deal with immediate and long-range administrative, recruitment and budgetary problems.

The key appointment, made on June 29, 1970, after PSC competition, filled the post of Director-General of Operations. The Director-General immediately relieved the Commissioner of the major burden of administration, and added an invaluable dimension of not only administrative, but of diplomatic and literary, skills. For the remaining nine months of the reporting year, he played the central role in recruiting staff and in preparing supplementary and regular estimates.

The next two major appointments resulting from PSC competitions filled the chief operational posts of Director of Special Studies (November 2, 1970) and Director of Complaints (November 10, 1970). Although the Director-General was proceeding with recruitment of clerical and support staff, hiring of complaints and special studies officers, as well as research assistants, could begin on a large scale only after the two Directors had been appointed. After the PSC had advertised these three types of posts throughout the country, the two Directors and the Director-General spent a total of 487 man-hours between November 2, 1970 and February 19, 1971, interviewing candidates, studying their files and making a final selection of 19 officers from a total of 250 applications.

By the time the main body of successful candidates could resign previous jobs and, in some cases, move to Ottawa, fully ten months had elapsed from the day the Commissioner started work. As of December 1, 1970, officer strength below the top four Directors stood at seven, three of whom were in administrative rather than operational classes; by February 1, 1971, the figure reached 22, including three administrative-class officers. Even then the two operational Directors were tied up much of the time until February 19 by the last competition interviews. In sum, they could bring their full attention to the operational tasks of settling complaints and initiating special studies only in the last six weeks of this reporting year. As of March 31, the entire office strength reached 41.

Fortunately for the Office, the yield from competitions supplied a staff of considerably diverse professional and cultural backgrounds. From the start, the Office hoped to mirror fairly well the diversity of Canada's population as a whole, and this wish allowed the Office to make room for a small number of unilingual Canadians well-disposed to achieving a useful knowledge of the second official language, whether French or English, through the Public Service language schools.

C. Budget

In November 1969, several months before Parliament appointed the Commissioner, the Government inserted under Privy Council a vote of \$150,000 to launch the Office pending more studied estimates likely to be submitted by the Commissioner. During the summer of 1970, the Commissioner and especially the Director-General, assisted by a financial adviser from the Bureau of Management Consulting, analyzed projected needs as carefully as possible, often discussing working documents with Treasury Board specialists. In the autumn, the Director-General prepared a final detailed supplementary estimate

of \$328,000 to be added to the initial \$150,000, making a first-year total of \$478,000. On March 18, 1971, the House of Commons Committee on Miscellaneous Estimates approved the full supplementary estimate after questioning the Commissioner on the purposes, methods and operations of the Office for some two hours.

Actual expenditures as of March 31, 1971, fell considerably short of the total estimate, reaching only \$388,142.04. The main reasons for this shortfall were large savings on salaries because of the unexpectedly long time needed for recruitment competitions, savings on transportation and communications due again to the requirement of staying close to Ottawa during this phase of administrative build-up, and delay by a private agency in forwarding bills for designing and printing posters and counter cards.

Below is a simple breakdown of forecast and actual expenses in 1970-71:

TABLE 1. Budgetary forecasts and actual expenditures 1970-71

| Item | Totals (\$) | |
|--|----------------|-------------------|
| | Forecast | Actual |
| Salaries and Wages | 264,000 | 223,092.72 |
| Transportation and Communications | 47,000 | 22,749.09 |
| Information | 15,000 | — |
| Professional and Special Services | 67,000 | 60,090.39 |
| Rentals | 5,000 | 4,211.41 |
| Purchases, Repair and Upkeep | 1,000 | — |
| Utilities, Materials and Supplies | 16,000 | 13,033.49 |
| Construction or Acquisition of Machinery and Equipment | 60,000 | 63,619.18 |
| All other Expenditures | 3,000 | 1,345.76 |
| Total | 478,000 | 388,142.04 |

Proposed expenditures for the fiscal and reporting year 1971-72 are \$980,000.

Chapter III

COMPLAINTS

Chapter I summarizes the basic differences and similarities between the Office's two main activities. The Complaints and Special Studies Services derive their existence from Section 25 of the Act, and each is responsible in its own way for monitoring the state and progress of bilingualism in federal institutions. In theory as well as in practice, the Office believes that the two Services must work in close cooperation if their monitoring is to be effective. During the first year, a great deal of time had to be devoted to defining and clarifying their respective roles. Since the Commissioner was particularly interested in suggesting positive reforms rather than merely recording deficiencies, both Services tried, wherever possible, to use the study of individual cases as a basis for proposing improvements.

As Chapter II indicates, the Complaints Service did not actually begin full-scale operation until early in 1971. While complying with the requirements of the Act, the Service had to establish procedures to be followed in investigating complaints, making sure they were sufficiently flexible to take into account the inevitable complications which accompany the introduction of new legislation. The Commissioner, the Director General, the Legal Adviser, the Director of the Service and its officers laid these administrative foundations during a series of organizational meetings.

A. Background

The primary function of the Complaints Service is to investigate complaints which the Commissioner receives from members of the public or from federal public servants, and to provide the institutions concerned with recommendations designed to correct omissions or situations which contravene the Official Languages Act. This is essen-

tially an active role. The Service's activities assist the Commissioner in carrying out a major part of his responsibilities and also in maintaining a fruitful dialogue with the public on linguistic matters. According to the nature of the complaints received, the Complaints Service proposes to the Commissioner subjects for special studies, which the Act authorizes him to undertake on his own initiative.

In cases outside the Commissioner's jurisdiction, the Complaints Service might recommend that he assist the complainant in an entirely unofficial capacity or by means of referral to the appropriate authority. The Commissioner could then be of service in his full capacity as an ombudsman; nothing prevents his referring the complainant to the competent authority in cases beyond his jurisdiction (for example, a question of provincial government responsibility). Indeed, in so doing, he recognizes the positive notion that the State should establish closer links with the individual citizen, and should take all measures at its disposal to help him. Many of the complaints received by the Service, while not arising from grievances admissible under the Act, do raise important linguistic questions which require an answer. The public is not always aware of the precise responsibilities Parliament has entrusted to the Commissioner, and individuals often turn to him in good faith with the hope of receiving enlightened counsel.

When the Service receives a complaint, it must determine how extensive an investigation is required, and try to predict how long it will take. The Director examines and correlates his officers' reports and extracts from them the necessary conclusions in order to provide the Commissioner with recommendations for changes in legislation, regulations, and current practices in federal institutions. It is in this area of specific recommendations, based on his contacts with his officers and with federal institutions, that the Director can provide the Commissioner with valuable advice.

The officer appointed to investigate a complaint must employ tact and imagination, particularly when the institution involved is reluctant to provide all pertinent information, or when the problem he is analyzing is delicate or controversial. If the complaint presents legal difficulties, he will consult the Legal Adviser. In carrying out his duties, the officer must be scrupulously objective. He must carefully examine the versions submitted by both parties in the light of the Act's requirements. The complainant's version of the incident giving rise to complaint may completely contradict that of the institution concerned. The officer must get to the root of the problem and try by every means at his disposal to ascertain the facts.

A complaints officer must be sufficiently flexible to reach conclusions and prepare recommendations without yielding to preconceived judgements or fixed ideas. New facts or fresh evidence, soundly based,

may completely upset the preliminary conclusions at which he arrived after first examining the complaint. He must also show perseverance and great attention to detail, and must not omit any step in his investigation because at first glance it seems insignificant. He must carry out Parliament's intention, as expressed in the Act, as faithfully as possible. The same diligence is required of the investigating officer when he receives an apparently misleading or inaccurate reply from an institution. In such cases, he will recommend decisive intervention by the Commissioner to secure compliance with the Act.

The Director of the Complaints Service is in a good position to inform the Commissioner of reactions to the provisions of the Act expressed by the public at large or by federal institutions. This enables the Office to determine, to some extent, those fields of activity in which its presence will have to be asserted most emphatically. The very nature of the Service's activities enables the Director to draw to the Commissioner's attention those Government sectors in which special studies would be useful, since the number and nature of complaints concerning a given institution constitute an important factor in the decision to undertake such studies.

As stipulated by the Act, investigations are carried out in private to protect those involved. For example, absolute discretion protects a public servant who might fear reprisals by his department if his identity, in submitting a complaint to the Commissioner, were revealed.

B. Procedures

In practice, original copies of all complaints received by the Commissioner are forwarded to the Complaints Service. The Director of the Service assumes many of the duties of the Commissioner, who delegates to the Director his powers of preliminary examination and investigation of complaints, although he retains his essential responsibilities in this field. The Director receives complaints on the Commissioner's behalf and divides them among his investigating officers according to such criteria as the language of the complainant, the volume of work to be done, the special competence an officer may possess in a particular field, or his legal training. He discusses complex cases with them, and in certain delicate situations, he indicates what direction the investigation should take.

Any person or group of persons may submit a complaint to the Commissioner, "whether or not they speak or represent a group speaking the official language the status or use of which is at issue" (Section 26 (2)). Such persons need not be Canadian citizens or residents of Canada.

The Commissioner may investigate complaints received by letter, telephone, or telegram, or as a result of a visit or interview. He may also

act on a possible infraction found in one of the information media (newspapers, magazines, radio or television) or a complaint referred to him by a Government agency or other institution. Some anonymous complaints may also be admissible if they appear sufficiently serious to justify intervention by the Commissioner. This applies particularly to cases in which a complainant refuses to reveal his name because of the nature of his position or from fear of reprisals.

Valid grounds for complaint are defined in the Official Languages Act: subject to this Act, the Commissioner shall investigate "any complaint made to him to the effect that, in any particular instance or case, (a) the status of an official language was not or is not being recognized, or (b) the spirit and intent of this Act was not or is not being complied with in the administration of the affairs of any of the institutions of the Parliament or Government of Canada" (Section 26).

Upon receipt of a complaint, the Commissioner ensures that the complainant receives a prompt acknowledgement. If he believes that the subject of the complaint is within his jurisdiction, he notifies the deputy head or other administrative head of any institution concerned of his intention to carry out the investigation in accordance with the requirements of Section 27. It is important to determine precisely which institution is involved; this is not always easy, since a number of them may share jurisdiction in a field where responsibilities can overlap.

When these two steps have been completed, the Commissioner commences his investigation. In order to fill in the case background, the Complaints Service obtains all the available information which it considers necessary to determine whether the complainant's allegations are accurate. The Service may ask the complainant to provide more details, if this was not done in the letter acknowledging receipt of the complaint. It requests information from the designated liaison officer of the institution concerned who cooperates with the Office of the Commissioner. If he believes that it is necessary, the investigating officer requests written confirmation of information he has obtained by telephone or during an interview.

At any point in the course of the investigation, the Commissioner may, at his discretion, refuse to investigate the matter further if he deems it unnecessary. He will also cease to investigate "if in his opinion (a) the subject matter of the complaint is trivial, (b) the complaint is frivolous or vexatious or is not made in good faith, or (c) the subject matter of the complaint does not involve a contravention or failure to comply with the spirit and intent of this Act, or does not for any other reason come within his authority under this Act" (Section 26 (4)). In all such cases, he must inform the complainant of his decision and of the reasons for it.

When an omission, a practice or a situation which contravenes the letter or the spirit of the Act is brought to light, the Commissioner may recommend corrective measures to the institution concerned. He gives the institution details of his decision and its rationale. Where appropriate, the Commissioner requests that he be informed within a reasonable length of time as to what measures, if any, the institution plans to take to implement his recommendations.

Under Section 28 (2), "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 . . . institution, he shall, before completing the investigation, take every reasonable measure to give to that individual . . . or institution a full and ample opportunity to answer any adverse allegation or criticism", with the assistance of counsel if desired. Upon receipt of such an answer, the Commissioner decides whether or not to revise his intended recommendations. The results of the investigation and the recommendations are then forwarded to the individual or institution which took advantage of that "full and ample opportunity".

When the Commissioner has completed his investigation of a complaint and sent his recommendations to the institution concerned, he submits a report to the Clerk of the Privy Council summarizing his decision, the reasons behind it, and any recommendations he sees fit to make. The Commissioner will include the same information in his annual report to Parliament when reviewing the activities of the Complaints Service. Where the Commissioner has made recommendations, the Complaints Service will be required to ascertain, after a reasonable period of time, whether the situation giving rise to complaint has been corrected—that is, whether adequate and appropriate measures have been taken by the institution concerned. The complainant is informed by the Commissioner, in such manner and at such time as he thinks proper, of the results of the investigation.

If recommendations have been made but no action that seems to him to be adequate and appropriate is taken thereon within a reasonable time, the Commissioner may inform the complainant of his recommendations and make such comments thereon as he thinks proper and, in any such case, shall provide a copy of such recommendations and comments to the institution concerned and to the individuals to whom the results of the investigation have already been forwarded. If the institution persists in ignoring the Commissioner's recommendations, the Commissioner may transmit a copy of his report and recommendations to the Governor in Council and may thereafter make a special report to Parliament including copies of replies made by, or on behalf of, the institution concerned.

C. Summary of Activities

1. Breakdown of complaints

In 1970-71, the Complaints Service opened 181 files.

TABLE 2. Number of files

| | | |
|-----|---|-------|
| 105 | complaints admissible under the Act | (58%) |
| 61 | complaints inadmissible under the Act | (34%) |
| 15 | complaints in which jurisdiction had yet to be determined | (8%) |

On March 31, 1971, 115 cases (64%), including the cases outside the Commissioner's jurisdiction, were closed, and 66 (36%) were still active.

TABLE 3. Mother tongue of complainants

| | | |
|---------|-----|-------|
| French | 137 | (76%) |
| English | 44 | (24%) |

This proportion is not surprising, because, in the past, English was the principal language of work and of service in federal institutions.

TABLE 4. Method of submitting complaints

| | |
|---|-----|
| By letter | 117 |
| By referral | 27* |
| In person | 14 |
| By telephone | 8 |
| Other means (telegram, newspaper, note, photograph, etc.) | 15 |
| | 181 |

* Including five by federal Members of Parliament.

In twenty-three cases, acknowledgement or reply was impossible because the complainant withheld his name or address, or both.

TABLE 5. Origin of complaints

| | |
|--------------|-----|
| P.E.I. | 2 |
| N.B. | 10 |
| Quebec | 54 |
| Ontario | 73 |
| Manitoba | 12 |
| Saskatchewan | 22* |
| Alberta | 1 |
| B.C. | 6 |
| France | 1** |
| | 181 |

* These 22 complaints concerned the Collège Mathieu in Gravelbourg.

** The complainant was a Canadian citizen resident in Strasbourg.

TABLE 6. Receipt of complaints (Distribution by month)

| 1970-71 | Number of complaints received during month | Cumulative total |
|-----------|---|---------------------|
| April | 34* | 34 |
| May | 1 | 35 |
| June | 2 | 37 |
| July | 6 | 43 |
| August | 11 | 54 |
| September | 9 | 63 |
| October | 6 | 69 |
| November | 12 | 81 |
| December | 8 | 89 |
| January | 33 | 122 |
| February | 19 | 141 |
| March | 40 | 181 |

* This total reflects two special factors: (a) publicity surrounding the Commissioner's appointment, and (b) the special case of the Collège Mathieu in Gravelbourg.

2. *Complaints admissible under the Act*

During the 1970-71 fiscal year, the Commissioner received 105 complaints which he assigned to the Complaints Service for preliminary examination. On March 31, 1971, the Service had completed the investigation of 54 complaints; 51 remained to be settled.

Summaries of the 54 complaints which have been settled are included in the final section of this chapter. Summaries of the 51 that are still being examined will appear in the 1971-72 annual report. By March 31, 1971, however, some of these complaints had already been the subject of specific recommendations to the institution concerned. Four such complaints are given here as examples:

(a) A French-speaking employee of the Department of National Revenue (Customs and Excise) in Montreal was often being called upon to draft reports intended for English-speaking colleagues employed elsewhere in Canada. He reproached the Department with denying him the right to use the language of his choice. The Commissioner agreed to investigate this complaint and supported the employee's right to prepare his reports in French. The Department informed the Commissioner that it would soon issue a statement on bilingualism which would include a directive authorizing public servants in the Montreal office to write internal communications in the official language of their choice.

(b) A French-speaking complainant stated that he had been discourteously received at the main entrance of a Federal Government office building in Ottawa by a unilingual English-speaking member of the Canadian Corps of Commissionaires. He complained to the Commis-

sioner, who undertook an investigation and was informed by the Department occupying the building that in future it would employ a bilingual guard able to serve the public in both official languages. The Commissioner, however, made certain that as a result of this change the commissionaire mentioned in the complaint would not suffer any loss of salary or prestige because of the fact that he spoke only English.

(c) The complainant charged the Canadian International Development Agency with failing to make provision for interviewing a French-speaking candidate in his own language in a closed competition for a position requiring a knowledge of French. Indeed, the selection board interviewed the candidate mainly in English. After investigating the complaint, the Commissioner recommended that the institution reconvene all the interviews in the competition concerned, so as to comply with the requirements of the Official Languages Act.

(d) A French-speaking complainant received a letter written in English from a French-speaking employee of a Manpower Centre in Manitoba. She complained that the Department of Manpower and Immigration did not serve the public in both official languages. After studying the complaint, the Commissioner informed the Manpower Centre that even though a person with a French name might not necessarily be French-speaking, the fact that he did have a French name was a sufficient presumption for the Centre to write to him in French. If by mistake a letter were written in French to an English-speaking person with a French name, this would be an understandable error. To require a French-speaking person to indicate that he wished to receive service in French would mean that, as a rule, service was guaranteed automatically in English, yet only on demand in French, contrary to Section 2 of the Official Languages Act. The Centre has undertaken a complete review of its methods in order to provide French-speaking persons with satisfactory service in their own language.

TABLE 7. Language of complainants

| | |
|---------|----------|
| French | 85 (81%) |
| English | 20 (19%) |

TABLE 8. Origin of admissible complaints

| | |
|-----------------|----------|
| Quebec | 47 (45%) |
| Ontario | 41 (39%) |
| Other provinces | 17 (16%) |

TABLE 9. Nature of admissible complaints

| | |
|---------------------|----------|
| Language of work | 22 (21%) |
| Language of service | 83 (79%) |

TABLE 10. Institutions named in complaints*

| | Number of complaints |
|--|-------------------------|
| Agriculture | 1 |
| Air Canada** (53, 70, 118, 122) | 13 |
| Bank of Canada (132) | 1 |
| Canadian Broadcasting Corporation (95) | 4 |
| Canadian International Development Agency | 1 |
| Canadian National Railways (81, 82, 136) | 8 |
| Communications | 1 |
| Dominion Bureau of Statistics (42) | 1 |
| Energy, Mines and Resources (129) | 2 |
| External Affairs (126) | 1 |
| Indian Affairs and Northern Development (34, 66, 146) | 3 |
| Industry, Trade and Commerce (76) | 2 |
| Information Canada (135) | 2 |
| Justice | 1 |
| Manpower and Immigration (80) | 4 |
| Ministers' Offices (52) | 1 |
| National Arts Centre (56, 158) | 2 |
| National Capital Commission (100) | 1 |
| National Defence (2, 3, 6, 41) | 11 |
| National Gallery (159, 166) | 2 |
| National Health and Welfare (58, 83) | 2 |
| National Library | 1 |
| National Research Council (60) | 2 |
| National Revenue (40, 55, 98, 124) | 7 |
| Post Office (72, 180) | 6 |
| Public Service Commission (8, 130, 168) | 5 |

* The table includes the 105 complaints which come under the Commissioner's jurisdiction.

** The numbers in parentheses are file numbers of admissible and settled complaints which are summarized in the second part of the chapter.

| | Number of complaints |
|--|-------------------------|
| Public Works | 1 |
| Regional Economic Expansion | 1 |
| Royal Canadian Mounted Police (141, 164) | 2 |
| Secretary of State (71, 165) | 2 |
| Senate (57) | 1 |
| Supply and Services (110) | 3 |
| Transport (39, 96, 111) | 5 |
| Treasury Board (99) | 1 |
| Unemployment Insurance Commission (78, 104) | 2 |
| Veterans Affairs (115, 117) | 2 |
| | 105 |

The following complaints have been turned over to the Special Studies Service: 52, 53, 70, 100, 122, 141.

During 1970-71, the majority of the complaints investigated by the Complaints Service were found to be justified. This is no doubt because the Commissioner's mandate is specific. The Act authorizes him to investigate only complaints concerning the status of the official languages in federal institutions.

It is clear that many people know little about the Official Languages Act and are not aware of the existence of the Commissioner's Office. Setting up the Office and developing procedures did not leave the Commissioner sufficient time to organize a well-prepared public information campaign. Moreover, the Government's efforts to publicize the Official Languages Act have been rather modest. During the 1971-72 fiscal year the Commissioner intends to conduct a systematic campaign to inform members of the public and public servants of their rights under the Act. With regard to the language of service, the Act extends to date, for all practical purposes, only to the travelling public, to the National Capital Region, to principal offices located outside this region, and if applicable, to certain areas subject to Section 9 (2). The eventual designation of bilingual districts will considerably extend, or at least more completely define, the scope of the Act.

From April 1, 1970 to March 31, 1971, only 21 federal employees submitted linguistic grievances to the Commissioner. Perhaps this

number would have been higher if public servants had been convinced that their complaints could be remedied under the Official Languages Act. They may have been diffident because of the Government's rejection of recommendation 24 of Book III of the Final Report of the Royal Commission on Bilingualism and Biculturalism. This recommendation proposed "that the jurisdiction of the Commissioner of Official Languages be interpreted as including the language rights of public servants". On June 23, 1970, the Government replied to this proposal by saying that the public servant, "as an employee, has the right, when he feels wronged, to avail himself of the method of settling grievances provided by Acts of Parliament concerning the Public Service". Nonetheless, experience has shown that this method is not always suitable for settling linguistic grievances, especially when standard remedies may give rise to reprisals.

Accordingly, it is not surprising that public servants may have believed that the Commissioner had no authority to investigate their linguistic complaints. The Commissioner's jurisdiction seems in fact to continue being overlooked, as evidenced by the fact that the President of the Treasury Board failed to mention it in a statement made on March 11, 1971 at a meeting of the Standing Committee on Miscellaneous Estimates, almost a year after the Commissioner took up his duties. In this statement, the President of the Treasury Board pointed out two ways in which public servants may make their grievances known: through bargaining, and through recourse to the courts. In thus clarifying the policy of 1970, he made no reference, it appears, to the Commissioner's mandate concerning public servants. This question is discussed in Chapters I and V.

For their part, members of the Armed Forces may have hesitated to submit complaints to the Commissioner about linguistic matters because Section 19.38 of the Queen's Regulations and Orders for the Canadian Forces stipulated that:

No officer or man shall enter into direct communication with any government department other than the Department of National Defence on subjects connected with the Canadian Forces or with his particular duties or future employment, unless he is authorized to do so under Q.R. & O., or by instructions from Canadian Forces Headquarters.

Although the Office of the Commissioner of Official Languages is not a department, this section might be interpreted, in some cases, as forbidding members of the Armed Forces to take advantage of the Commissioner's services. Furthermore, the Official Languages Act mentions specifically in Section 36 (3) that the Canadian Forces are included in the "institutions of the Parliament or Government of Canada".

TABLE 11. Comparison with ombudsmen having general jurisdiction

| | Commissioner of Official Languages | Quebec | Alberta | New Brunswick | Manitoba | New Zealand |
|---|--|--------------|---------------------|------------------|--------------------|----------------|
| | 1-4-70 31-3-71 | year 1969 | 1-11-69 31-10-70 | year 1969 | 1-4-70 31-12-70 | year 1969 |
| Complaints received | 181 | 1419 | 999 | 335 | 333 | 799 |
| Complaints rejected without investigation | 61* (34%) | 877 (62%) | 613 (62%) | 232 (69%) | 222 (67%) | 355 (44%) |
| Complaints settled | 54 (30%) | 507 (36%) | 286 (28%) | 76 (23%) | 84 (25%) | 351 (44%) |
| Not justified | 21 (12%) | 388 (27%) | 223 (22%) | 42 (13%) | 55 (16%) | 295 (37%) |
| Justified | 33 (18%) | 119 (9%) | 63 (6%) | 34 (10%) | 29 (9%) | 56 (7%) |
| Files still active | 66 (36%) | 35 (2%) | 100 (10%) | 27 (8%) | 27 (8%) | 93 (12%) |

* Rejected for lack of jurisdiction

It would be unwise to draw hasty conclusions from the number of complaints received by the Office of the Commissioner of Official Languages during its first year of operations. This number of complaints clearly bears little relation to the state of bilingualism in the federal administration. Only after another year will it be possible to assess the effectiveness of the Commissioner's role. It is essential to wait until the nature and extent of his mandate are more widely known to members of the public, and to public servants and Crown Corporation employees, and until the Special Studies Service has had time to examine a greater number of federal institutions, especially in relation to the services which they are obliged to provide to the public.

Table 11 shows that ombudsmen receive more complaints in one year than the Commissioner of Official Languages did during his first year in office. Their mandate is much wider and less specialized, and complainants often appeal to them because they have suffered financial loss. This lack of specialization also explains why, in general, the percentage of complaints received over which they have no jurisdiction is higher. On the other hand, at the end of the fiscal year the Commissioner had a greater proportion of active files because the Complaints Service, which did not begin full-scale operations until January 1971, opened 92 new files (more than half the total) during the months of January, February and March 1971.

D. Summaries

The following summaries outline the complaints and the steps the Complaints Service took to settle them. In many cases, the Commissioner's recommendations were a decisive factor in persuading the institution concerned to rectify a procedure or situation which contravened the Act. In some cases, the Commissioner's intervention speeded up a reform which was already underway. Finally, some complaints were handed over to the Special Studies Service, which investigated them in the context of more general studies already in progress.

The Commissioner, according to the mandate given him by Parliament, is obliged, upon receipt of grievances from members of the public or from public servants, to follow them up within the limits defined by the Act. Indeed, the investigation of a complaint which may initially appear insignificant often enables the Commissioner to make recommendations on aspects of the federal administration which go beyond the complaint's immediate context.

In the summaries, it has not always been possible to give all the details of every complaint: discretion is necessary to avoid exposing individuals or institutions to prejudice or reprisals.

In 1970-71, the Commissioner received 61 complaints which were outside his jurisdiction. Often, such complaints raised important questions. They covered a variety of subjects. Many were requests for financial aid, or concerned other questions which were not within the Commissioner's jurisdiction. Nonetheless, the Commissioner undertook to examine such communications and to supply the complainants with whatever information he thought appropriate. When the problems raised came under another jurisdiction, the Commissioner, upon receipt of the complainant's authorization, forwarded the file to the proper authority.

Following the summaries of the 54 complaints that were admissible and settled are summaries of 61 complaints received by the Commissioner but which were not within his jurisdiction. These 61 cases were all closed by March 31, 1971.

1. Summary of complaints admissible and settled

FILE NO. 2

The complainant asked the Commissioner to persuade the Department of National Defence to use bilingual licence plates on its vehicles.

The Commissioner's investigation revealed that, as part of the bilingualism programme which it introduced on August 29, 1969, the Department had already decided to have all its vehicles marked in both English and French. Before this policy was adopted, however, and only shortly before the Official Languages Act came into force, the Department bought a new type of licence plate which bore only the English abbreviation DND (Department of National Defence). The Department assured the Commissioner that when this new stock of licence plates was used up, the unilingual plates would be replaced with bilingual ones, priority being given to vehicles in Quebec and the National Capital Region. Elsewhere in Canada, the changeover would be effected when new vehicles were put into circulation or when plates were changed on those already in service. Until the situation is corrected, the Department has decided to cover the abbreviation DND with a temporary metal band marked "Canada". This applies to the licence plates of all its vehicles throughout the country.

FILE NO. 3

The principal of an Ontario school of applied arts and technology informed the Commissioner that his institution offered both day and evening courses in French and was authorized to teach French according to the criteria set by the Language Bureau of the Public Service Commission.

However, since public service employees and members of the Armed Forces are required to pay for private French instruction themselves, no one in either category had registered for these courses. At a nearby air base there were twenty-five people interested in studying French at the school, but the Department of National Defence had no provision for reimbursement of fees.

Government departments have complete autonomy to spend their appropriations as they see fit. The Commissioner learned that the Department of National Defence had not set aside funds to allow its employees to take French courses outside of working hours.

The Department does, however, participate in the language training programme set up by the Public Service Commission. It was estimated that during 1970-71, 380 DND employees would be taking language courses and that the Canadian Forces Language School would enroll 480 candidates annually.

This case and several others prompted the Commissioner to ask the Minister of National Defence to give priority to a programme aimed at promoting bilingualism.

The Minister responded in very positive terms. During the past year, he announced significant reforms designed to bring about long-term improvement in the bilingual capacity of the Armed Forces.

FILE NO. 6

The complainant had been transferred to Canadian Forces Base Bagotville (Department of National Defence) the previous year. He objected to the posting of unilingual French signs in the squadron hangar, and to daily orders being published only in French. He also commented unfavourably on the general treatment of English-speaking residents of Quebec.

While no specific action was requested, the Commissioner was of the opinion that the questions raised in the letter were of interest and significance. He promised to visit CFB Bagotville during a forthcoming tour of military bases, at which time he would invite the complainant and his associates to set forth their problems in greater detail.

FILE NO. 8

The complainant was taking French language courses outside of office hours to improve his effectiveness as an instructor with the Ministry of Transport's Air Services School. While the Public Service Commission did pay half the tuition fees for the complainant's French courses, he felt that he should receive full reimbursement from his Department. He also expressed the view that French language training should be given first of all to civil servants at subordinate levels, since they are most frequently in direct contact with the public.

While each government department is entitled to determine its own spending priorities, general Treasury Board policy is to pay half the cost of evening courses taken in the second official language. Priorities for second-language training at government expense are determined by individual departments in cooperation with the Public Service Commission. There was no infraction of the Official Languages Act.

FILE NO. 34

The complainant brought to the Commissioner's attention a competition poster prepared by the Department of Indian Affairs and Northern Development requiring a knowledge of English only, even though the employee would be called upon to comment on specialized aspects of Canadian history.

Following investigation, the Department acknowledged the bilingual nature of this position and promised to take this fact into account when the position next fell vacant. The successful candidate is enrolled in French courses to satisfy the language requirements of the position.

FILE NO. 39

This complaint concerned the daily weather forecasts prepared by the Meteorological Service of the Ministry of Transport and published by the Canadian Armed Forces Weather Office at Uplands (Ottawa). The complainant stated that the bulletins were issued only in English, even though they were posted in various buildings owned or occupied by the federal government.

Investigation revealed that bilingual forms were indeed available to the Meteorological Service, but that the Service did not make use of them. The Commissioner brought this fact to the attention of the Deputy Minister, who ordered that thereafter bilingual weather bulletins be provided to the entire National Capital Region.

FILE NO. 40

The complainant informed the Commissioner that the excise stamps which the Department of National Revenue (Customs and Excise Branch) placed on tobacco packages in Canada were in English only.

The Commissioner's investigation revealed that as of January 1, 1971, such stamps would be bilingual.

FILE NO. 41

The complainant sent a Canadian Armed Forces' luggage label to the Commissioner and informed him that such labels were printed in English only.

After the Commissioner had brought this matter to the attention of the Department of National Defence, the Department surveyed its requirements in this area and subsequently authorized the issuing of sixteen bilingual labels to replace the twenty-two unilingual English labels which had been in use previously. The Department planned to distribute these new labels by the end of February 1971.

FILE NO. 42

In July 1970, the Commissioner received a complaint concerning a letter distributed by the Dominion Bureau of Statistics to some 35,000 householders across Canada in connection with its labour force survey. According to the complainant, the letter sent to the Winnipeg area was in English only, although there is a sizeable French-speaking minority in that area.

Following an investigation conducted by the Commissioner, the regional office in Winnipeg decided to adopt the policy of using bilingual form letters.

FILE NO. 52

In September 1970, a journalist from Toronto informed the Commissioner that he had been greeted in French only when he telephoned the offices of two French-speaking federal Cabinet Ministers. The reporter agreed that this matter be considered as a complaint, and called back the next day to name nine other Ministers, in this case English-speaking ones, whose offices answered the telephone in English only.

Because of the symbolic importance of the problem raised by this complaint, the Commissioner decided to institute a special study on the way in which telephones are answered by Ministers' departmental offices and their offices in the House of Commons. The results of this study are given in Chapter IV.

FILE NO. 53

The complainant, whose work frequently brings him to the National Capital Region, objected to the fact that, at Ottawa airport, people with obviously French names were paged over the loudspeaker in English only. He added that all Air Canada employees at the reservations counter were apparently unilingual English-speakers.

The Commissioner investigated this complaint, together with several others of the same type, as part of two special studies of the services provided for travellers in Ottawa by Air Canada and the Ministry of Transport. The results of these studies are found in Chapter IV.

FILE NO. 55

The complainant drew attention to the unilingual English signs ("Cashier", "Take a Number", "Pay by Cheque Only", etc.) in the customs office on Nicholas Street, Ottawa, and claimed difficulties in finding employees of this office who could speak to him in French.

The Commissioner asked the National Revenue Department (Customs and Excise) for explanations. The office concerned is now located in the new Post Office Building on Alta Vista Drive and all signs are in both languages. The Department assured the Commissioner that all future signs at its new premises would be bilingual, that its employees were now able to provide the public with services in both official languages, and that every effort would be made to comply with the spirit of the Official Languages Act.

FILE NO. 56

The complainant alleged that the programme notes distributed by the National Arts Centre for the appearance of the Montreal Symphony Orchestra in August 1970 were written almost entirely in French. The programme consisted of extracts from Verdi and Puccini operas.

An examination of the programme showed that it was basically bilingual. Although French commentaries were given first, they were followed immediately by an English version.

The only French phrases without English equivalents were "Prélude au 1^{er} acte", "1^{er} acte", "2^e acte", "3^e acte", and the word "soliste" before the featured artist's name. The Commissioner thought it reasonable for the complainant to cope with these slight deviations from total bilingualism, especially since he had taken no exception to reading rather more complex titles of operatic selections solely in the composers' language, Italian.

FILE NO. 57

The complainant stated that a French-speaking guard had recently been appointed to work at the Senate, and that the procedures surrounding this appointment were unfair since they had favoured a candidate of French origin.

The Commissioner's investigation revealed that no guard had recently been appointed to work at the Senate. A French-speaking guard had been appointed in 1967 and two English-speaking guards in 1969. It was not, however, the policy or practice for such appointments to be made according to ethnic origin.

Upon being informed of the Commissioner's findings, the complainant acknowledged that he had been misinformed, and expressed satisfaction with the results of the inquiry.

FILE NO. 58

The complainant, a French-speaking student employed by the National Health and Welfare Department in Ottawa during the summer of 1970, complained that the Department had not provided him with a French-language termination of employment form, and that he had been insulted by an employee in the Personnel Administration Directorate when he returned the English form filled out in French. The employee tore up the form then and there and, in front of witnesses, declared that nobody could understand the language used which was, he claimed, as exotic as Welsh.

When asked by the Commissioner for an explanation, the employee concerned admitted that his behaviour had been unacceptable and agreed at once to apologize to the complainant. The Commissioner informed the Department that the employee, because of his positive attitude, had made it possible to settle the complaint to the satisfaction of all concerned. He also expressed the wish that the incident, for this reason, should not harm the employee's chances of future advancement.

The Commissioner further recommended that henceforth the equal status of the two official languages be reflected in all the Department's forms. The Department gave an assurance that it would see that "all departmental forms" were printed in both languages. The Commissioner is monitoring the progress of this change, which involves more than three hundred official forms.

FILE NO. 60

A senior Quebec Government official sent the Commissioner a photocopy of a letter on the letterhead of the National Research Council of Canada which he had received from a scientific sub-committee. He objected to the deficiency of the French used in the letter (12 mistakes in as many lines).

The Commissioner took the view that the concept of equality of status set out in Section 2 of the Act included particularly the quality of language, and proceeded to investigate the complaint. The enquiry revealed that the letter was written by an English-speaking employee of the Department of Energy, Mines and Resources who, to save time, had not consulted the Department's translation service.

The National Research Council asked the Commissioner to convey its apologies to the complainant and reported that it had reminded all its employees, as well as the chairmen and secretaries of committees responsible to it, to pay special attention to the quality of language used in official communications to avoid the recurrence of such a situation.

FILE NO. 66

The complainant and his family visited the fortress of Louisbourg. At the museum entrance the official assigned to receive visitors was unable to answer the complainant in French and allegedly treated him somewhat arrogantly.

The Commissioner, stressing the symbolic importance of the alleged failure to provide service in both languages and of the employee's alleged attitude, brought this incident to the attention of the Department of Indian Affairs and Northern Development. The Department replied that 50 per cent of the guides employed at the Fortress were bilingual and that tours were organized every day with commentaries in both official languages. It was natural, the spokesman added, for a number of guides to be unilingual English-speaking, since they are recruited in the Louisbourg area, where English-speaking people are in the majority. However, all guides have been instructed to direct French-speaking visitors to the reception centre, where a French-speaking guide will be provided.

As a result of the Commissioner's action, the Department issued an official directive instructing regional directors to assign bilingual employees to national parks and historic sites so that visitors may use the official language of their choice at tourist reception centres and campsites, and in park activities. In addition, the Department's Adviser on Bilingualism was to make an on-the-spot investigation early in the summer, and then submit a report on the situation to the Deputy Minister and the Assistant Deputy Minister responsible for the services concerned.

FILE NO. 70

The complainant stated that he gave a clerk a note to deliver to Air Canada's Sparks Street ticket office in Ottawa. The message was in French, and, on arrival at the Air Canada office, the clerk had to translate it into English himself, since nobody at the desk, he observed, could understand French. The complainant also alleged that the clerk was asked to make sure that in future such messages were written in English.

The Commissioner investigated this complaint, together with several others of the same nature, as part of a special study of all Air Canada offices in the National Capital Region. He made a number of recommendations to Air Canada, urging it to comply with the requirements of the Official Languages Act. A report on this study is found in Chapter IV.

FILE NO. 71

A French-speaking immigrant resident in Ottawa claimed that when he wrote in French to the Citizenship Registration Branch of the Secretary of State's Department for information on the procedure to be followed to become a Canadian citizen he received a reply in English.

During the investigation the Department of the Secretary of State pointed out to the Commissioner that its usual policy was to answer all correspondence in the language in which it was initiated. In this particular instance, the Department admitted that a double error had been made: firstly, the mail clerks did not direct the complainant's letter to the appropriate service; and secondly, he had been sent an English-language form. The Department assured the Commissioner that it would take special care to avoid repetition of such an error. The Commissioner was asked to convey to the complainant the Department's apologies for the mistake and for any inconvenience it may have caused him.

FILE NO. 72

The complainant made the following allegation. In reply to an official advertisement in a newspaper, the complainant addressed a letter in French to the Court of Canadian Citizenship. Shortly afterwards, the Post Office Department returned his letter with the comment "moved—no forwarding address". The complainant then sent the same letter to the same place, but this time addressed in English; it reached its destination and he received the information requested.

Investigation showed that Post Office employees had confused the Court of Canadian Citizenship with the Canadian Citizenship Council, a private organization whose mail was returned to the sender. The Department assured the Commissioner that, because of the high percentage of bilingual employees, mistakes of this kind were rare. All Post Office employees had received instructions to consult their supervisor whenever an envelope is addressed in an official language which they cannot understand.

FILE NO. 76

A copy of a letter written by a Member of the British Columbia Legislative Assembly to Canada's Minister of Consumer and Corporate Affairs was forwarded to the Commissioner.

The complainant enclosed with his letter an extract from a speech given at a women's auxiliary political convention in Vancouver.

The speaker expressed disappointment that, on Canada Day at Expo '70 in Japan, the Canadian Pavilion hostesses spoke mostly in

French to Japanese visitors, the Canadian national anthem was sung entirely in French, and the Prime Minister of Canada spoke almost exclusively in French. The complainant asked whether the points raised by the speaker were correct, whether such practices were part of federal policy governing Canada's participation in international events, and, if so, why.

The Commissioner obtained from the Deputy Minister of Industry, Trade and Commerce a copy of the programme for Canada Day at Expo '70 and the cue sheet for the main ceremony. The Deputy Minister presented these documents as evidence that there was a reasonable balance in the use of the English, French and Japanese languages, adding that the language used by the Canadian hosts and hostesses in addressing Japanese visitors to the Canadian Pavilion was Japanese.

This information was forwarded to the Minister of Consumer and Corporate Affairs, who received the original complaint, for transmittal to the complainant.

FILE NO. 78

A French-speaking resident of Prince Edward Island complained that he was having difficulty obtaining social insurance cards for members of his family, with first names given in the correct order.

The Commissioner got in touch with the Unemployment Insurance Commission and asked it to look into the question of the order of Francophone first names on social insurance cards. As a result, not only did the complainant receive correct cards, but the Commission decided to modify existing procedure for the preparation of cards for French-speaking persons.

FILE NO. 80

The complainant charged the Department of Manpower and Immigration with failing to offer retraining courses in French at ninth and tenth grade levels in Ottawa.

In its reply to the Commissioner, the Department admitted that no such courses were available, but took the opportunity to describe what courses were given under its auspices in the National Capital Region. Under an agreement concluded between the Hull CEGEP and Algonquin College of Ottawa, English-speaking adults from Hull took courses in English at Algonquin College while French-speaking Ottawa residents took courses in French at the Hull CEGEP. Moreover, persons living east of the area under the jurisdiction of the Canada Manpower Centre, Ottawa, could take courses in French at Hawkesbury.

The Department informed the Commissioner that an effort was being made to ensure the establishment of French courses in bilingual regions of Canada. This was why the Canada Manpower Centre in Ottawa always welcomed applications from adults wishing to take occupational training courses in French.

According to the Department, the problem is mainly an economic one. There is little demand in Ottawa for retraining courses in French. However, it continued, the Canada Manpower Centre, Ottawa, would do everything possible to determine the need for such training in French, and if the number of students became sufficient, would see to it that courses were given in French at ninth and tenth grade levels.

FILE NO. 81

The complainant stated that the sign at the entrance to the parking lot of the Château Laurier in Ottawa was worded in incomprehensible French.

Accepting the Commissioner's recommendation, Canadian National Railways authorities made the necessary corrections.

FILE NO. 82

The complainant protested that English-speaking employees of Canadian National Railways in Moncton were unable to provide services in both official languages. He also suggested that the Federal Government transfer all its regional offices in the Maritimes to Moncton. French-speaking employees, he said, were not interested in moving to centres with large English-speaking majorities, and the regional offices in such centres were unable to provide an adequate service for Francophones in the Maritime Provinces.

Under the terms of the Official Languages Act, the Canadian National is obliged to provide travellers with services in both languages, but this does not mean that all its employees must be bilingual.

As for the regional offices, the Commissioner is of the opinion that the complainant's suggestion should be considered within the context of an in-depth study of the possibility of reorganizing federal services, with special reference to the language problem.

FILE NO. 83

The complainant alleged that his wife, after submitting an application in French, received family allowance cheques addressed in English from the Department of National Health and Welfare.

Upon investigation by the Commissioner, an administrative error came to light. The Department's policy is to use the language of the

recipient. The error giving rise to complaint was corrected and the Commissioner conveyed the Department's apologies to the complainant.

FILE NO. 95

The complainant reported that on December 18, 1970, on the CBC 11 o'clock French newscast, a map of the new Canadian fishing zone boundaries was shown on television with English captions only.

The Commissioner did not investigate this complaint, since he was of the opinion that the CBC News Department provides French-language viewers with a news service of a generally satisfactory standard.

He assumed that for the December 18, 1970, newscast the department was unable to obtain a French-language map in time. The complainant agreed to accept the Commissioner's view.

FILE NO. 96

The complainant sent the Commissioner copies of circulars printed only in English which were to be distributed to employees of the Ministry of Transport. These pamphlets dealt with a variety of subjects such as holidays, changes in the insurance plan, and security directives.

At the Commissioner's request, the Department examined the complaint and, after checking, found that a practice contrary to its policy had been adopted. In fact, the departmental directive on the use of official languages in the Ministry of Transport stipulates that all written communications, such as circulars or information bulletins, addressed to federal public servants or the public at large shall be made available in both languages. The Department assured the Commissioner that this directive would be more strictly enforced in future.

FILE NO. 98

This complaint was lodged by a Quebec company which preferred to receive correspondence in French, but stated that it had received documents written only in English from the Department of National Revenue (Customs and Excise).

Investigation showed that the company's brokers had filled in the initial import declaration form in English, even though the form itself was in French. In support of this statement, the Department produced photocopies of the forms in question. Since it is government policy to answer correspondence in the language in which it is received, the Department had naturally replied in English.

The complainant company admitted it was unaware that its brokers had been completing French forms in English. It has since instructed its brokers to complete in French the forms sent to them. The company willingly accepted the Department's explanation.

FILE NO. 99

The complainant stated that the General Enquiries service of the Treasury Board replied to phone calls only in English.

After investigation, the Commissioner concluded that the complaint was unjustified.

FILE NO. 100

The complainant stated that the National Capital Commission had placed a sign written only in English at the entrance to Rockcliffe Park.

This complaint was not made the subject of a separate investigation. The Commissioner turned it over to the Special Studies Service for examination within the context of a general study on the National Capital Commission (see Chapter IV).

FILE NO. 104

A complainant criticized a federal commission for having appointed a unilingual English public relations officer to a position in one of its offices in the National Capital Region, even though this officer would have to deal directly with the public.

Under the Act, the Commissioner has a mandate to ensure the implementation of bilingualism in federal institutions. This does not mean that all public servants called on to serve the public in the regions mentioned in Section 9 of the Act must be, or become, bilingual, although every federal office in such regions must include a sufficient number of employees having a knowledge of one or other of the two official languages in order to provide adequate service to the public. The Commissioner ascertained that the regional office mentioned by the complainant conformed to these standards.

FILE NO. 110

A retired public servant complained that, in November 1970, the Department of Supply and Services had sent him a directive in English, although he had previously expressed his desire to receive such documents in French.

During the investigation, the Department explained to the Commissioner that only five of the 183 directives issued by it between January 1970 and March 1971 regarding the salaries of public servants had not been translated into French. The last of these was dated October 1970.

The Department assured the Commissioner that it would see that such incidents did not recur; from now on, directives would be publish-

ed in both official languages with the two texts printed in a back-to-back format. The Department added that for certain directives it would eliminate the delays experienced to date in the publication of the French version by improving the translation services and using a teleprinter to transmit documents from the offices of the pay services to those of the translators.

FILE NO. 111

The complainant stated that the Ministry of Transport offered inadequate services in French at the meteorological station in Bagotville (Quebec).

Shortly after this complaint was received, the Ministry secured the services of two French-speaking meteorologists who were to begin work during the summer of 1971.

FILE NO. 115

The complainant visited Dieppe in May 1970. On the hill overlooking the city, he noticed a sign bearing the words "Canadian War Cemetery", and at the entrance to the cemetery, the same unilingual sign. He was indignant, since many French Canadians are buried in that cemetery.

The official representative for Canada on the Commonwealth War Graves Commission, the Minister of Veterans Affairs, drew the Commissioner's attention to the fact that the name "Cimetière militaire canadien de Dieppe" does not mean that this is a "Canadian" cemetery or that the cemetery is under the jurisdiction of the Government of Canada. It is simply a system used by the Commonwealth War Graves Commission to designate cemeteries in which the majority of the graves are those of members of the Armed Forces of a given country.

The Minister, who had previously received a complaint on the same subject, had asked the Commonwealth War Graves Commission to replace the unilingual sign with a bilingual one, at the Department's expense if necessary. The Commission said it was prepared to make this change but that the matter would not be settled immediately since it was first necessary to obtain the approval of the French authorities before erecting or modifying any sign on a highway in France.

The Minister then informed the Commissioner that replacing the signs would take some time. He also said that the inscriptions located in cemeteries where monuments had been erected to honour Canadian soldiers were the subject of a study covering the choice of design, colour, typography and a new national symbol that Information

Canada had decided to design. The new inscriptions would all be bilingual.

FILE NO. 117

A veteran complained that he had difficulty obtaining services in French at the reception desk of Queen Mary Hospital in Montreal. This hospital is administered by the Veterans Affairs Department.

The Department informed the Commissioner that the hospital has very few unilingual English employees and that they are limited to jobs that involve the least possible contact with the public. The majority of hospital employees are bilingual Francophones. The Department assured the Commissioner that the reception desk offered services in both languages at all times, but acknowledged that bilingual professional medical services were not always available.

FILE NO. 118

A business in Quebec which frequently ships packages by Air Canada complained that the waybills used by the airline were written only in English.

The Commissioner asked Air Canada for an explanation. He was informed that the airline's translators had just received the English text of these waybills and that a completely bilingual version would soon be printed.

FILE NO. 122

The complainant reported an incident which took place at the Air Canada ticket counter at Ottawa airport, allegedly as follows: the complainant's brother spoke to the ticket clerk in French and was asked to speak English, which he refused to do. The clerk then requested him to wait about fifteen minutes since no one could serve him in French at the moment. At this point the complainant's brother asked whether this meant that a person who did not speak English could not get the same service as one who did. This question annoyed the clerk who, according to the complainant, began calling the customer an ignorant trouble-maker.

The complainant reported to Air Canada the treatment his brother allegedly received. The company's Public Relations Office replied that the clerk had given quite a different account of the incident, and had alleged that the complainant's brother had insulted her. Nonetheless, the officer apologized on behalf of Air Canada and expressed the hope that such an incident would not recur.

The complainant was not satisfied with this reply and wrote to the Commissioner at the end of January 1971. The Commissioner decided

to investigate this complaint as part of a special study on the services offered by Air Canada to the travelling public in the National Capital Region. The results of this study are found in Chapter IV.

FILE NO. 124

Upon his return from a trip abroad, the complainant noticed that the customs officer at l'Ancienne-Lorette airport at Quebec City had put labels on his luggage with the English wording "Cleared Customs".

On making inquiries at the Department of National Revenue (Customs and Excise), the Commissioner discovered that the complainant's flight was not a regular flight and that the customs officer, who had begun his work on board the aircraft in order to save time and serve the passengers more quickly, had only English labels for cleared luggage with him at the time. The Department explained that these labels are for customs purposes only, and that if the officer had foreseen any objection to their use the labels could have been replaced with other identifying stickers.

The Department informed the Commissioner that it had made a point of using bilingual forms for all its services, and asked him to convey its apologies for the incident.

FILE NO. 126

An employee of the Department of External Affairs requested comments and directives on the following question: "Do employees of the federal government, both abroad and in Canada, have the right to receive and demand directives, notices and other information from their own and other departments in both official languages?" He also asked to what extent the factors of economy of time and money might enter into account in establishing guidelines.

The Commissioner replied that the question had to be examined in the context of Section 2 of the Official Languages Act. This section, which is general in scope, is not limited to the language to be used in serving the public; it also covers the language customarily used, or the language of work, within the Public Service. It is in the light of the equality of status conferred on the two languages that the Treasury Board's circular No. 1971-21 of March 9, 1971 must be considered.

FILE NO. 129

A geography teacher complained that the Department of Energy, Mines and Resources had published the latest edition of the work *Geology and Economic Minerals of Canada* only in English.

During the investigation, the Department confirmed that the French version of this book had yet to be published, but added that it was in

preparation and would probably be available by July 1972. The Department explained that the reason for delay in publishing the French version was the desire to provide as accurate a translation as possible of this important work.

FILE NO. 130

The complainant criticized the Public Service Commission for publishing a competition notice in English only in the bilingual journal "CCA", the official publication of the Canadian Institute of Chartered Accountants.

In its reply to the Commissioner, the Public Service Commission explained that the competition notice had been prepared with the cooperation of the Department of National Revenue (Taxation), and that the advertisement had been entrusted to an advertising agency. The Department's officials had assumed that the agency would translate the advertisement, which would then be published in both languages. However, this was not done. The Public Service Commission assured the Commissioner that care would be taken to avoid such mistakes in the future.

FILE NO. 132

The complainant alleged that she was unable to obtain a French application form to buy Canada Savings Bonds, 1970/71 Series. Her application was made to a Quebec branch office of a national brokerage firm.

The Bank of Canada informed the Commissioner that twenty-nine of the thirty-one forms used in the 1970/71 Canada Savings Bond campaign were fully bilingual. The other two were printed in separate French and English versions because their detailed contents made a bilingual format uneconomical.

Between October 1, 1970 and February 28, 1971, the Bank of Canada received 1,545,337 Savings Bond applications through 7,500 bank branches, *caisses populaires*, trust companies, dealers and brokerage firms, plus 5,500 establishments which participate in the Payroll Savings Plan.

In order to avoid difficulties of the kind encountered by the complainant, the Bank of Canada promised, at the Commissioner's suggestion, to remind Canada Savings Bond sales agents that in future they should order supplies in quantities sufficient to ensure the availability of application forms in both official languages.

FILE NO. 135

The editor of a French-language weekly newspaper complained that federal institutions published very few official notices in the French-language press of her province.

The Commissioner replied that federal institutions assessed the value of advertising on the basis of the number of people it reached, and aimed at as large a readership as possible. As a general rule, they preferred dailies to weeklies for advertising. However, as a result of improved co-ordination of information programmes sponsored by Information Canada and the eventual setting up of bilingual districts, the Commissioner might, in the light of the Official Languages Act, consider it advisable to suggest that federal institutions give a new orientation to their advertising programmes.

FILE NO. 136

The complainant stated that French-language broadcasts were not available in the rooms of the Hotel Vancouver, operated by the Canadian National Railways.

Following the Commissioner's investigation, Canadian National's management decided to correct the situation. As soon as new dial indicators could be put on the hotel radios, one of the English stations currently available to hotel guests would be replaced by the local French-language CBC station.

FILE NO. 141

After he was unable to obtain information in French from a policeman on duty on Parliament Hill, the complainant charged the Royal Canadian Mounted Police with failure to meet the requirements of the Official Languages Act.

The Commissioner advised the complainant that the Special Studies Service had begun a general examination of the services offered to the public by the Royal Canadian Mounted Police in the National Capital Region to determine whether they were in compliance with the requirements of the Act. He added that he would investigate the complaint within the framework of this special study (see Chapter IV).

FILE NO. 146

A Francophone complained of the poor quality of the French used in a letter sent to him from Halifax by an employee of the Department of Indian Affairs and Northern Development.

Investigation revealed that the letter had first been written in English by a departmental trainee who subsequently asked a new mem-

ber of the secretarial staff to translate it. Although the latter was classified as bilingual according to a Public Service Commission language proficiency test, she was not qualified to do the work of a translator.

The Department informed the Commissioner that the Regional Director (Maritimes) had instructed his staff to send any text which they could not satisfactorily translate into French to the Translation Bureau in Ottawa. It also recommended that the regional office of the Public Service Commission set up a translation office in the Maritimes to meet the needs of the various departments.

FILE NO. 158

The complainant, who took a relative to visit the National Arts Centre during the summer of 1970, reported that the guide service provided for English-speaking visitors on that occasion was unsatisfactory.

The Commissioner invited the Arts Centre's Director to comment on this complaint. The Director of Operations stated that, in order to improve its service to the public, the Centre had hired a new head guide, and in future would recruit its own temporary staff.

FILE NO. 159

The same complainant (see File No. 158) stated that he took a relative to visit the National Gallery during the summer of 1970, and on that occasion the guide service for English-speaking visitors was unsatisfactory.

The Commissioner referred the complaint to the Director of the National Gallery, who informed him that while many of the Gallery's guides might be considered bilingual, they were usually expected to speak only one official language at work. The Gallery's Chief of Education Service further assured the Commissioner that, during the summer of 1971, he would ensure that no guide was required to conduct a tour group in a language with which he was not fully conversant.

FILE NO. 164

The complainant criticized the appointment of a unilingual English-speaking person to the position of director of personnel in a major federal government institution.

After preliminary investigation, the Commissioner decided not to proceed with an examination of the complaint. At the time he received it, the Public Service Commission had not yet announced the competition and the institution in question had not determined the language requirements for this position, to which the incumbent had been appointed on a temporary basis only.

FILE NO. 165

An employee at the Defence Research Centre complained that the Translation Bureau of the Department of the Secretary of State did not call her to an assessment interview for appointment as a translator-in-training or translator, grades 1 and 2, when she applied to write the examination.

After conducting a preliminary investigation, the Commissioner decided not to inquire further into this complaint. He informed the complainant that pre-competition screening during examination of candidates' files could not be appealed.

FILE NO. 166

A bilingual secretary working for the director of a federal agency complained of having been assigned duties involving less responsibility since the Official Languages Act went into effect. While her job was gradually being taken over by a unilingual English-speaking person, she had to play the role of bilingual telephone receptionist. She was considering looking for another position.

The Commissioner considered that there had been no contravention of the Official Languages Act. However, its implementation had resulted in a change in the duties performed by the complainant.

FILE NO. 168

A Member of Parliament sent the Commissioner a copy of a letter he had written to the Chairman of the Public Service Commission concerning one of his constituents who had applied for a position in a Public Service competition in Montreal. The constituent was successful in the written examination, but was denied the position allegedly because he failed the second-language test. Since the applicant believed himself capable of work in French, he did not understand how he could have been disqualified. The Member of Parliament asked the Chairman of the Public Service Commission to state the policy regarding the filling of bilingual positions and to say whether the same standards were applied to both English- and French-speaking applicants.

The Commissioner thanked the Member of Parliament for forwarding this letter to him and said he would be interested in the Public Service Commission's reply since it is responsible for determining, in cooperation with the departments concerned, the level of second-language competence required by federal public servants. Only then could the Commissioner decide whether the Commission or the department concerned had contravened the purposes and provisions of the Official Languages Act.

FILE NO. 180

The complainant stated that after repeated requests she still was not receiving French copies of the Philatelic Service bulletin published by the Post Office Department, which continued to send it to her in English. Previously, she had been receiving a bilingual bulletin, but this was discontinued several years ago as an economy measure.

The Philatelic Service informed the Commissioner that since the number of French-speaking people interested in philately constituted only one-eighth of their subscribers, they found it cheaper to publish two separate bulletins rather than a single bilingual one. The Service assured the Commissioner that in future the complainant would receive the bulletin in French.

2. Summary of complaints outside the Commissioner's jurisdiction

FILE NO. 1

The complainant was discharged from the Canadian Armed Forces on medical grounds on July 1, 1967. He contended, however, that his discharge was the result of his having publicly championed, in August 1966, his right to use French as the language of work in Quebec. He considered himself the victim of an injustice which acted to his social and material detriment.

The Commissioner concluded that this complaint was outside his jurisdiction under the Act since the events cited occurred before the Act came into force on September 7, 1969. However, since he appreciated the importance of the question of French as a language of work and the possibility that the complainant might have been unjustly treated, the Commissioner made various unofficial overtures to help the complainant. As a result of the Commissioner's interest, the Department of National Defence reopened the complainant's file with two observers from the Commissioner's office, including the legal adviser, in attendance. This reexamination failed, however, to provide any legal justification for intervention by the Commissioner.

FILE NO. 4

The complainant reported that he was excluded from a Ministry of Transport promotion competition (Air Traffic Control Assistant) in Montreal because his knowledge of French was inadequate.

According to the terms of the Public Service Employment Act, the determination of language requirements for public service positions is the responsibility of the Public Service Commission, in cooperation with the Department concerned.

This application of the Public Service Employment Act was upheld by the Appeals Branch of the Public Service Commission.

FILE NO. 7

A complaint was lodged against the Public Service Commission for omitting the following formula from a competition notice: "Knowledge of English and French will be an asset to the candidate". The omission appeared irregular to the complainant, firstly, because he was accustomed to finding this sentence in competition notices for positions involving lesser responsibilities than those described in the notice in question and, secondly, because the position advertised was in the National Capital Region.

Responsibility for appointments and promotions within the federal public service, as well as for the determination of language requirements, rests with the Public Service Commission and the departments concerned. Under the terms of the Official Languages Act, every department and agency of the federal government has the duty to ensure that in certain locations—including the National Capital Region—"the public can obtain available services from and can communicate with it in both official languages". However, the Public Service Commission and the department concerned did not consider that the position referred to by the complainant, which involved helicopter maintenance, required contact with the public and, consequently, a knowledge of the two official languages.

FILES NOS. 9 TO 30 (INCLUSIVE)

In the spring of 1970, the authorities of le Collège Mathieu in Gravelbourg, Saskatchewan, announced that unless immediate financial assistance was received from the federal and provincial governments, the College would be forced to close in June. In addition to tuition costs, the College was required to absorb most of the cost of maintaining a residence which catered chiefly to the needs of French-speaking students whose families were scattered throughout the area. Founded in 1917, le Collège Mathieu is one of the most important establishments for bilingual education in Saskatchewan.

Following this announcement, some twenty people asked the Commissioner to exert pressure so that financial assistance might be granted without delay. Among this number were students from the College, teachers, English- and French-speaking parents, and clergymen.

The Commissioner informed these correspondents that he did not have the authority to advise the various levels of government to grant financial assistance to le Collège Mathieu. However, he forwarded all their requests to the Department of the Secretary of State, the federal agent authorized to negotiate with provincial authorities on the distribu-

tion of federal funds made available to the provinces for teaching in or of the second language.

Le Collège Mathieu has remained open. Within the framework of a federal-provincial agreement, the Saskatchewan Department of Education decided to make an annual grant to the College of \$825 per student. However, the most serious problem, that of residence, is still unresolved. Of the 180 students living there, about 120 were French-speaking and most had parents living at considerable distances from Gravelbourg. Some could not afford to pay the necessary boarding fees, which is why the College authorities hoped to receive greater assistance for the upkeep of the residence.

FILE NO. 31

At a meeting of the Catholic Public School Board of a western Canadian city, reference was made to a magazine article on the Commissioner's appointment. The article stated that the Commissioner would be responsible for ensuring that the federal government provided equal services to Canadians of the two official language groups, and that a substantial portion of the bilingualism budget was earmarked for the establishment and support of minority-language schools and for teacher training.

The School Board's Secretary-Treasurer wrote the Commissioner to enquire whether their archdiocese, which had a number of bilingual schools, might obtain financial assistance.

The Commissioner concluded that this matter lay outside his jurisdiction. Public funds for the promotion of bilingualism in schools are distributed among the provinces according to a formula defined by a federal-provincial agreement. Such funds are allocated by each provincial government within its own boundaries. Since the Department of the Secretary of State is the federal agent consulting and cooperating with provincial authorities in this sphere, all information pertinent to this case was forwarded to the Under-Secretary of State.

FILE NO. 32

While stating that she did not wish to lodge a formal complaint, a correspondent drew the Commissioner's attention to an English-language acknowledgement of a letter she had written in French to the Department of National Revenue (Taxation).

The complainant's wishes were respected and the Commissioner decided not to investigate this matter in the light of the Official Languages Act. However, the Commissioner conveyed this matter unofficially to the responsible authorities so that steps could be

taken to ensure that services are made available to members of the public in the official language of their choice.

FILE NO. 33

The President of a Public Service staff association submitted a complaint on his own behalf and that of the president of a local employees' association. These officials objected to the bilingual requirements of a position in the Department of Manpower and Immigration. Section 20 of the Public Service Employment Act (1967) states that:

Employees appointed to serve in any department or other portion of the Public Service, or part thereof, shall be qualified in the knowledge and use of the English or French language or both, to the extent that the Commission deems necessary in order that the functions of such department, portion or part can be performed adequately and effective service can be provided to the public.

Accordingly, this matter lay outside the Commissioner's jurisdiction.

FILE NO. 35

The complainant, an English-speaking employee of the Department of National Revenue, alleged that he was denied a promotion because his knowledge of French was inadequate. Having read the leaflet "Why are they forcing French down our throats?" written by the Prime Minister and issued by the Department of the Secretary of State, the complainant cited the paragraph which described as a misconception the belief that the Official Languages Act "will prevent Canadians who speak only one language . . . from being promoted to important government jobs". The Commissioner was asked for his interpretation of this statement which, in the complainant's view, did not accord with his own recent experience.

The Commissioner, having examined the Public Service Employment Act and Regulations, recognized the authority of the Public Service Commission and of individual departments to determine which positions are to be bilingual, and the Public Service Commission's responsibility for determining the level of language competence required of candidates. Accordingly, the complainant was advised that the question he raised might better be discussed with officials of the Public Service Commission and the Department of National Revenue.

FILES NOS. 36 AND 37

The Commissioner of Languages for Quebec brought to the Commissioner's attention two complaints against chartered banks in the belief that they came under federal jurisdiction.

The first complainant, an Ottawa resident, alleged that he could not obtain service in French in a Montreal bank. The second complainant, a professor of French in an American college and a guest of the Quebec Government, expressed surprise that he was unable to obtain service in French in another Montreal bank.

Chartered bank operations are regulated by a federal Act, but the Commissioner considered that chartered banks are not covered by the Official Languages Act.

FILE NO. 38

The complainant criticized an organizer of community activities in one of Quebec's municipal parks, offering the cryptic and somewhat ironical statement that "she is so undynamic you could really call her unilingual".

The Commissioner replied that he could not intervene in areas outside his competence: the matter in question related to an area under municipal jurisdiction.

FILE NO. 44

Through an inquiry carried out by his Office, the Commissioner learned of a grievance voiced by English-speaking residents of the Forillon Park area. They alleged that the Eastern Quebec Regional Development Council Inc., which represents Gaspesians in meetings with various levels of government, used French only at meetings held to explain to Forillon residents the conditions governing their relocation.

The Commissioner could not investigate this complaint because the Council is not a federal agency. He nevertheless asked the Department of Regional Economic Expansion for an explanation, and was informed that at the first RDC meeting in that area bilingualism was mandatory throughout the proceedings, but that some French-speaking members of the audience were inattentive and talked among themselves whenever anyone began to speak English. It was therefore decided to hold meetings in French only, and to organize separate meetings for the English-speaking group. The Department further informed the Commissioner that the federal departments and agencies with representatives in the area always respected the principle of bilingualism: the officers spoke both official languages and all documentation was bilingual.

FILE NO. 48

A French-speaking person complained that a large Montreal store sent him an English catalogue; he asked the Commissioner to intervene to correct this situation.

The Commissioner was unable to investigate this complaint because it was directed against a private institution which was not covered by the Official Languages Act. He offered to forward the complaint to the competent Quebec authorities, but did not receive authorization to do so.

FILE NO. 49

A New Brunswick citizen complained that the long distance telephone service in his province would not provide information in French; he requested that the Commissioner take steps to correct this situation.

The Commissioner decided that he was not empowered to proceed with investigation of this complaint since the New Brunswick Telephone Company is not covered by the Official Languages Act. The company is a private concern with a licence issued by the Public Utilities Commission of New Brunswick.

However, as a service to the complainant, and with his authorization, the Commissioner sent copies of the correspondence to the telephone company, to the Public Utilities Commission, to the ministerial committee on official languages and to the provincial ombudsman. The result was positive, and the Commissioner's action enabled the complainant to obtain pertinent explanations and information.

FILE NO. 50

The complainant's husband was transferred from New Brunswick to Canadian Forces Base Valcartier, Quebec. She expressed concern lest the French-language requirements of the Quebec curriculum result in her six children encountering academic difficulties. Most of her children had only one year of conversational French.

Considering that this question came under the jurisdiction of provincial authorities, the Commissioner informed the complainant that English-language primary education (Grades 1-7) is provided at Valcartier under both Protestant and Catholic curricula, while English-language secondary education (Grades 8-12) is provided nearby in Quebec City, under both Protestant and Catholic systems. Transportation to and from the Quebec City schools is provided by the Armed Forces.

FILE NO. 51

A French-speaking complainant alleged that English was being poorly taught in Quebec; his children did not have sufficient knowledge of that language even after completing their secondary schooling. His daughter, aged 17, who had been studying in Quebec for several years, wished to continue her studies in Ontario. The complainant asked

the Commissioner whether the Federal Government, under the Official Languages Act, granted bursaries to students with a view to promoting bilingualism.

Considering that this question came under the jurisdiction of provincial authorities, the Commissioner informed the complainant that the Federal Government had granted substantial credits to the provinces under its bilingualism programme. He advised him to write to the governments of Ontario and Quebec for information on the possibility of obtaining a bursary for his daughter and gave him addresses of the appropriate authorities.

FILE NO. 59

An English-speaking resident of Charlottetown, recently arrived from Montreal, reported that the exhibits at the Charlottetown Confederation Centre were accompanied by descriptive notes in English only. This policy applied both to the summer exhibition and to the display of Indian artifacts. The complainant found this situation surprising, since, in her estimation, the majority of tourists viewing the exhibits were French-speaking visitors from Quebec and New Brunswick.

The Confederation Centre in Charlottetown comes under the exclusive administrative jurisdiction of the Government of Prince Edward Island. Although the Commissioner was accordingly unable to take action in this case, he informed the complainant that he would be pleased to bring the matter to the attention of the provincial authorities.

FILE NO. 61

The correspondent requested Federal Government financial aid for a well-known Ontario school which has pioneered in the field of bilingual education.

The Commissioner, who had no jurisdiction in this matter, suggested to the correspondent that he write to the Minister of Education for Ontario and to the Department of the Secretary of State to learn whether the school concerned qualified for financial assistance according to a formula defined by federal-provincial agreement.

FILE NO. 62

The complainant stated that she had been taking evening courses in French at a Toronto school since 1965, but was discouraged by the difficulties of obtaining instruction in French at a progressive pace. She also said French classes were sometimes cancelled because of inadequate enrolment, and she regretted the lack of audio-visual aids to enrich teaching techniques. She requested the Commissioner's help in correcting this situation.

The Commissioner informed the complainant that the only assistance he could offer would be to bring her letter to the attention of the Ontario Department of Education.

FILE NO. 64

Although the complainant, a resident of Ottawa, was unable to speak French himself, he wished his children to become fluently bilingual. The children attended a French school under the Separate School Board, which meant he had to pay additional taxes. He was seeking either to have bilingual public schools established throughout Ontario, or at least to obtain tax exemptions to cover the extra expenses he had incurred. The complainant wished to enlist the Commissioner's support for this proposed change.

The additional taxes to provide the complainant's children with a bilingual education were not paid to the Federal Government. The matter was therefore outside the Commissioner's jurisdiction.

FILE NO. 65

A Public Service staff association reported to the press that one of its unilingual English-speaking members had been demoted to virtual clerical duties because of his inability to work in French. The agency by which the administrator was employed stated that his unilingualism was not a deciding factor in its decision, and that since there had been no salary decrease, no discrimination had occurred.

The Commissioner notified the staff association, the employing agency and the Public Service Commission that he would be prepared, if requested to do so by the official involved, to examine the facts of the case in the light of the Official Languages Act to see to what extent he could assist in its solution. No complaint was subsequently lodged with the Commissioner who, accordingly, did not pursue the matter.

FILE NO. 67

A teacher's organization drew the Commissioner's attention to a recommendation in Volume I of the Report of the Royal Commission on Bilingualism and Biculturalism in which the Commission upholds the right of parents to have their children educated in the official language of their choice. The organization recognized that education is a provincial government responsibility but claimed that the provinces should not have the power to decide which official language will be the language of instruction in schools. This responsibility, it argued, should lie with the federal government, and parents' rights should be safeguarded by constitutional provisions.

The Commissioner, who is empowered to deal only with complaints concerning the equal status of the official languages in federal institutions, could not offer guarantees concerning the legislative reinforcement of parents' rights to select the official language in which their children would be educated. The complainant had sent copies of his letter to the Department of the Secretary of State and the Chairman of the Special Committee on the Constitution. The Commissioner requested, but did not receive, permission to forward copies of this correspondence to the Chairman of the Canadian Council of Ministers of Education.

FILE NO. 68

The complainant alleged that he was denied employment by a federal agency (in spite of his having met all the position requirements, including bilingualism) because he did not have a French surname. This complaint was submitted before the Commissioner was appointed, but after the Official Languages Act came into force on September 7, 1969.

The date of the incident giving rise to this complaint (autumn 1969) did not preclude the Commissioner's intervention, since it was his duty to enforce the terms of the Act (Section 25) from the day on which it came into force. However, since the alleged discrimination was ethnic rather than linguistic, the status of the official languages *per se* was not involved. The Act deals with the provision of services in the official languages, and the working languages of federal institutions; it would be an exaggeration of its spirit and intent to maintain that it should deal with alleged ethnic discrimination.

FILE NO. 77

The complainant sent the Commissioner a copy of a water meter reading she had received from the Regional Municipality of Ottawa-Carleton. She complained of the poor quality of the French used: in her opinion, it was too literal a translation of the English version.

Since this matter did not fall within the Commissioner's competence, he suggested that the complainant direct her enquiry to the municipal authorities.

FILE NO. 85

A French-speaking Manitoban asked the provincial telephone company's information service for the number of the Commissioner of Official Languages. The telephone operator did not understand French.

The Commissioner informed the complainant that he was not able to investigate the complaint because the telephone company concerned is not an institution responsible to the Federal Government.

FILE NO. 88

The complainant reported to the Commissioner that in January 1967 in Brussels an employee of the External Affairs Department made an entry in his passport in English only.

Since the incident referred to took place before the adoption of the Official Languages Act, the Commissioner was unable to investigate this complaint.

FILE NO. 112

The complainant reproached the Ontario Social and Family Services Department with not requiring that secretaries attached to the regional office in Cornwall be bilingual, although the majority of the city's population is French-speaking.

Since the Commissioner does not have the authority to investigate complaints coming under provincial jurisdiction, he suggested to the complainant that he submit his case to the Chairman of the Ontario Civil Service Commission.

FILE NO. 113

A resident of Montreal received a reply in English from the Ottawa City Police in answer to a letter which he had written in French. The complaint was sent to the Commissioner by the Department of the Secretary of State, which also sent a copy to the Mayor of Ottawa.

The Commissioner was unable to follow up this complaint because the Ottawa City Police is not a federal institution under the Official Languages Act. He did, however, meet with the Mayor of Ottawa to exchange views on the whole range of problems related to bilingualism in the national capital.

FILE NO. 121

The complainant, who had twenty-eight years of secretarial experience in the Public Service, was laid off in December 1970 after three months' work on a special project for the Department of Public Works in Montreal. She was obliged to turn down several offers of employment because her knowledge of French was inadequate. She subsequently complained that some Federal Government departments refused to hire English-speaking employees even for positions whose duties are to be carried out in English.

The Commissioner invited the complainant to give specific instances of language discrimination, together with names. She declined to do so. Consequently, the Commissioner informed her that he could not intervene. He added, for her information, that the Public Service Com-

mission, in conjunction with the department concerned, can designate language requirements for any given position. He also suggested that the complainant take up the matter of her employment status with the Public Service Commission.

FILE NO. 125

A resident of Quebec complained that a private New Brunswick company sold food products in Quebec labelled only in English.

Since the object of the complaint was not a federal institution, the Commissioner did not investigate it. However, since a 1967 Quebec administrative regulation requires all labels on food products sold in Quebec to be printed in both languages or entirely in French, the Commissioner thought it advisable to forward the complaint to the Quebec Commissioner of Languages.

FILE NO. 128

The correspondent asked the Commissioner to help her with certain problems relating to her husband's estate. Since this was a private affair which in no way came under the Commissioner's jurisdiction, the correspondent was informed that no action could be taken on her letter.

FILE NO. 139

The complainant deplored the negligent attitude of certain private and government agencies towards the use of French language in their services to the public in the National Capital Region. To substantiate his criticism, he related several unpleasant occurrences which spoiled his single day's visit to Ottawa.

Two of his complaints, directed against Air Canada and the Royal Canadian Mounted Police, were investigated. The Commissioner looked into the first complaint and his conclusions will appear in the 1971-72 annual report. The second complaint was made the responsibility of the Special Studies Service (see the summary of File No. 141 in the list of complaints admissible and settled). The Commissioner had no jurisdiction to investigate the grievances involving the municipal administration or the hotels referred to, but he did inform the complainant that there was good reason to hope that the bilingual character of Canada would soon be more appropriately reflected in the national capital.

FILE NO. 142

A federal Member of Parliament informed the Commissioner that French-speaking members of a public servants' association had sent

him letters protesting a petition submitted by the association's leaders regarding the implementation of the Official Languages Act in the Public Service. These members objected to the terms of the petition, considering it "an insult and an unpardonable insolence". The Member of Parliament asked the Commissioner to look into this matter.

Since the association involved is not covered by the Official Languages Act, the Commissioner was not empowered to investigate this complaint. However, he informed the complainant that the Public Service Commission is charged with overseeing the appointment and advancement of public servants. The duty of the Commissioner is to ensure that, in carrying out its task, the Public Service Commission takes into account the purposes and provisions of the Official Languages Act (Section 40 (4)).

FILE NO. 148

A students' association in New Brunswick asked the Commissioner to provide financial support for a trip to France. Their aim was to establish closer and more varied links with French-speaking countries by becoming acquainted with French young people.

The Commissioner had no jurisdiction in this sphere and no funds at his disposal for such a project. He suggested that the association submit its request to the Department of the Secretary of State.

FILE NO. 149

A French-speaking correspondent reported that he had applied for a position for which the Public Service Commission was holding a competition. In the competition notice, it was specified that candidates must have a knowledge of English and French. The complainant was not chosen because he was not fluent in English.

The Commissioner had no power to act in this affair because it was up to the Public Service Commission, in conjunction with the different departments, to establish the criteria by which to judge candidates' command of either language for positions in the Public Service.

FILE NO. 155

The Commissioner received a request for precise information on the distribution of federal grants to the provinces for fostering bilingualism, and for the exact wording and nature of pertinent federal-provincial directives.

Public funds for educational purposes, though distributed among the provinces according to a formula defined by a federal-provincial agreement, are allocated within each province by the provincial government itself. With the assent of the correspondent, the Commissioner

forwarded copies of her letter, for reply, to the Director of the Language Administration Branch, Department of the Secretary of State, and to the Ontario Minister of Education.

FILE NO. 160

The complainant sent the Commissioner a copy of her letter to a Regional Director of Personnel Administration, Department of National Revenue (Customs and Excise), stating that she had placed second in a Public Service Commission competition, and should have been offered a position before another competition for such a post was initiated.

The situation described did not constitute a contravention of the Official Languages Act, and the Commissioner informed the complainant that her case would appear to come under the jurisdiction of the Public Service Commission, to which she had already written.

FILE NO. 163

A French-speaking Torontonian expressed her satisfaction at the establishment of the Commissioner's office. She described her personal experiences which had enabled her to see the concrete results of decisions taken by three federal institutions to ensure services in both official languages to the people of Toronto. They were the Department of External Affairs, Air Canada and the Canadian National Railways. In the absence of a complaint, no further action was required.

FILE NO. 169

The complainant wrote a letter in French to the Regina office of the Provincial Department of Welfare which sent it back and asked him to rewrite it in English. The complainant objected to the contemptuous attitude displayed towards his language.

The Commissioner was not empowered to investigate this complaint, since it came under the jurisdiction of the Saskatchewan authorities.

FILE NO. 170

The complainant, a federal public servant originally from France, asked a French-speaking public servant whether people without Canadian citizenship were eligible to enter a closed competition organized by a department in cooperation with the Public Service Commission. She blamed the employee for having given her misinformation and even accused him of rudeness in his treatment of her as "an outsider". In the letter she wrote to the Commissioner in English, she complained of the

ill-will which French Canadians seem to show towards French people who come to settle in Canada.

The Commissioner could not investigate this complaint, since his duties do not allow him to intervene in cases outside the field of language. The reply to the point raised by the complainant had to come from the department in question and the Public Service Commission.

Chapter IV

SPECIAL STUDIES

Chapter I has already touched on the principles underlying the Office's special studies. The present chapter will develop and exemplify the principles behind this role of "linguistic auditor-general".

A. The Approach

The audit is a concerted way in which the Office can help federal institutions avoid or greatly reduce complaints about their alleged non-compliance with the Official Languages Act—that is, help them comply with the Act. In doing this, the audit can produce more wide-ranging and coherent reforms than normally result from investigation of individual complaints. Usually undertaken on the Commissioner's initiative, special studies are carried out very much as a service to the institutions.

In conducting studies, the Office is conscious both of the urgency of the task and of the innovative nature of any monitoring the Commissioner might undertake, especially that done on his own initiative. These independent, action-oriented studies, launched at the Commissioner's discretion, appear to constitute a new development in Canadian public administration.

The Office's prudent activism bears some fruit through the "anticipatory persuasion" mentioned in Chapter I. The knowledge that the Commissioner can at any time initiate studies on their bilingual performance already seems to stimulate some federal organizations to make improvements. Likewise, the Commissioner's announcement that he intends to launch a special study has caused institutions to take corrective action, where necessary, either before or during a study.

The key concept underlying the Service's "preventive medicine" is that of a continuous evaluation of performance. Section 25 of the Act makes it a "duty" for the Commissioner to check the progress any

or all federal institutions are making in fulfilling the spirit and intent of the Act. While the Commissioner would not want to badger already busy departments, he clearly holds and must use this power of pervasive scrutiny.

This authority affects the conduct of special studies in two ways. First, although the Office tries to mount soundly planned, detailed and systematic studies, the initial burden is not on the Commissioner to tell administrative heads of institutions to obey the law. A deputy minister has the primary responsibility to make sure that his department is fulfilling the Official Languages Act; the Commissioner need only do a scientifically sound spot-check or survey and bring to the deputy's attention whatever sins of omission or commission a study might reveal. Secondly, a special study of a given institution cannot be regarded by either the institution or the Commissioner as being done once and for all. Continuous review means that the Commissioner can study several specific aspects of a department's operations at different points in time to see how they conform to the provisions of the Act. Having done a study, made recommendations and fixed reasonable target dates for their implementation, the Commissioner will do periodic follow-up studies, in both the short and long term, to verify that the law is respected. Should the law, as concretely interpreted in his recommendations, be ignored, the Commissioner must then resort to suitable weapons from his arsenal of persuasion—arms ranging from gentle reminders through firm exhortations to the ultimate denunciation of delinquency in an annual, or in matters of unusual import and urgency, a special, report to both Houses of Parliament.

Like its sister Complaints Service, the Special Studies Service concentrates on institutional and not individual bilingualism. It monitors how a department meets the law in providing service to the public in both official languages, and examines how the languages are used in the internal administration. In studying the way a department mobilizes its resources to provide bilingual services to the public, the Service may well find itself concerned with individual employees; but its aim is to discover the department's bilingual capability as an institution. Obviously, at some point, this notion of institutional bilingualism has to be translated into the bilingual competence of at least some of the staff. Yet when the Service recommends that a unit offer bilingual service it does not normally mean that the unit's entire staff should be bilingual.

Consequently, special studies and the recommendations which flow from them should never be construed as threats to the job security of individual public servants who do not happen to be bilingual. Indeed, the remedy the Commissioner most often prescribes for a unit's bilingual deficiency is a strong dose of language training (on management time and at its expense) prepared with the very specific requirements of the

job in mind—usually with the institution being invited to work out a short lexicon of high functional terms.

The setting in which studies are conceived and executed is, by definition, that of applied research. The studies are resolutely practical. They are not meant to push back the frontiers of scholarship in any academic discipline—although they might, in time, deepen our understanding of the subtle processes demanded to implement the Act. The simple aim of the studies is to give departments a read-out on their progress in fulfilling the requirements of the Act and, when weaknesses are found, to suggest concrete ways in which they might improve their performance.

B. Procedures

As stated above, the foundation on which the Special Studies Service rests is the Commissioner's discretion, rooted in Section 25, to investigate an institution's performance on his own initiative. He exercises this mainly through the Special Studies Service, with the advice of the Director General and the two Service Directors. The decision to initiate a study is usually based on a judgement as to the national importance of a given institution's activities, especially as related to sections of the Official Languages Act (e.g. Sections 9 and 10) which underscore particular instances in which efforts should be made to assure equal status for both languages. Listed below are more specific criteria which guided the choice of the limited sample of federal operations scrutinized during the first fiscal year.

The Commissioner may take an initiative because of a single complaint or the apparent pattern of a series of complaints. Indeed, this link between the two methods of carrying out the same basic task works in favour of the close working relationship between the Complaints and Special Studies Services cited in Chapter I. Obviously, a complaint can be an important danger signal about a possible malfunction in the bilingual system of a whole institution. In such a case, the study serves the twin purposes of investigating the original complaint or series of complaints, and looking into general aspects of the institution's activities affecting the substance of these complaints.

Once the decision is made to do a study, the Director of Special Studies assigns an officer to the task. The study then follows 12 distinct steps:

1. Preparation of a study plan in the Special Studies Service.
2. Despatch by the Commissioner to the institution's administrative head of a notice of intention, under Section 27, to do a study under

Section 25 of the Act. This letter usually includes an indication of the study's focus and of the team asked to do the study, as well as a request for the institution's administrative head to designate staff with whom the Service can discuss the study's practical aspects.

3. Preliminary discussion between Service representatives and institution staff. This allows Service officers to provide a detailed explanation of the study's focus, and to request policy papers, up-to-date organization charts, inventories of signs, forms and publications, statistics on staff strength, and information on how staff is being mobilized in various units to guarantee language rights both of service and work.

4. Further adjustment to the study plan in the light of new information gleaned from the institution under study.

5. Field work, using research techniques appropriate to the study.

6. Preparation of a draft final report with tentative recommendations.

7. Scrutiny of draft report inside the Special Studies Service. This often includes a full-scale review by the whole Service.

8. Simultaneous request for our legal adviser's comments on the report's juridical aspects.

9. Review by the Commissioner of the report and suggested recommendations.

10. Revision of the report in the light of the Commissioner's comments.

11. Transmittal of the report to the administrative head of the institution studied and, simultaneously, to the Clerk of the Privy Council (Section 31 of the Act requires the Commissioner to report to both when his findings demand action).

12. Follow-up work, including discussion of recommendations and target dates with the institution studied, then field checks, if needed, to verify reforms.

Recommendations are made, of course, within the ambit of the Act, and are frequently based on specific sections. They descend from legal abstraction to the operational plane of administrative action. They are made with regard for feasibility, especially within the target dates the Commissioner often sets. The Office makes these down-to-earth

recommendations to institutions without pretention of offering a consulting service in either linguistics or management. The Office does not try, for example, to duplicate the work of the Translation Bureau. To the extent, however, that deputy ministers and other heads of institutions ask for suggestions on implementing changes (as some have during the first year), the Office willingly shares with them any relevant experience it may have in bilingual administration.

C. Work Done During Fiscal Year 1970-71

Chapter II has explained how the needs of building a new administration under Public Service regulations severely restricted the scale of early operations. Special Studies staff reached a maximum of 11 by fiscal year's end; but during November and December, 1970, apart from the Director, the Service employed only two officers and these were on loan from the Complaints Service. Permanent staff did not arrive all at once, and when they did come, they needed some orientation before being assigned specific studies. It was not till early March that the six project leaders, including one on loan from the Complaints Service, were all in place and fully operational.

Nevertheless, in the last weeks of this reporting year, the Service developed the Commissioner's original priorities in the choice of federal institutions to study, and launched 11 studies by March 31, 1971. Priorities were based on the following criteria:

1. extent of the organization's contact with the general public;
2. extent of the institution's service to the travelling public—a criterion suggested by Section 10 of the Act;
3. geographical distribution of the institution's offices, with particular interest in the National Capital Region (Section 9);
4. the organization's symbolic significance;
5. strategic importance of the organization's activities, i.e. whether or not the institution exercises pervasive influence in key policy areas;
6. number and implications of the complaints received at our Office.

The Service paid particular attention to the face which institutions presented to the public. This focus put under scrutiny visual (mainly signs) and essentially non-visual (counter service) aspects of operations in certain nearby locations: the National Capital Region, Toronto and Montreal. Attention paid to visual aspects of bilingualism in the National

Capital Region, for example, reflected that area's great symbolic importance, as well as the special duties imposed there on nearly all federal institutions under Section 9 (1).

Sections of the Act related to the travelling public highlight not only services required by the itinerant Canadian but the Act's wide territorial sweep inside and outside the bilingual districts which may be established. Ottawa and Toronto International Airports seemed logical and convenient locales in which to assess the bilingual performance, especially concerning signs, of Air Canada and the newly restructured Ministry of Transport. Criteria related to the travelling public and to the National Capital Region, as well as a significant number of complaints, converged in the decision to study Air Canada's operations in the Ottawa area.

D. Summaries of Special Studies Launched

Brief summaries of special studies begun during the fiscal year 1970-71 follow Table 12, which shows at a glance the status of all studies at the fiscal year's end.

TABLE 12. Federal agencies the object of special studies in fiscal year 1970-71

| Study | Launched | Completed |
|---|----------|-----------|
| Ministers' Offices (telephone answering) | 21.09.70 | X |
| Air Canada—Ottawa | 9.10.70 | X |
| Ministry of Transport—Ottawa | 13.10.70 | X |
| Ministry of Transport—Toronto | 18.12.70 | X |
| National Museums of Canada | 4.02.71 | X |
| National Capital Commission | 5.02.71 | X |
| Royal Canadian Mounted Police | 9.02.71 | |
| Dominion Bureau of Statistics | 17.02.71 | |
| Department of National Defence—Uplands | 18.02.71 | |
| Department of Public Works—Ottawa | 8.03.71 | |
| Department of Manpower and Immigration—Montreal | 15.03.71 | |

The summaries that follow indicate the purpose and scope of each study launched during the fiscal year. In the case of completed studies, the summary also contains a brief description of the main findings as well as the recommendations and suggestions to which they gave rise. A study is considered to have been completed when the results of the study and the action subsequently required were, during the period covered by the report, formally communicated to the department or agency under review.

In all cases the study focused, as already stated, on the bilingual face presented to the public either through signs and other such visual

media, or through direct personal contact, or through both. The federal institutions studied were selected with a view to achieving maximum impact in minimum time.

1. Ministers' Offices—Telephone answering

Following a complaint that eleven Ministers' offices greeted telephone callers in only one of the two official languages, the Commissioner launched a study of the telephone answering practices in Ministers' House of Commons and departmental offices. He considered it a matter of high symbolic importance that Government policy on bilingualism be reflected especially in the offices of members of the Cabinet. The study was made pursuant to Section 9 (1) of the Official Languages Act which requires that such services be available to members of the public in both official languages in the National Capital Region. The study covered the offices of 28 Ministers, and ~~let to various calls to 28 parliamentary offices and 25 departmental offices.~~

The general aspects of telephone answering service examined were: whether the receptionist's greetings were bilingual; whether the receptionist passed along the call in the language of the caller; whether the secretary's telephone greetings were bilingual; whether the Minister's private secretary, or the staff member to whom the call was referred, was able to answer simple questions in the language of the caller; and finally, whether a member of the Minister's staff was able to carry on a sustained conversation in the language in which the call was made.

While the information gleaned in the study could not reflect absolute accuracy in all situations, the Commissioner and his colleagues considered that the results gave a useful general indication of telephone practices in these offices.

Of a total of 301 telephone calls made between December 3 and December 17, 1970, 176 calls were made to parliamentary offices and 125 were made to departmental offices. On 273 of 301 completed calls, the receptionist did greet the caller in both languages and passed along the call in the language of the caller. For 233 of 301 calls, the Minister's secretary was able to answer simple questions in the language of the caller. In the case of 264 of the 301 calls, a member of the Minister's staff was available to carry on a sustained conversation in the language in which the calls were placed.

The survey showed that while percentages of success in meeting the requirements varied significantly, more than half of the offices scored higher than 80% during the period the study was conducted.

The Commissioner apprised each Minister of the results achieved by his Office, and reminded him, by way of recommendation, of the symbolic importance of setting a suitable example to other echelons

of Government. In a few cases, where the test rating was low, the Commissioner offered the help of his staff on a consultative basis.

2. *Air Canada—Ottawa*

The study was conducted during November and December 1970, under Sections 9 and 10 of the Official Languages Act, to examine Air Canada's practices at various locations in Ottawa. The study team put under scrutiny the bilingual services offered to the public and the bilingual image projected by the premises.

The decision to initiate such an investigation was taken on the strength of a number of complaints received by the Commissioner in which complainants alleged that French-speaking members of the public were not being well served in their own language by Air Canada in the Ottawa area.

This choice was therefore influenced by three of the criteria mentioned above, namely the priority accorded the National Capital Region by Section 9 of the Act, the emphasis placed on service to the travelling public by Section 10, and the trend of complaints received by the Complaints Service.

In addition to on-site visits by two researchers, about a dozen meetings were held between senior officials of the Corporation and the Commissioner and his staff. At the Commissioner's request, representatives of the employees' staff association also attended some of the meetings. These meetings enabled the Commissioner to enlist the active cooperation of the Corporation and its staff in improving bilingual service to the public and to dispel some union misgivings over the possible effects of the study on the job security of Air Canada employees. In fact, the Corporation management provided the Commissioner with numerous documents to facilitate systematic planning in future studies of this kind.

In the course of the study it was found that, in appearance, and in general terms, the two offices in uptown Ottawa and, to a lesser extent, at the airport, created a reasonably good impression of the bilingual character of the country. Brochures, pamphlets, timetables and other literature were available in both official languages. Advertising posters tended to be in English only.

Some ten on-site visits were made to the two offices during November and December, at different times of the day. At the time of the visits the personnel of the offices appeared to be divided between bilinguals and English-speaking unilinguals, with the former enjoying a slight numerical preponderance in all shifts. Some changes in personnel structure and distribution took place just prior to the start of the

enquiry. Agents dealing with customers planning trips were, however, always bilingual.

At the airport the premises were found not to present as bilingual an appearance as the uptown offices, although some changes were introduced there also during the course of the study. For instance, the written words on both doors to the inner offices of Air Canada, formerly in English only, were later inscribed in both English and French.

On the air flight bulletin board indicating arrivals and departures, main headings were all in both languages, but particulars as to whether a given flight was on time, delayed, cancelled or other, were shown only in English. Moreover, the small flight identification board giving details of individual flights sometimes did so in English only.

Between late November and mid-December at least six on-site visits were made to check, in addition to signs, public announcements at the airport. The researchers found performance uneven. Nearly all announcements were made in both languages, but there were always one or two omissions during the researchers' observation periods. The French announcements lacked clarity and precision of pronunciation, and they appeared to be underplayed in relation to the English. There was sometimes a noticeable time-lag between the English announcement and the French counterpart. One was left in suspense, as it were, as to whether there would be a French announcement at all. This could create some disadvantage to the French-speaking travelling public in meeting flight schedules.

On the basis of these findings, the Commissioner made four main recommendations which can be summarized as follows:

- (a) The physical appearance or image of Air Canada in all its offices or locations in the Ottawa region should be fully and genuinely bilingual.
- (b) Publicity posters in ticket offices in uptown Ottawa promoting a given holiday resort should either be bilingual or, if in both languages separately, should enjoy equal prominence.
- (c) Public announcements at the airport should be improved, notably as to the quality of diction and the promptness of the French versions.
- (d) Air Canada should start or accelerate the use of both short-term and long-term specifically job-oriented language courses for personnel dealing with the public. The desired improvements could thus be achieved without jeopardizing the careers of employees.

A later review of the situation with both management and union representatives showed that Air Canada had been making concentrated efforts to implement these recommendations and, generally, to comply with the letter and the spirit of the Act.

Air Canada paid special attention to the Commissioner's recommendations about language courses. In February 1971, after consultation with our Office and the employees' staff association, the Corporation started a job-oriented French language training course, consisting of 120 hours of classroom instruction on Air Canada's time and at its expense, as well as of access to lab facilities on the employee's time. This course was offered on a voluntary basis to unilingual employees in the Ottawa district who are members of the employees' staff association. It was designed to provide individual participants with a knowledge of French sufficient to enable them, on successful completion, to provide service in that language to the travelling public. They were being taught vocabulary directly related to their specific work situations. Retention tests will be given to the trainees, at intervals, following the course.

The Commissioner's initiative on these courses was welcomed by both the local branch and the national executive of the employees' staff association. Members of the Special Studies Service staff, at Air Canada's invitation, made two visits in late February and early March to the language laboratory in Ottawa and found that the courses had been well launched.

3. *Ministry of Transport—Ottawa International Airport*

This study was conducted during late November 1970 and centred on the official languages aspects of services provided by MOT to the general and travelling public at Ottawa International Airport. "Services" meant those provided directly by the department and indirectly through its lessees.

A survey of 63 exterior and interior signs revealed that most of them did not conform to the letter and spirit of the Official Languages Act. The Commissioner's staff noted a great number of linguistic errors, oversights, and grammatical mistakes in the French texts of bilingual signs. On the premises of the airport, all advertising posters were unilingually in English.

Although the gift shop and newsstand, operated by the same proprietor, were found attractively bilingual in all their advertising and written displays, members of the staff were mainly unilingual English-speaking, and the newsstand was not stocked with sufficient French-language publications. Operating under contract with MOT, the company is required to "engage adequate personnel to provide a first class standard of service in the French and English language(s)".

The study team also observed that employees in the cafeteria and the coffee shop were by no means proficient in the French language. The contract for these services, which does not stipulate language requirements, expires in 1975. The Office considered that some appro-

appropriate and feasible means should be found to ensure compliance with the Official Languages Act in the meantime.

The Commissioner made several recommendations to the Ministry, which can be summarized as follows:

(a) All external and internal signs for which MOT is directly or indirectly responsible should be made bilingual, giving English and French equal prominence, by December 25, 1970. Should MOT discover additional unilingual or faulty (e.g. misspelled or badly translated) signs in the course of its programme of implementation, those were also to be rendered correctly in both official languages.

(b) MOT should continue its present policy of inserting a "bilingual service" clause in all airport contracts affecting the general or travelling public, and make more insistent efforts to enforce these clauses. This necessity is most urgent in the cases of the newsstand and gift shop. MOT should regularly check the variety and display of French-Canadian publications. A list of French-language daily newspapers and magazines was provided for the MOT's convenience.

(c) For all contracts already in force but not containing a "bilingual service" clause, MOT should approach the lessees to renegotiate contracts to include such a clause. It was suggested that if this did not prove possible, then MOT should offer to pay all or half of a basic, highly utilitarian French course for every employee dealing with the general public.

(d) Provisions should be made before March 31, 1971, for paging of French-language clients by lessees, especially car rental agencies, in French. This goal was considered realistic, on the assumption that MOT would help lessee employees with French courses early in January. Specialized lexicons for paging might be prepared by MOT's bilingualism adviser or another MOT specialist in consultation with the Commissioner's Office. Similar, appropriate lexicons might be prepared for bar, restaurant and cloakroom staff. The purpose of recommendation (d) was to protect, through retraining, the job security of all employees then on strength.

The Commissioner's Office later assisted MOT to determine the precise wording and general appearance of some 72 departmental signs to be used at Ottawa International Airport. This "pre-audit" benefitted from the kind assistance of experts from the Translation Bureau of the Department of the Secretary of State and from the Quebec Government's Office de la langue française.

A further follow-up check showed that, despite some difficulties experienced by MOT in certain areas owing to constraints imposed by contracts signed previously with concessionaires, implementation of the

preceding recommendations was progressing reasonably well, though somewhat more slowly than anticipated. The lexicons that were prepared, and audited by this Office, had moreover been sent to all other international airports across Canada. However, the texts of some signs and their notices were still found faulty, and were brought to the attention of the MOT.

Regrettably, the Ministry had not been able, by March 31, 1971, to launch the French courses for lessee employees that were to have started in January.

4. Ministry of Transport—Toronto International Airport

The focus of this study was to determine whether the services provided by MOT at Toronto International Airport were adequate to satisfy the linguistic requirements of both French-speaking and English-speaking members of the travelling public in accordance with Section 10 of the Official Languages Act.

The Office examined mainly the bilingual image of services and facilities provided for passengers, as reflected in some 1,000 signs, comprised of directional aids, general orientation signs and other indications on departure areas, rest rooms, etc. The study also encompassed services offered to the public through concessions from MOT to various government departments, Crown corporations, and other agencies and commercial enterprises.

It was noted that, with the exception of a few trilingual gate signs, the majority of other signs for which MOT was directly or indirectly responsible were unilingually English. These included some non-MOT signs, mostly advertisements, as well as a few maintained by the Royal Canadian Mounted Police and the Departments of Public Works, National Health and Welfare, Manpower and Immigration, National Revenue (Customs and Excise), and Agriculture. Although MOT had begun a programme of replacing signs by pictograms, it was noted that pictograms with textual descriptions were not always provided in both official languages.

Regardless of the person paged or the content of what was being said, announcements made on the MOT-owned public address system by the various airlines and the RCMP were all unilingually English, except when foreign languages were used.

In view of these findings the following recommendations were made:

(a) All external and internal signs visible to the travelling public and for which the Ministry of Transport is responsible should, where not

reduced to pictograms, be made bilingual by September 1, 1971; and equal prominence should be given to English and French.

It was suggested too that the text on graphic or pictorial signs be in the two official languages only, unless other languages are required by previous international agreements. In the latter case, the two official languages should be given not only equal prominence vis-à-vis each other but special prominence over third languages.

(b) Announcements of general interest over the microphone should be made in both official languages. Paging of francophones should be done in French. Perhaps a short lexicon could help in meeting that situation. In other words, a way should be found so that the implementation of the above in no way affects the job security of present employees of the Control Room.

(c) The investigation indicated that MOT had overlooked those provisions of Section 10 of the Act relating to contracts for offering services to the travelling public. To this effect the Commissioner recommended that MOT draw to the attention of its regional and airport officials the application of this section to all contracts dated after September 7, 1969. MOT might also wish to take advantage of clauses in contracts predating September 7, 1969, in order to have them conform with the provisions, spirit and intent of the Official Languages Act. In particular, the Commissioner recommended the establishment of bilingual signs and written information material at all concessionaire locations serving the travelling public at Toronto International Airport.

The Commissioner anticipated that MOT would wish to apply the principles underlying these recommendations to the planned addition to Malton as well as to all other international airports in Canada.

5. *The National Museums of Canada—Ottawa*

The main purpose of this study was to determine the extent to which the organization through its four museums provided services to the public in both official languages.

The variety of these services ranged from display descriptions to answering written and oral queries. They concerned public education functions such as film presentations, public lectures, library services, and publishing works on the arts and sciences.

The study conducted during February and March 1971, revealed a certain degree of English unilingualism in signs posted in the Museum of Science and Technology, in the Museums' libraries, and in public lectures offered by the War Museum branch of the National Museum of Man.

In the Museum of Science and Technology (including the Air Museum branch), a photographic survey of lengthy display descriptions showed a marked qualitative inequality between the English- and French-language versions. The latter contained numerous grammatical and spelling errors, as well as omissions in translation. In the same Museum, it was found that one bilingual guide conducting a French-language tour made numerous grammatical errors.

One of the important contributions of the National Museums of Canada (with the exception of the National Gallery) to public education is the publication of specialized scientific works. During the time of the study (between February and March, 1971) these publications were found to be in the language of the authors—the majority of whom were English—with a very brief résumé in the other language. Translation in all cases would be difficult owing to budgetary constraints. The investigation revealed that both the procedure and the quality of translation affected the availability of the bilingual services. The arrangements then in practice caused delays and difficulties.

In view of the above, the Commissioner made the following recommendations:

The National Museum of Science and Technology

(a) A systematic and thorough revision of all display descriptions should be made in the Museum (including the Air Museum Branch) so as to make them comply with the linguistic requirements set out in the Official Languages Act.

(b) All display descriptions and publicly posted signs in the Museum should be bilingual.

(c) The Museum should make every effort to ensure that the guides assigned to a francophone clientèle be fluent in French.

The National Museum of Man (War Museum branch)

(d) The schedule of public lectures should reflect, to a greater degree, the needs of both official language groups.

The National Museums of Canada (with the exception of the National Gallery)

(e) Scientific works, presently published in English with a short résumé in the other official language, and which deal with findings specifically studied in French Canada, should, under the Act, be entirely translated as a first phase of translation of all works the Museums publish. This somewhat partial solution was suggested because of the Commissioner's awareness of budgetary constraints. The Commissioner

hoped that this initial step would increase accessibility to scientific works for francophone readers, and would begin to correct significantly the present linguistic imbalance in specialized publications. However, the Commissioner indicated that it would be of course eventually advisable to publish all scientific works in both official languages.

The Corporation of the National Museums of Canada

(f) A special translation unit should be created for the exclusive use of the Museums. Because the present arrangements cause delays and difficulties which may be prejudicial to one of the official languages, the Commissioner thought that such a unit could be integrated into the Museums' structure for the purpose of closer consultation with the staff. These measures should correct certain imbalances now existing in the Museums' linguistic services to the public.

(g) All publicly posted signs in the Museums' libraries should be bilingual.

6. National Capital Commission—Signs—National Capital Region

The National Capital Region, as the NCC Chairman has made commendably clear, has a symbolic importance and must reflect the bilingual image of the country. On February 5, 1971, the Office undertook a study, with excellent cooperation from the NCC staff, to determine whether all signs on land and buildings under the control of the Commission met the requirements of Sections 2 and 9 (1) of the Official Languages Act.

A sample of 288 signs posted on a cross-section of roadways, parks and buildings for which the NCC is responsible in the National Capital Region was used as the data base for this study. While the number of signs examined constituted a sample that by no means included all the signs for which the NCC is responsible, the number viewed was large enough to furnish a significantly representative picture of the overall situation in the National Capital Region.

Of the sample of 288 signs examined, some 64% were acceptable under the terms of the Official Languages Act. On the remaining 36%, the official languages were, in one way or another, not given equal status. For example, of the 103 signs judged unacceptable, 98 were considered to be so either because there was no French-language version or because the French-language version was incomplete or contained errors. Frequently these errors were slight (as in the cases of missing accents) and could be easily corrected.

Following the report of the researchers on their findings, the Commissioner recommended that:

(a) All exterior publicly-poster signs under the jurisdiction of the NCC comply with the Official Languages Act (Sections 2 and 9 (1)) by, if possible, May 31, 1972. In addition, the content and presentation of the messages in each of the official languages should reflect the intention of Section 2 of the Act. In this respect, the Office approved the NCC's policy of linguistic precedence (the English version with the French version underneath or to the right in Ontario and vice versa in Quebec) which seems to be a good one, and suggested that this policy be uniformly applied.

(b) One way of ensuring a systematic implementation of the obligations regarding signs imposed upon the NCC by the Official Languages Act could be to develop a control procedure for recording the texts of signs.

(c) The NCC make the relevant parts of recommendation (a) binding on all contractors retained to do construction or repair work in the field.

7. *Royal Canadian Mounted Police—Headquarters, "N" and "A" Divisions*

A study of the RCMP was undertaken in order to ascertain the extent to which it provided bilingual service to the public. The study concentrated therefore, as did the other first-year studies, on language of service. The RCMP was selected because it is one of the federal institutions dealing with the general Canadian public across the widest front.

In order to achieve a representative view of the Force and at the same time to keep the study project within manageable bounds, the study was restricted to the Ottawa area. It was divided into two parts: RCMP H.Q. and "N" Division, on the one hand, and the field organization responsible for Eastern Ontario and Western Quebec, including the National Capital Region, "A" Division, on the other. Both the general Force headquarters and the headquarters of "N" and "A" Divisions are located in Ottawa or its environs.

The study of Headquarters took in all directorates and practically all branches of the Force's Headquarters organization and "N" Division. It concentrated on the extent to which, at Headquarters itself and in the field, central policies and procedures provided for bilingual services and a bilingual image to the public. The study of "A" Division encompassed the divisional headquarters in Ottawa, the public it served and the question of whether or not its services were provided in conformity with the Official Languages Act. All elements of Division headquarters except the North Bay subdivision were contacted directly.

The researchers carried out field work for the study with excellent cooperation from the RCMP, and had virtually finished their report by the end of the fiscal year.

8. *Dominion Bureau of Statistics*

On February 16, 1971, the Commissioner initiated a study of DBS with the purpose of determining the extent to which it provided services to the public in both official languages.

The Commissioner decided to focus attention on the Statistics Use and Information Services, which include the Information and Canada Year Book Divisions, on the Census Division of the Socio-Economic Statistics Branch, and on the publications programme of DBS. All major aspects of service to the public by these elements of DBS were to come under scrutiny.

During the period under review, the Commissioner's officers had finished most of the field work with full cooperation from DBS.

9. *Department of National Defence—Canadian Forces Base, Uplands, Ottawa*

A study of visual bilingualism and other aspects of the language of service provided by the Department of National Defence was initiated by the Commissioner on February 18, 1971. The Canadian Forces Base at Uplands, being close at hand and located in the National Capital Region, was chosen to be the object of a first-stage study.

During the period 23-26 March, 1971, this Office conducted an examination of the visual and, to a lesser degree, the non-visual aspects of bilingual services provided by certain organizational elements of CFB Uplands. The survey team interviewed approximately 20 officers and visited locations within the Base where services to the public were being provided.

During the period under review, the Commissioner's officers had completed the actual research work for this study, and had begun to analyze findings.

10. *Department of Public Works—Signs, National Capital Region*

A study of the external signs created and installed by this institution had begun on March 9, 1971. The purpose of this study was to determine whether or not the signs met the requirements of Sections 2 and 9 (1) of the Official Languages Act.

During the period under review the Office had completed planning activities and had begun field work.

11. Manpower and Immigration—Montreal Region

A study was launched March 15, 1971, on the bilingual aspects of the Department of Manpower and Immigration's offices in the Montreal area. The purpose of the study was to determine the extent of bilingualism in both the visual aspects of those offices and the services offered the public.

Initial discussion of an exploratory nature took place with senior department officials as a prelude to field work.

The results and recommendations arising from uncompleted studies (7 to 11) will appear in the report covering the Office's activities for the fiscal year 1971-72. The same report will include observations and comments on the way in which agencies mentioned in studies 1 to 6 have followed these recommendations.

Chapter V

REFLECTIONS ON A YEAR OF APPRENTICESHIP

When the Official Languages Act came into force bilingualism in Canada entered a new stage of development. Passage of the Act answered some fundamental questions; but implementing any statute presents problems and this Act is no exception. While some of these problems may resolve themselves with time, it may be worthwhile to share with Parliament certain aspects of the Commissioner's brief experience and to make some recommendations for the future.

Section 34 of the Act provides that the Commissioner may include in his Annual Report any recommendations for changes in the Act that he deems necessary or desirable "in order that effect may be given to this Act according to its spirit and intent". Two of the recommendations in this chapter concern amendments to the Act; the others, corollaries of this right to comment and the Commissioner's general duty under Section 25, touch on the administrative machinery set up to implement the Government's bilingualism programme.

A. Legalities and Illegalities

In the first year the Commissioner discovered two possible difficulties in the Act which Parliament, at its convenience, may care to consider.

1. Production of documents

Near the end of the past fiscal year there arose a disagreement between the Commissioner and the Department of Justice over the interpretation of the powers accorded to him under Section 30 of the

Official Languages Act, which stipulates that the Commissioner is empowered

. . . to summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath, and to produce such documents and things as the Commissioner deems requisite to the full investigation and consideration of any matter within his authority under this Act, in the same manner and to the same extent as a superior court of record;

A certain department, when asked to furnish copies of documents required in the course of an investigation, demurred, and the documents have not been produced to date. Legal counsel advised the Commissioner that he could order production of the documents unless the Minister concerned objected on the grounds that their production would be prejudicial to the public interest. Such an objection might seem anomalous given Section 28 (1)'s requirement that "every investigation by the Commissioner under this Act shall be conducted in private". And indeed the Minister did not object, but showed a positive attitude while the Commissioner pursued the matter with departmental officials.

The departmental officials concerned sought advice from the Department of Justice, which was of the opinion that the Commissioner would be obliged to summon a departmental official to appear and produce the documents before they could be surrendered. A strict interpretation of the section might support this view, but its strict application would involve unnecessary and unseemly inconvenience to the official subpoenaed and might cause a malaise in Government agencies as a whole concerning the climate in which bilingualism was progressing.

This matter is still under review. Even though certain documents could be highly useful to fulfilling his duty to conduct soundly-based investigations, the Commissioner is reluctant to invoke the authority accorded him under Section 30 of the Act because, unless refusal of documents reflected deliberate obstructionism, to do so would be inconsistent with his administrative philosophy. It is clear, however, that after exhausting all reasonable patience and means of persuasion, the Commissioner must do his duty and formally invoke Section 30. In this event, it would be preferable that the Commissioner's statutory powers be more clearly defined, and that the disagreement with the Department of Justice be settled unambiguously.

It is therefore recommended that paragraph (a) of Section 30 of the Official Languages Act be amended to read as follows:

(a) to summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath, and to *compel the production of* such documents and things as the Commissioner deems requisite to the full investigation and consideration of any

matter within his authority under this Act, in the same manner and to the same extent as a superior court of record;

By the addition of these italicized words to the section, the Commissioner would be plainly empowered to obtain production of documents without summoning a department head or a public servant to appear before him with the documents. This amendment would not add to the Commissioner's powers, but would serve as a useful clarification in the interest of applying the law more flexibly.

2. *Privilege*

Parliament has granted the Commissioner a high degree of independence and investigative authority. The Official Languages Act underlines the Commissioner's independence vis-à-vis the Government by providing for a mandate of seven years, with his appointment and removal subject to the approval of both Houses of Parliament. In addition, as an officer of Parliament the Commissioner reports directly to this body through the Speakers of both Houses, rather than through a minister of the Crown.

This independent status is not dissimilar to that enjoyed by most ombudsmen in Canada and elsewhere. Behind it lies the principle of ensuring that the Commissioner will be able to exercise his duties impartially and without undue interference.

In keeping with the necessity of guaranteeing independent action, many statutes concerning officials of this type afford protection against civil suit in matters arising out of the performance of their duties, and in particular out of statements and reports which these officials are required to make from time to time. In addition to its protective aspects, such legislation provides an extra constraint, by drawing a clearer line of *ultra vires*, against the ombudsman's assuming jurisdiction outside the forum which the legislature intended.

The Official Languages Act does not contain such a provision relating to the Commissioner, and it would appear that his position at common law is uncertain. In the Commissioner's opinion this area requires clarification and, to this end, he recommends that the Official Languages Act be amended by adding, immediately after Section 30, the following section which, in substance, follows closely the terms protecting the independence of the New Zealand, Alberta, New Brunswick and Manitoba ombudsmen and the public protector of Quebec:

30 A. (1) No proceedings lie against the Commissioner or against any person holding an office or appointment under the Commissioner for anything he may do or report or say in the course of

the exercise or intended exercise of his functions under this Act, unless it is shown that he acted in bad faith.

(2) Neither the Commissioner nor any person holding an office or appointment under the Commissioner shall be called upon to give evidence in any court or in any proceedings of a judicial nature in respect of anything coming to his knowledge in the exercise of his functions under this Act.

(3) Anything said or any information or any document, paper or thing produced by any person in the course of any investigation by or proceedings before the Commissioner or any person holding an office or appointment under the Commissioner is privileged in the same manner as if the investigation or proceedings were proceedings in a superior court of record.

B. The Administrative Universe of Bilingualism

In the course of their work, the Commissioner and his colleagues have occasion to observe almost every facet of the federal administration's efforts to promote linguistic reform. Even if the Commissioner's documents do not seem to be privileged, his Office's position is highly privileged in the sense that each day it scrutinizes the federal bilingual universe virtually from within, even while remaining constitutionally on the outside. Strictly speaking, some of the areas now to be commented on may lie beyond the Commissioner's jurisdiction. Nevertheless, as Parliament's designated observer of this bilingual universe, the Commissioner considers it logical in his Annual Report to go beyond a mere accounting of case studies to encompass a broader, if partly impressionistic, perspective of the Government and its associated agencies.

This notion of a general summing up rests on the fundamental democratic principle of Parliament's supremacy: the idea that the legislative branch (of which the Commissioner is an instrument) ultimately has the right to oversee every action of the executive. The following comments are offered with no Olympian pretensions. They are presented simply in the hope of helping busy Parliamentarians to focus on a few areas the Commissioner thinks of special concern within the complex, not to say bewildering, array of federal agencies and activities dealing with official bilingualism.

1. Getting it together (or the rival allies)

The first and enduring impression one forms on observing the administrative mechanisms charged with translating the Government's

bilingualism policy into reality is the inadequacy of coordination among the main responsible agencies. Even though committees exist with the apparent aim of exchanging views and avoiding overlapping, one discerns in the results of these efforts a certain disjointedness.

Plainly, the heart of the matter is leadership. A Cabinet decision of July 31, 1969, assigned to the Department of the Secretary of State the job of helping other Government agencies, and coordinating their efforts, to implement rapidly and efficiently the Official Languages Act throughout the federal administration. However, this Department was never really given the powers or means to carry out this task. Although the Department's formal responsibility for bilingualism often made it a convenient target for critics, in fairness one must note that overall jurisdiction for bilingualism programmes was split, and shared with other major authorities—the Treasury Board, the Privy Council Office and the Public Service Commission. Indeed, at the level of application, authority was further apportioned among the host of State agencies covered by the Act.

From this divided authority arose two further disintegrating factors. First, there grew an alienation between those conceptualizing policy and those applying it: executants, rather too often, were left to inspired improvisation. Second, among the interested public servants themselves, compartmentalization sometimes came close to resembling rivalry, a feeling which seemed courteously extended to still another overseeing agent, the Commissioner of Official Languages, when he entered the scene. Needless to say, such a dispersal of effort among agencies, all of which with good reasons and good intentions were trying to advance the same general cause of bilingualism, exacted a price in diverted imagination.

In the spring of 1971, the Government appeared to be in the process of transferring the central coordinating role, as regards the Public Service, from the Department of the Secretary of State to the Treasury Board. Even though this move cannot, and should not, diminish the independent role of the Public Service Commission, it seems a logical and strengthening step because it will place policy-making, management and budgetary control of much of the bilingualism programme under the same authority. At present, the heavily unilingual anglophone personnel structure of the Treasury Board may cast some doubt on the aptness of such a move; but presumably the Board will find ways of redressing this imbalance to ensure, through the chemistry of representative bureaucracy, realistic decisions.

But this shift in responsibilities will still leave a damaging incoherence in at least two other areas: those of bilingualism advisers or “coordinators”, and public information.

a) *Bilingualism coordinators*

Bilingualism coordinators in many Government agencies exert only a modest influence on their agency's bilingual policies. This appears due to four factors. First, most coordinators are assigned relatively low ranks, well below the top echelons in their agency. In some cases, the coordinator is virtually ignored, and relegated to an administrative backwater. In a few cases, he does enjoy direct influence on his agency's policymakers. But in most cases, these devoted public servants operate in a twilight world of illusory authority, where their recommendations pass through so many intermediaries that, if they reach the agency head at all, their impact is substantially weakened or unreasonably delayed. The position of coordinator, if incumbents are to do a job befitting the high priority the Government officially places on bilingualism, needs a status allowing direct access to the Deputy Minister or his equivalent.

A second disadvantage has been the absence of clear common directives and authority. To fill the leadership gap by themselves, the coordinators organized their own association, and this seems a very useful instrument for exchanging experience. However, a forum for specialized debate is no substitute for lucidly directed power. Perhaps an effective way to give coordinators this leverage, as well as easier access to their agency heads, would be to remove the coordinators completely from the hierarchy of the agency itself, and to make them, within each agency, resident officers of the Treasury Board. Thus the Board could also fuse together decision-making and execution to a degree impossible at present.

A third factor concerns training and long-term career opportunities for coordinators. At present, new coordinators begin their work virtually without briefing on the goals, responsibilities and methods of their task. Even with informal advice from existing coordinators in other departments, freshly recruited coordinators sometimes face months of frustrating, hit-and-miss apprenticeship. Then, once they have mapped out a personal *modus operandi*, they find no established career pattern offering built-in promotions; in sum, coordinators now occupy a dead-end job. The Treasury Board, if it is truly to direct and strengthen the coordinators' work, ought to plan with the Public Service Commission to meet these two needs as a matter of priority.

A fourth question, a misunderstanding, arises from the very high percentage of bilingualism coordinators whose first language is French: roughly 75%. This trend no doubt reflects a natural interest and competence; unfortunately, it perpetuates the myth that "bilingualism is only the business of the French" and that coordinators are merely "preaching for their own parish". Common sense suggests that the

Public Service Commission try, even harder than it already has, to attract a greater number of qualified bilingual anglophones for such jobs.

b) Public information

A sector at least as important and still more dangerously neglected is that of information. Hardly a day passes without citizens—in particular, federal employees and even some elected representatives—publicly revealing that the concept of institutional bilingualism remains misunderstood, or that certain of its real or imagined repercussions will cause hardship or threaten careers. It is painfully ironic that, some two years after its passage, an Act designed to promote linguistic justice should be viewed by so many as a possible instrument of linguistic discrimination—even though it is more often than not Government or Public Service Commission policies well predating the Act which are in question.

Such reactions are no doubt to some extent normal in a reform of the Act's magnitude. And there still remains, it is clear, a great majority of citizens who are well-disposed toward official bilingualism. With at least latent goodwill, they seem willing to support any reasonable application of the principle of linguistic equality if only public authorities would explain frankly and meaningfully the practical impact of their policies.

The Federal Government which, not without courage, took the initiative of facing the bilingual challenge, and particularly the Department of the Secretary of State which has held the main responsibility for publicizing the Government's policies, have plainly not displayed enough boldness or imagination in meeting this need. Neither has the Public Service Commission, nor, since we are bestowing laurels, the Commissioner of Official Languages.

Probably the best information is fair and visible reform itself. But there is surely further scope for coordinated action by several of the agencies now engaged in implementing the Act to set forth their respective duties and the new rights and opportunities opened to Canadians under the Act. The Commissioner, for his part, would be glad, while keeping his status fully independent from the Government, to cooperate with the Treasury Board, the Department of the Secretary of State, the Public Service Commission, and any other interested agencies, in supplying publicity materials to a special information centre on bilingualism which these agencies might wish to form, perhaps under the aegis of Information Canada. Such a center, if equipped with all pertinent facts and a small, well-informed staff, might greatly simplify

the problems of both public and parliamentarians in giving clear, rapid answers to questions that now get lost in a jungle of obscure and apparently overlapping jurisdictions.

2. *Bilingual districts: guarantees or ghettos?*

Clear information is even more urgently needed because the Government may proclaim during the year 1971-72 a certain number of bilingual districts, as foreseen by the Act. This proclamation will automatically broaden the Commissioner's mandate in accordance with Section 9 (1) of the Act, and may affect, in differing degrees, several Canadian provinces. It will also impose new duties on all Government agencies dealing in these areas.

It is worth noting that creation of these districts will in no way diminish the Commissioner's duty to assist official-language minorities anywhere in Canada where the demand for service is "significant" and to the extent such service is "feasible". This duty is made clear in Section 9 (2) of the Act, and the Commissioner intends to fulfil it with a generous outlook. In sum, the bilingual districts will confirm the Commissioner's right to intervene in many specific areas; but they will not prevent him from using his prerogative to protect the status of the two official languages in serving the public everywhere in Canada. Nor will they change his duty to ensure everywhere in Canada, under Section 38, that "nothing in this Act shall be construed as derogating from or diminishing in any way any legal or customary rights or privileges acquired or enjoyed either before or after the coming into force of this Act with respect to any language that is not an official language". Bilingual districts, in the Commissioner's view, should not become privileged ghettos, but essentially the homes of a much wider territorial guarantee—a guarantee to be defined with common sense and imagination.

3. *French as a language of work*

Although Section 2 of the Act—which underlies federal employees' right to work in the official language of their choice—is not limited geographically, the proclamation of bilingual districts will put this right into sharper focus. No doubt this right, as outlined on March 9, 1971, by the President of the Treasury Board, is being recognized in a growing number of federal agencies; but others have not yet clearly confirmed it and the Treasury Board should press them to do so.

The Commissioner, for his part, takes this right for granted and recognizes that it carries special interest for French-speaking federal

employees in Ottawa and for roughly 75,000 federal employees in Quebec. The principle of freely choosing one's language of work, as guaranteed by Section 2, must be upheld vigorously if linguistic justice is to take on its full meaning within the federal administration. In such a reform, of course, one must take into account the growing, but still inadequate, ability of English-speaking public servants to understand French—especially by insisting that Government agencies offer them courses in this language. But this factor must not serve as a pretext to delay unduly the effective guarantee of the right to work in French within federal agencies. On this point of common sense and law—the principle of equality of both languages for work—the Commissioner intends to fulfil Parliament's intention. Everything will not change overnight. But the road is marked out, and the Commissioner will encourage Government institutions, in concert with their employees' staff associations, to follow it with all deliberate speed.

During 1971-72, the Government will designate, as announced, a number of French-language units within a variety of departments. This experiment deserves sympathetic consideration. In practical terms, it may prove one of the essential ways of making the federal work milieu a true home for French-speaking public servants, and of enabling these persons to use their talents more effectively in the service of the State. Incidentally, these units may offer the most feasible method of helping newly-bilingual English-speaking public servants to retain the fluency in French they have acquired at considerable effort and cost in the Public Service Commission's language schools—though it would be wrong to view this advantage as the units' main justification. In establishing these units, the Government might usefully study the valuable fund of experience of certain large private and State agencies in Quebec, for example, Alcan and Hydro-Québec.

4. Bilingualism and the English-speaking public servant

If dialogue and trust are needed to help French-speaking public servants develop their potential, these qualities are required no less to help their English-speaking colleagues adapt to linguistic reform. Perhaps it is inevitable that in Ottawa, particularly, the climate surrounding bilingualism should be far from serene: after all, in this administrative capital, bilingualism is no distant matter of theory, it concerns jobs and careers right now. But by working in at least informal harmony, Members of Parliament (from Ottawa and elsewhere), staff associations, the Public Service Commission, the Secretary of State's Department, the Treasury Board and the Commissioner of Official Languages ought to be able to relieve a good deal of the anxiety raised, very often needlessly, by decisions and even rumours on this subject.

No doubt the cooperative information centre on bilingualism suggested above could dispel many misapprehensions. A few clear and simple pamphlets, prepared in consultation with staff associations and interested Members of Parliament, as well as with the aforementioned agencies, could do much to allay unnecessary fears and to stress the new cultural and professional opportunities the bilingualism programme offers public servants. The centre could distribute these on a large scale, and offer a well-informed telephone service to guide public servants on specific details.

A second problem is the designation of bilingual jobs. Plainly, departmental authorities redesignating posts as bilingual under the general surveillance of the Public Service Commission could win wider acceptance for their decisions if, whenever possible, they announced redesignation at least six months in advance of each competition in order to allow all legitimate aspirants a reasonable opportunity to make a serious start at suitable language training. Indeed, hiring authorities could probably in many cases make the reasonableness of bilingualism more obvious by accepting for such redesignated bilingual posts any candidate willing to make a firm commitment to meet a specific level of bilingual competence within a year or 18 months of assuming the post.

It would also make sense, in such cases, to match the degree of skill required in the second language more flexibly with the precise demands of each job. In cooperation with the PSC Language Bureau (the Government language school) terminologists from the Secretary of State's Translation Bureau, working with their colleagues in Quebec's Office de la langue française and the computerized word banks at the Universities of Laval and Montreal, could be asked to devise highly utilitarian vocabularies or lexicons for hundreds of job categories. A meteorologist or manpower specialist, for example, could thus become "functionally bilingual" much more quickly, and eventually with greater enthusiasm, if given a standard to attain which related directly to his work. Such lexicons could also, by simplifying the content and methods of language training, save money on accelerated courses and reduce high drop-out rates caused, apparently, by lengthy and partly ill-adapted courses: according to the Public Service Commission, 30% of more than 22,000 students withdrew from training since 1964, and only 2,000 successfully reached the end of level 3, the top level being 4.

Commendably, the Commission has recognized the difficulties of operating such a massive programme, and is now engaged in reviewing many of its procedures. The Commission's own research and evaluation work offers hope that many earlier problems can soon be overcome, including those of meaningful testing, choosing candidates with prom-

ising career potential, and retention of acquired language skills. In resulting reforms, one hopes the Commission, backed by a more generous language-leave policy supported by all departments, will find ways of gearing its teaching more realistically and flexibly to the actual work needs of each candidate.

Finally, the Commissioner would like to do more to assist and reassure English-speaking public servants, as well as their French-speaking colleagues, in opening his Office as an exceptional and specialized service in certain personnel problems involving linguistic factors. Under the terms set out in describing his mandate in Chapter I, the Commissioner is obliged to insist that all hiring and promotion procedures take "due account" of the "purposes and provisions" of the Official Languages Act which, by its whole nature, guarantees equal treatment for English and French languages. He particularly invites staff associations, Members of Parliament and individual federal employees to consider this recourse when existing mechanisms of appeal have been exhausted or seem unsuitable, and when there is a fear that the purposes and provisions of the Official Languages Act have been ignored. A simple rule-of-thumb in considering such recourse would be a positive answer to the question: have the procedures and appeal mechanisms already used, or vitiated by concern over possible reprisal, violated the statutory equal status, rights or privileges of either the English or French language?

5. Money and the pace of reform

Although the Commissioner's most important recommendations affect vital if intangible civil rights, some recommendations resulting from special studies or investigation of complaints require agencies to consider substantial and unforeseen expenditures. This is especially the case when agencies are urged to change large numbers of signs and forms, or set up specialized, accelerated language courses. If agencies agree to follow the recommendations, often their current-year budget does not allow them to act within the deadlines the Commissioner proposes. In such cases, the Commissioner does not believe that agencies should be expected to transfer funds from normal operating budgets to meet these recommendations, particularly if such a transfer risks diminishing some other useful service to the public. The onus to pay, in the Commissioner's view, is on the Government as a whole, which has announced bilingualism as one of its highest priorities. Consequently, in order that agencies conform with Parliament's linguistic intentions, as interpreted within reason by the Commissioner, it seems logical that the Treasury Board should allow such agencies rapid access to its general Contingency Fund on the Commissioner's recommenda-

tion. One can always say "wait till next year"; but if the Government wishes agencies to take its bilingualism priority at face value, it may judge it preferable to support a pace of reform worthy of this priority.

6. *Toward deeper solutions*

The Commissioner and his colleagues fully realize that their work, while valid, does not change the basic facts of Canada's linguistic question. Obviously, the only fundamental and lasting solutions can come from a recognition, by Canadians as a whole, of the equal dignity and value of their two main language communities.

The seeds of this recognition must of course be sown at every level, but most of all in the schools for today's children, whose education remains in the hands of the provinces. Already the federal and provincial governments, as well as private groups, have initiated worthwhile means of helping the youth of each language community to know the other. However, objectively, before the magnitude and urgency of the problem, one has to note that deeper-reaching means must be tried to foster among Canadians the dialogue which, in the years ahead, will prove indispensable, whatever constitutional developments our electorate and statesmen may decide on.

Among these means Canadians must plainly find ways both of massively increasing youth exchanges and of making teaching of second languages more realistic: in too many parts of Canada, second-language teaching, by its often rote-learned irrelevance to the facts of Canadian life, has dulled rather than refined the instruments of dialogue. The Commissioner urges governments at all levels to evaluate in particular the possibilities of what might be termed an "interprovincial linguistic volunteer corps". Such a movement might perhaps properly be initiated by the Canadian Council of Ministers of Education, but if necessary could claim financial support, for travel costs, from the Federal Government. In short, this plan would offer scholarships to several thousand university and junior college students or young graduates each year, allowing them to study a year at a university or college in another province, in exchange for six or seven hours a week of teaching conversation and pronunciation in their own language in a local secondary school. This idea is not new, and is not a cure-all. It has been used for decades in Europe with excellent results and even, on a very small scale in recent years, in Canada between Ontario and Quebec. Its simple purpose is to engage our youth in spontaneous discussion, allowing the thrust of ideas to develop a natural linguistic capacity.

This is only one of the many programmes on which federal and provincial authorities could cooperate to make the notions of mutual respect and dialogue a Canadian reality. These principles need not represent a pious slogan of misleading "goodwill" rooted essentially in benign ignorance.

At the risk of leaving the false impression that he considers his function a kind of futile replastering job, the Commissioner recognizes that his part, and most parts, of the federal bilingual universe are really of secondary importance when compared with the benefits which can result from solutions attacking, during childhood and youth, the root of the problem: intercultural misunderstanding (with the mutual denial of dignity which that implies) and involuntary unilingualism.

In conclusion, he invites all our public men to rethink within this simple human perspective the real challenges of our still imperfectly bilingual country.

APPENDICES

Appendix I

EXCERPTS FROM THE FINAL REPORT OF THE ROYAL COMMISSION ON BILINGUALISM AND BICULTURALISM

The position of Commissioner of Official Languages was established by the Official Languages Act. The principles governing the Act and the appointment of the Commissioner were inspired by the recommendations of the Royal Commission on Bilingualism and Biculturalism.

This Royal Commission was established in July 1963, by the Government of Prime Minister Lester B. Pearson. Its mandate was

. . . to inquire into and report upon the existing state of bilingualism and biculturalism in Canada and to recommend what steps should be taken to develop the Canadian Confederation on the basis of an equal partnership between the two founding races, taking into account the contribution made by the other ethnic groups to the cultural enrichment of Canada . . .

In February 1965, the Commission published a preliminary report in which it recounted its cross-country travels and concluded that Canada, without being fully conscious of the fact, was passing through "the greatest crisis in its history". Two years later, the first book of the Commission's final report was published. By March 31, 1971, when the Commission terminated, it had issued six books, which, together, composed its final report.

It was Book I, entitled "The Official Languages", which recommended the passage of a federal Official Languages Act and the appointment of a Commissioner of Official Languages. To clarify further the historical context of the Official Languages Act and of the Commissioner's post, quotations from the relevant passages in Book I are included below.

C. Federal Official Languages Act

426. Our proposals for the establishment of bilingual districts do not, in themselves, necessitate any amendment to the B.N.A. Act.

The federal and provincial legislatures actually have all the necessary powers to implement these recommendations without resorting to constitutional change. In fact the creation of bilingual districts will be the responsibility of both provincial and federal authorities.

427. However, we feel that the federal government's duty is not only to initiate but also to show leadership in establishing bilingual districts, because the federal government is the only institution common to all Canadians.

428. Federal action should first be concerned with providing a wider legal basis for Canada's two official languages. Even though it is in fact necessary to revise section 133 of the B.N.A. Act along the lines we have suggested, we believe that the federal government must legislate at once on language matters in order to give French and English equal status within its own jurisdiction; and must help create the necessary institutions and mechanisms to ensure the establishment and effective operation of a number of officially bilingual districts.

429. The keystone of any general programme of bilingualism in Canada should be a federal "Official Languages Act", the main aims of which will be:

- a) to ensure that Canadian citizens can deal with federal administrative and judicial bodies in the two official languages;
- b) to provide for the appointment of a high state official, independent of the government, with responsibility for inquiring into and reporting upon the implementation of the federal Official Languages Act;
- c) to give the Governor in Council the necessary authority for negotiating with the provincial and local authorities involved—in the latter case with the consent of the province concerned—to widen the opportunities for Canadian citizens to deal with the branches of government in both official languages.

430. Moreover, every officially bilingual province and, ideally, every province which sets up bilingual districts or helps to establish them within its borders, should pass a provincial Official Languages Act. Later we shall describe the nature and objectives of such legislation which, like its federal counterpart, will define the rights of the citizens of the province with respect to the official languages.

431. The Official Languages Act should state certain basic principles concerning the rights and privileges of Canadians with respect to the use of French and English at the federal level. It will establish the right of every Canadian citizen to deal with the central offices of the federal administration—and with their branches in any bilingual region or district—in the official language of his choice, and to receive an answer in that language. It should also define the right of any person prosecuted for a criminal offence to have not only the services of

counsel—provided for in the Bill of Rights—but also, at his choice, with respect to the official languages, the services of an interpreter—a privilege now granted at the discretion of the court. It should also stipulate that all agreements or international treaties concluded by Canada must appear in an English and in a French version, both of which must be approved and signed by Canada and the other contracting party. In other respects, there should be more specific provisions governing the use of French and English in the federal Public Service.

432. As far as the legislative function of the Canadian Parliament is concerned, the federal Official Languages Act should provide, in particular:

- a) that on promulgation of any order or regulation of public concern by the Governor in Council, a minister, a Crown corporation, or other agency, that order or regulation shall be published simultaneously in English and French in the *Canada Gazette*;
- b) that all councils, commissions, or conferences which are entirely or partially federal in character, must make their publications available simultaneously in English and French;
- c) that any resident of a bilingual district shall be able to obtain on request an official translation of any ordinance, notice, or regulation concerning that district from one of the regional or local offices of the government situated within that district;
- d) that the *Revised Statutes of Canada* and the annual statutes shall be published with parallel French and English versions of the laws appearing on each page, or on facing pages.

433. To establish the right and duty of the Governor in Council to encourage provincial and municipal authorities to co-operate in establishing and satisfactorily administering bilingual districts, the federal Official Languages Act should further provide:

- a) that the Governor in Council may make an agreement with any province wishing to recognize French and English officially within its own administrative and judicial services, so as to share equitably with the province the additional costs involved;
- b) that, with the consent of the province concerned, the Governor in Council may make an agreement with any local authority where an official-language group constitutes an important minority, for the purpose of sharing with that authority the cost of establishing and maintaining services which will provide recognition of the language of the minority group.

434. This law should also authorize the Governor in Council, while maintaining continuous liaison with the officer of state responsible for

matters affecting the official languages, to establish, in co-operation with one or several provinces, a number of bilingual districts; and to ensure that their language régimes are properly administered at the federal level. The Official Languages Act should also empower the Governor in Council to appoint an officer of state for language matters, who might be styled the "Commissioner of Official Languages."

435. The Commissioner of Official Languages in Canada should play a dual role. In the first place, he will be the active conscience—actually the protector—of the Canadian public where the official languages are concerned. His duty will be to examine particular cases in which the federal authorities have failed to respect the rights and the privileges of individuals or groups of Canadians. The Commissioner will in a sense play the role of a federal "linguistic ombudsman" by receiving and bringing to light the grievance of any residents concerning the official languages. The extent to which he will be concerned with the application of subsection 5 of the proposed new section 133 will be discussed in another Book.

436. The Commissioner of Official Languages will also offer criticism of the manner in which the federal Official Languages Act is implemented. He will have to scrutinize the linguistic aspects of the acts of the federal government and its representatives in their relations with the public in all parts of the country, and especially in the federal capital and in the bilingual districts. Since he will have to report annually, the Commissioner will, in matters of language, function at the federal level as the Auditor General functions respecting government expenditures and property.

437. Besides being the protector of the Canadian public and the critic of the federal government in matters respecting the official languages, the Commissioner of Official Languages could also act provisionally as an adviser to the Governor in Council until the first group of bilingual districts has been established.

438. We envisage the powers and duties of the Commissioner of Official Languages, as we have conceived his role, to be mainly of two kinds. He should have wide powers of inquiry, including the power to obtain copies of letters, reports, files, and other documents deemed necessary to his scrutiny of the application of the federal Official Languages Act by the federal government. He should also be able to question under oath any federal public servant whose testimony might be useful to him in his role of critic in matters pertaining to the official languages. In other respects, he should be able to receive and, if necessary, make public any complaint from citizens or groups of citizens concerning the use of Canada's two official languages. He should,

for this purpose, enjoy wide discretionary powers within the federal jurisdiction. It goes without saying that the Commissioner should have a sizable staff at his disposal.

439. As we mentioned above, the Commissioner of Official Languages would be appointed by the Governor in Council in accordance with the provisions of the federal Official Languages Act. His appointment might be for seven years, renewable until retirement age. This would allow him the fullest freedom from federal government interference, and would thus give him the necessary authority to carry out his duties. During his term of office the Commissioner could be dismissed only on petition of both Houses of Parliament. He should, in fact, be accountable directly to Parliament and not to the Governor in Council. He should be able to inform Parliament, at least annually, of the result of his scrutiny and of his recommendations concerning the application of the federal Official Languages Act. He would have high moral authority through his influence on the Canadian public and the government and Parliament of Canada, and could well become one of Canada's most effective instruments making for equality of the two official languages. The practical effect of establishing the new officially bilingual regions or districts in Canada would depend on the Commissioner's initiative and the scope of the federal and provincial laws respecting the official languages. To sum up, we **recommend: a) that the federal Parliament adopt a federal Official Languages Act; b) that the Governor in Council appoint a Commissioner of Official Languages charged with ensuring respect for the status of French and English in Canada.**

Appendix II
17-18 ELIZABETH II

CHAPTER 54

An Act respecting the status of the official languages of Canada

(Assented to 9th July, 1969)

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

1. This Act may be cited as the *Official Languages Act*.

DECLARATION OF STATUS OF LANGUAGES

2. The English and French languages are the official languages of Canada for all purposes of the Parliament and Government of Canada, and possess and enjoy equality of status and equal rights and privileges as to their use in all the institutions of the Parliament and Government of Canada.

STATUTORY AND OTHER INSTRUMENTS

3. Subject to this Act, all instruments in writing directed to or intended for the notice of the public, purporting to be made or issued by or under the authority of the Parliament or Government of Canada or any judicial, quasi-judicial or administrative body or Crown corporation established by or pursuant to an Act of the Parliament of Canada, shall be promulgated in both official languages.

4. All rules, orders, regulations, by-laws and proclamations that are required by or under the authority of any Act of the Parliament of Canada to be published in the official gazette of Canada shall be made or issued in both official languages and shall be published accordingly in both official languages, except that where the authority by which any such rule, order, regulation, by-law or proclamation

is to be made or issued is of the opinion that its making or issue is urgent and that to make or issue it in both official languages would occasion a delay prejudicial to the public interest, the rule, order, regulation, by-law or proclamation shall be made or issued in the first instance in its version in one of the official languages and thereafter, within the time limited for the transmission of copies thereof or its publication as required by law, in its version in the other, each such version to be effective from the time the first is effective.

5. (1) All final decisions, orders and judgments, including any reasons given therefor, issued by any judicial or quasi-judicial body established by or pursuant to an Act of the Parliament of Canada shall be issued in both official languages where the decision, order or judgment determines a question of law of general public interest or importance or where the proceedings leading to its issue were conducted in whole or in part in both official languages.

(2) Where any final decision, order or judgment issued by a body described in subsection (1) is not required by that subsection to be issued in both official languages, or where a body described in that subsection by which any final decision, order or judgment including any reasons given therefor is to be issued is of the opinion that to issue it in both official languages would occasion a delay prejudicial to the public interest or resulting in

injustice or hardship to any party to the proceedings leading to its issue, the decision, order or judgment including any reasons given therefor shall be issued in the first instance in its version in one of the official languages and thereafter, within such time as is reasonable in the circumstances, in its version in the other, each such version to be effective from the time the first is effective.

(3) Nothing in subsection (1) or (2) shall be construed as prohibiting the oral rendition or delivery, in one only of the official languages, of any decision, order or judgment or any reasons given therefor.

(4) All rules, orders and regulations governing the practice or procedure in any proceedings before a body described in subsection (1) shall be made in both official languages but where the body by which any such instrument is to be made is satisfied that its making in both official languages would occasion a delay resulting in injustice or hardship to any person or class of persons, the instrument shall be made in the first instance in its version in one of the official languages and thereafter as soon as possible in its version in the other, each such version to be effective from the time the first is effective.

6. Without limiting or restricting the operation of any law of Canada relating to the conviction of a person for an offence consisting of a contravention of a rule, order, regulation, by-law or proclamation that at the time of the alleged contravention was not published in the official gazette of Canada in both official languages, no instrument described in section 4 or 5 is invalid by reason only that it was not made or issued in compliance with those sections, unless in the case of any instrument described in section 4 it is established by the person asserting its invalidity that the non-compliance was due to bad faith on the part of the authority by which the instrument was made or issued.

7. Where, by or under the authority of the Parliament or Government of Canada or any judicial, quasi-judicial or administrative body or Crown corporation established by or pursuant to an Act of the Parliament of Canada, any notice, advertisement or other matter is to be printed in a publication for the information primarily

of members of the public resident in the National Capital Region or a federal bilingual district established under this Act, the matter shall, wherever possible in publications in general circulation within that Region or district, be printed in one of the official languages in at least one such publication appearing wholly or mainly in that language and in the other official language in at least one such publication appearing wholly or mainly in that other language, and shall be given as nearly as reasonably may be equal prominence in each such publication.

CONSTRUCTION OF VERSIONS OF ENACTMENTS

8. (1) In construing an enactment, both its versions in the official languages are equally authentic.

(2) In applying subsection (1) to the construction of an enactment,

(a) where it is alleged or appears that the two versions of the enactment differ in their meaning, regard shall be had to both its versions so that, subject to paragraph (c), the like effect is given to the enactment in every part of Canada in which the enactment is intended to apply, unless a contrary intent is explicitly or implicitly evident;

(b) subject to paragraph (c), where in the enactment there is a reference to a concept, matter or thing the reference shall, in its expression in each version of the enactment, be construed as a reference to the concept, matter or thing to which in its expression in both versions of the enactment the reference is apt;

(c) where a concept, matter or thing in its expression in one version of the enactment is incompatible with the legal system or institutions of a part of Canada in which the enactment is intended to apply but in its expression in the other version of the enactment is compatible therewith, a reference in the enactment to the concept, matter or thing shall, as the enactment applies to that part of Canada, be construed as a reference to the concept, matter or thing in its expression in that version of the enactment that is compatible therewith; and

(d) if the two versions of the enactment differ in a manner not coming within

paragraph (c), preference shall be given to the version thereof that, according to the true spirit, intent and meaning of the enactment, best ensures the attainment of its objects.

DUTIES OF DEPARTMENTS, ETC. IN RELATION
TO OFFICIAL LANGUAGES

9. (1) Every department and agency of the Government of Canada and every judicial, quasi-judicial or administrative body or Crown corporation established by or pursuant to an Act of the Parliament of Canada has the duty to ensure that within the National Capital Region, at the place of its head or central office in Canada if outside the National Capital Region, and at each of its principal offices in a federal bilingual district established under this Act, members of the public can obtain available services from and can communicate with it in both official languages.

(2) Every department and agency of the Government of Canada and every judicial, quasi-judicial or administrative body or Crown corporation established by or pursuant to an Act of the Parliament of Canada has, in addition to but without derogating from the duty imposed upon it by subsection (1), the duty to ensure, to the extent that it is feasible for it to do so that members of the public in locations other than those referred to in that subsection, where there is a significant demand therefor by such persons, can obtain available services from and can communicate with it in both official languages.

10. (1) Every department and agency of the Government of Canada and every Crown Corporation established by or pursuant to an Act of the Parliament of Canada has the duty to ensure that, at any office, location or facility in Canada or elsewhere at which any services to the travelling public are provided or made available by it, or by any other person pursuant to a contract for the provision of such services entered into by it or on its behalf after the coming into force of this Act, such services can be provided or made available in both official languages.

(2) Every department and agency described in subsection (1), and every Crown corporation described therein that is not expressly exempted by order of the Governor in Council from the application of

this subsection in respect of any services provided or made available by it, has the duty to ensure that any services to which subsection (1) does not apply that are provided or made available by it at any place elsewhere than in Canada can be so provided or made available in both official languages.

(3) Subsection (1) does not apply to require that services to the travelling public be provided or made available at any office, location or facility in both official languages if, at that office, location or facility, there is no significant demand for such services in both official languages by members of the travelling public or the demand therefor is so irregular as not to warrant the application of subsection (1) to that office, location or facility.

11. (1) Every judicial or quasi-judicial body established by or pursuant to an Act of the Parliament of Canada has, in any proceedings brought or taken before it, and every court in Canada has, in exercising in any proceedings in a criminal matter any criminal jurisdiction conferred upon it by or pursuant to an Act of the Parliament of Canada, the duty to ensure that any person giving evidence before it may be heard in the official language of his choice, and that in being so heard he will not be placed at a disadvantage by not being or being unable to be heard in the other official language.

(2) Every court of record established by or pursuant to an Act of the Parliament of Canada has, in any proceedings conducted before it within the National Capital Region or a federal bilingual district established under this Act, the duty to ensure that, at the request of any party to the proceedings, facilities are made available for the simultaneous translation of the proceedings, including the evidence given and taken, from one official language into the other except where the court, after receiving and considering any such request, is satisfied that the party making it will not, if such facilities cannot conveniently be made available, be placed at a disadvantage by reason of their not being available or the court, after making every reasonable effort to obtain such facilities, is unable then to obtain them.

(3) In exercising in any proceedings in a criminal matter any criminal jurisdiction conferred upon it by or pursuant to an

Act of the Parliament of Canada, any court in Canada may in its discretion, at the request of the accused or any of them if there is more than one accused, and if it appears to the court that the proceedings can effectively be conducted and the evidence can effectively be given and taken wholly or mainly in one of the official languages as specified in the request, order that, subject to subsection (1), the proceedings be conducted and the evidence be given and taken in that language.

(4) Subsections (1) and (3) do not apply to any court in which, under and by virtue of section 133 of *The British North America Act, 1867*, either of the official languages may be used by any person, and subsection (3) does not apply to the courts of any province until such time as a discretion in those courts or in the judges thereof is provided for by law as to the language in which, for general purposes in that province, proceedings may be conducted in civil causes or matters.

(5) The Governor in Council, in the case of any judicial or quasi-judicial body established by or pursuant to an Act of the Parliament of Canada, and the Lieutenant Governor in Council of any province, in the case of any other court in that province, may make such rules governing the procedure in proceedings before such body or court, including rules respecting the giving of notice, as the Governor in Council or the Lieutenant-Governor in Council, as the case may be, deems necessary to enable such body or court to exercise or carry out any power or duty conferred or imposed upon it by this section.

FEDERAL BILINGUAL DISTRICTS

12. In accordance with and subject to the provisions of this Act and the terms of any agreement that may be entered into by the Governor in Council with the government of a province as described in section 15, the Governor in Council may from time to time by proclamation establish one or more federal bilingual districts (hereinafter in this Act called "bilingual districts") in a province, and alter the limits of any bilingual districts so established.

13. (1) A bilingual district established under this Act shall be an area delineated by reference to the boundaries of any or

all of the following, namely, a census district established pursuant to the *Statistics Act*, a local government or school district, or a federal or provincial electoral district or region.

(2) An area described in subsection (1) may be established as a bilingual district or be included in whole or in part within a bilingual district if

(a) both of the official languages are spoken as a mother tongue by persons residing in the area; and

(b) the number of persons who are in the linguistic minority in the area in respect of an official language spoken as a mother tongue is at least ten per cent of the total number of persons residing in the area.

(3) Notwithstanding subsection (2), where the number of persons in the linguistic minority in an area described in subsection (1) is less than the percentage required under subsection (2), the area may be established as a bilingual district if before the coming into force of this Act the services of departments and agencies of the Government of Canada were customarily made available to residents of the area in both official languages.

(4) No alteration of the limits of any bilingual district established under this Act shall be made unless such district would, if the proposed alteration of its limits were made, continue to comply with the requirements of this section respecting the establishment of bilingual districts under this Act.

(5) No proclamation establishing or altering the limits of any bilingual district shall be issued under this Act before such time as the Governor in Council has received from a Bilingual Districts Advisory Board appointed as described in section 14 a report setting out its findings and conclusions including its recommendations if any relating thereto and at least ninety days have elapsed from the day a copy of the report was laid before Parliament pursuant to section 17.

(6) A proclamation establishing or altering the limits of any bilingual district shall take effect in relation to any such district on such day, not later than twelve months after the issue of the proclamation, as may be fixed therein in relation to that district.

14. (1) As soon as possible following the completion of each decennial census, or, in the case of the decennial census taken in the year 1961, forthwith after the coming into force of this Act, the Dominion Statistician shall prepare and send to the Clerk of the Privy Council a return certified by him showing the population of each of the provinces and census districts in Canada, categorized according to the official languages spoken as a mother tongue by persons resident therein as ascertained by that census, and as soon as possible thereafter the Governor in Council shall, pursuant to Part I of the *Inquiries Act*, appoint not less than five and not more than ten persons, selected as nearly as may be as being representative of residents of the several provinces or principal regions of Canada, as commissioners to constitute a Bilingual Districts Advisory Board for the purpose of conducting an inquiry as described in section 15.

(2) One of the persons appointed as described in subsection (1) shall be designated in the instrument of appointment to act as chairman of the Board.

(3) Forthwith upon the appointment of a Bilingual Districts Advisory Board, the Clerk of the Privy Council shall send a copy of the return referred to in subsection (1) to the chairman of the Board.

15. (1) Upon receipt by the chairman of a Bilingual Districts Advisory Board of the copy of the return referred to in subsection (3) of section 14, the Board shall, with all due despatch, conduct an inquiry into and concerning the areas of Canada in which one of the official languages is spoken as a mother tongue by persons who are in the linguistic minority in those areas in respect of an official language, and after holding such public hearings, if any, as it considers necessary and after consultation with the government of each of the provinces in which any such areas are located, prepare and submit to the Governor in Council a report setting out its findings and conclusions including its recommendations if any concerning the establishment of bilingual districts or the alteration of the limits of any existing bilingual districts in accordance with the provisions of this Act.

(2) In addition to its duties and powers under the *Inquiries Act* in respect of an inquiry as described in this section, a Bilingual Districts Advisory Board may

be charged by the Governor in Council with the negotiation, on behalf of the Governor in Council, of a draft agreement with the government of a province for the purpose of ensuring that, to the greatest practical extent, the limits of any area that may be established as a bilingual district under this Act will be coterminous with any area similarly established or to be established in that province by such government.

(3) In carrying out its duties under this section, a Bilingual Districts Advisory Board shall have regard to the convenience of the public in a proposed bilingual district in respect of all the federal, provincial, municipal and educational services provided therein and where necessary recommend to the Governor in Council any administrative changes in federal services in the area that it considers necessary to adapt the area to a provincial or municipal bilingual area, for the greater public convenience of the area or to further the purposes of this Act.

16. The Dominion Statistician and the Director of the Surveys and Mapping Branch of the Department of Energy, Mines and Resources shall make available their services and the facilities of their respective offices, and render all such other assistance to a Bilingual Districts Advisory Board as may be necessary, in order to enable that Board to discharge its duties under this Act.

17. Within fifteen days after the receipt by the Governor in Council of the report of a Bilingual Districts Advisory Board submitted by the chairman thereof pursuant to section 15, or, if Parliament is not then sitting, on any of the first fifteen days next thereafter that Parliament is sitting, the Governor in Council shall cause a copy of the report to be laid before Parliament.

18. As soon as possible after the issue of any proclamation establishing or altering the limits of a bilingual district under this Act, the Director of the Surveys and Mapping Branch of the Department of Energy, Mines and Resources shall, in accordance with the descriptions and definitions set out in the proclamation, prepare and print

(a) individual maps of each bilingual district showing the boundaries of each such district;

(b) individual maps of each province showing the boundaries of each bilingual district therein; and

(c) individual maps of each local government or school district, portions of which are in more than one bilingual district.

COMMISSIONER OF OFFICIAL LANGUAGES

19. (1) There shall be a Commissioner of Official Languages for Canada, hereinafter in this Act called the Commissioner.

(2) The Commissioner shall be appointed by Commission under the Great Seal after approval of the appointment by resolution of the Senate and House of Commons.

(3) Subject to this section, the Commissioner holds office during good behaviour for a term of seven years, but may be removed by the Governor in Council at any time on address of the Senate and House of Commons.

(4) The Commissioner, upon the expiration of his first or any subsequent term of office, is eligible to be re-appointed for a further term not exceeding seven years.

(5) The term of office of the Commissioner ceases upon his attaining sixty-five years of age, but he shall continue in office thereafter until his successor is appointed notwithstanding the expiration of such term.

(6) In the event of the death or resignation of the Commissioner while Parliament is not sitting or if he is unable or neglects to perform the duties of his office, the Governor in Council, after consultation by the Prime Minister with the Speaker of the Senate and the Speaker of the House of Commons, may appoint a temporary Commissioner, to hold office for a term not exceeding six months, who shall, while holding such office, have all of the powers and duties of the Commissioner under this Act and be paid such salary or other remuneration and expenses as may be fixed by the Governor in Council.

20. (1) The Commissioner shall rank as and have all the powers of a deputy head of a department, shall devote him-

self exclusively to the duties of his office and shall not hold any other office under Her Majesty or engage in any other employment.

(2) The Commissioner shall be paid a salary equal to the salary of a judge of the Federal Court of Canada, other than the Chief Justice or the Associate Chief Justice of that Court, including any additional salary authorized by section 20 of the *Judges Act*, and is entitled to be paid reasonable travelling and living expenses while absent from his ordinary place of residence in the course of his duties.

21. Such officers and employees as are necessary for the proper conduct of the work of the office of the Commissioner shall be appointed in the manner authorized by law.

22. The Commissioner may engage on a temporary basis the services of persons having technical or specialized knowledge of any matter relating to the work of the Commissioner, to advise and assist the Commissioner in the performance of the duties of his office and, with the approval of the Treasury Board, may fix and pay the remuneration and expenses of such persons.

23. The Commissioner and the officers and employees of the Commissioner appointed as provided in section 21 shall be deemed to be persons employed in the Public Service for the purposes of the *Public Service Superannuation Act*.

24. The Commissioner shall carry out such functions and duties as are assigned to him by this Act or any other Act of the Parliament of Canada, and may carry out or engage in such other related assignments or activities as may be authorized by the Governor in Council.

25. It is the duty of the Commissioner to take all actions and measures within his authority with a view to ensuring recognition of the status of each of the official languages and compliance with the spirit and intent of this Act in the administration of the affairs of the institutions of the Parliament and Government of Canada and, for that purpose, to conduct and carry out investigations either on his own initiative or pursuant to any complaint made to him and to report and make rec-

ommendations with respect thereto as provided in this Act.

26. (1) Subject to this Act, the Commissioner shall investigate any complaint made to him to the effect that, in any particular instance or case,

- (a) the status of an official language was not or is not being recognized, or
- (b) the spirit and intent of this Act was not or is not being complied with

in the administration of the affairs of any of the institutions of the Parliament or Government of Canada.

(2) A complaint may be made to the Commissioner by any person or group of persons, whether or not they speak or represent a group speaking the official language the status or use of which is at issue.

(3) If in the course of investigating any complaint it appears to the Commissioner that, having regard to all the circumstances of the case, any further investigation is unnecessary, he may in his discretion refuse to investigate the matter further.

(4) The Commissioner may, in his discretion, refuse to investigate or cease to investigate any complaint if in his opinion

- (a) the subject matter of the complaint is trivial,
- (b) the complaint is frivolous or vexatious or is not made in good faith, or
- (c) the subject matter of the complaint does not involve a contravention or failure to comply with the spirit and intent of this Act, or does not for any other reason come within his authority under this Act.

(5) Where the Commissioner decides to refuse to investigate or cease to investigate any complaint, he shall inform the complainant of this decision and shall give his reasons therefor.

27. Before carrying out any investigation under this Act, the Commissioner shall inform the deputy head or other administrative head of any department or other institution concerned of his intention to carry out the investigation.

28. (1) Every investigation by the Commissioner under this Act shall be conducted in private.

(2) It is not necessary for the Commissioner to hold any hearing and no person is entitled as of right to be heard by the Commissioner, 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, department or institution a full and ample opportunity to answer any adverse allegation or criticism, and to be assisted or represented by counsel for that purpose.

29. (1) Subject to this Act, the Commissioner may regulate the procedure to be followed by him in carrying out any investigation under this Act.

(2) The Commissioner may direct that information relating to any investigation under this Act be received or obtained, in whole or in part, by any officer of the Commissioner appointed as provided in section 21 and such officer shall, subject to such restrictions or limitations as the Commissioner may specify, have all the powers and duties of the Commissioner under this Act in relation to the receiving or obtaining of such information.

(3) The Commissioner shall require every person employed in his office who is directed by him to receive or obtain information relating to any investigation under this Act to comply with any security requirements applicable to, and to take any oath of secrecy required to be taken by, persons employed in any department or other institution concerned in the matter of the investigation.

30. The Commissioner has, in relation to the carrying out of any investigation under this Act, power

- (a) to summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath, and to produce such documents and things as the Commissioner deems requisite to the full investigation and consideration of any matter within his authority under this Act, in the same manner and to the same extent as a superior court of record;
- (b) to administer oaths;

(c) to receive and accept such evidence and other information whether on oath or by affidavit or otherwise as in his discretion he sees fit, whether or not such evidence or information is or would be admissible in a court of law; and

(d) subject to such limitations as the Governor in Council in the interests of defence or security may prescribe, to enter any premises occupied by any department or other institution of the Parliament or Government of Canada and carry out therein such inquiries within his authority under this Act as he sees fit.

31. (1) This section applies where, after carrying out any investigation under this Act, the Commissioner is of the opinion that an act or omission that was the subject of the investigation is or was or appears to be or have been

(a) contrary to the provisions of this Act;

(b) contrary to the spirit and intent of this Act but in accordance with the provisions of any other Act of the Parliament of Canada or any regulations thereunder, or in accordance with a practice that leads or is likely to lead to any involuntary contravention of this Act; or

(c) based wholly or partly on mistake or inadvertence.

(2) Where the Commissioner is of opinion

(a) that the act or omission that was the subject of the investigation should be referred to any department or other institution concerned for consideration and action if necessary,

(b) that any Act or regulations thereunder described in paragraph (b) of subsection (1) should be reconsidered or any practice described in that paragraph should be altered or discontinued, or

(c) that any other action should be taken,

the Commissioner shall report his opinion and his reasons therefor to the Clerk of the Privy Council and the deputy head or other administrative head of any department or other institution concerned and may in his report make such recommendations with respect thereto as he thinks fit, and, in any such case, may request the department or other institution concerned

to notify him within a specified time of the action, if any, that it proposes to take to give effect to his recommendations.

32. In the case of an investigation carried out by the Commissioner pursuant to any complaint made to him, the Commissioner shall inform the complainant, and any individual, department or institution by whom or on whose behalf any answer relating to the complaint has been made pursuant to subsection (2) of section 28, in such manner and at such time as he thinks proper of the results of the investigation and, where any recommendations have been made by the Commissioner under section 31 but no action that seems to him to be adequate and appropriate is taken thereon within a reasonable time after the making of the recommendations, he may inform the complainant of his recommendations and make such comments thereon as he thinks proper and, in any such case, shall provide a copy of such recommendations and comments to any individual whom he is required by this section to inform of the results of the investigation.

33. (1) If within a reasonable time after the making of a report containing any recommendations under section 31, no action is taken thereon that seems to the Commissioner to be adequate and appropriate, the Commissioner, in his discretion and after considering any reply made by or on behalf of any department or other institution concerned, may transmit a copy of the report and recommendations to the Governor in Council and may thereafter make such report thereon to Parliament as he deems appropriate.

(2) The Commissioner may disclose in any report made by him under this section such matters as in his opinion ought to be disclosed in order to establish the grounds for his conclusions and recommendations, but in so doing shall take every reasonable precaution to avoid disclosing any matter the disclosure of which would or might be prejudicial to the defence or security of Canada or any state allied or associated with Canada.

(3) The Commissioner shall attach to every report made by him under this section a copy of any reply made by or on behalf of any department or other institution concerned.

34. (1) In addition to any report that may be made by him under section 33, the Commissioner shall each year prepare and submit to Parliament a statement relating to the conduct of his office and the discharge of his duties under this Act during the preceding year including his recommendations, if any, for any proposed changes in this Act that he deems necessary or desirable in order that effect may be given to this Act according to its spirit and intent.

(2) Every report or statement to Parliament made by the Commissioner under section 33 or this section shall be made by being transmitted to the Speaker of the Senate and to the Speaker of the House of Commons for tabling respectively in those Houses.

(3) The Commissioner may, instead of making a separate report to Parliament under section 33 on the matter of any investigation carried out by him under this Act, include such report in his annual statement to Parliament made under this section unless, in his opinion, the nature of the report is such that it ought to be brought to the attention of Parliament without delay.

GENERAL

35. The Governor in Council may make such regulations as he deems necessary to effect compliance with this Act in the conduct of the affairs of the Government of Canada and departments and agencies of the Government of Canada.

INTERPRETATION

36. (1) In this Act,

(a) "court of record" means any body that, under the Act by or pursuant to which it is established, is or is declared to be a court of record;

(b) "Crown corporation" means a Crown corporation as defined in Part VIII of the *Financial Administration Act*;

(c) "enactment" means any Act of the Parliament of Canada including this Act and any rule, order, regulation, by-law or proclamation described in section 4; and

(d) "National Capital Region" means the National Capital Region described in the Schedule to the *National Capital Act*.

(2) For the purposes of this Act, the "mother tongue" spoken by persons in any area of Canada means, in relation to any determination thereof required to be made under this Act, the language first learned in childhood by such persons and still understood by them, as ascertained by the decennial census taken immediately preceding the determination.

(3) For the purposes of this Act, a reference to the institutions or any of the institutions of the Parliament or Government of Canada shall be deemed to include the Canadian Forces and the Royal Canadian Mounted Police.

(4) For greater certainty it is hereby declared that section 107 of the *Criminal Code* does not apply to or in respect of any contravention or alleged contravention of any provision of this Act.

37. In every Act of the Parliament of Canada, a reference to the "official languages" or the "official languages of Canada" shall be construed as a reference to the languages declared by section 2 of this Act to be the official languages of Canada for all purposes of the Parliament and Government of Canada.

38. Nothing in this Act shall be construed as derogating from or diminishing in any way any legal or customary right or privilege acquired or enjoyed either before or after the coming into force of this Act with respect to any language that is not an official language.

CONSEQUENTIAL AMENDMENTS

39. (1) Subsection (1) of section 3 of the *Regulations Act* is repealed and the following substituted therefor:

"3. (1) Every regulation-making authority shall, within seven days after making a regulation or, in the case of a regulation made in the first instance in one only of its official language versions, within seven days after its making in that version, transmit copies of the regulation in both official languages to the Clerk of the Privy Council."

(2) Subsection (1) of section 6 of the said Act is repealed and the following substituted therefor:

"6. (1) Every regulation shall be published in the *Canada Gazette* within twenty-three days after copies thereof

in both official languages are transmitted to the Clerk of the Privy Council pursuant to subsection (1) of section 3.”

(3) All that portion of subsection (3) of section 6 of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

“(3) No regulation is invalid by reason only that it was not published in the *Canada Gazette*, but no person shall be convicted for an offence consisting of a contravention of any regulation that at the time of the alleged contravention was not published in the *Canada Gazette* in both official languages unless”

ORDERLY ADAPTATION TO ACT

40. (1) Where upon the submission of any Minister it is established to the satisfaction of the Governor in Council that the immediate application of any provision of this Act to any department or other institution of the Parliament or Government of Canada (hereinafter in this section called an “authority”) or in respect of any service provided or made available by it

(a) would unduly prejudice the interests of the public served by the authority, or

(b) would be seriously detrimental to the good government of the authority, employer and employee relations or the effective management of its affairs,

the Governor in Council may by order defer or suspend the application of any such provision to the authority or in respect of any such service for such period, not exceeding sixty months from the coming into force of this Act, as the Governor in Council deems necessary or expedient.

(2) Any order made under this section may contain such directions and be subject to such terms and conditions as the

Governor in Council deems appropriate to ensure the earliest possible application of any deferred or suspended provision provided for in the order, and in addition may prescribe different periods, not exceeding in any case the maximum period provided for under subsection (1), for different operations carried on or services performed or made available by the authority, to or in respect of which the application of any such provision is deferred or suspended.

(3) A copy of any order made under this section, together with a report thereon by the Governor in Council setting forth concisely the reasons for its making, shall be laid before Parliament within fifteen days after the making of the order or, if Parliament is not then sitting, on any of the first fifteen days next thereafter that Parliament is sitting.

(4) In relation to the appointment and advancement in employment of personnel the duties of whose positions include duties relating to the provision of services by authorities to members of the public, it is the duty

(a) of the Public Service Commission, in cases where it has the authority to make appointments, and

(b) of the authority concerned, in all other cases,

to ensure that, in the exercise and performance of the powers, duties and functions conferred or imposed upon it by law, due account is taken of the purposes and provisions of this Act, subject always to the maintenance of the principle of selection of personnel according to merit as required by the *Public Service Employment Act*.

COMMENCEMENT

41. This Act shall come into force on the sixtieth day after the day this Act is assented to.