

I am of opinion that the duty imposed upon the Commissioners by His Excellency's Commission and by the Commissions of Inquiry Act is only to report their conclusions and recommendations upon the questions submitted to them, and that they are not bound to either keep or preserve the evidence given before them. Hitherto the general usage has been for Commissioners under a Royal Commission to attach the transcript of the evidence given before them to their report, and this usage is no doubt in general a proper one, adding as it does to the value of their report, and ought not lightly to be departed from. But, as I have said, there is no obligation to keep or preserve or to attach to their report the evidence given before them. The question whether they should follow the usage is one for the Commissioners' discretion, and should be determined by regard to the considerations whether any injustice is likely to be inflicted upon any individual by a departure from the usage, and whether adherence to the usage will exclude from the consideration of the Commissioners a mass of evidence of great informative value necessary for the complete and exhaustive determination of the important questions submitted to them, and so outweigh the obvious advantage of supporting the conclusions of the report by a transcript of the evidence. If the Commissioners, considering the matter by the light of these tests, arrive at the conclusion that it is reasonably necessary that witnesses should have the protection under consideration, then in my opinion the Commissioners have power to take all or any part of the evidence for their own information only, and need not admit the whole of the evidence to their report.

I point out that the duty of the Commissioners is to report; they are not obliged to return the evidence. They may take the evidence orally without shorthand or other notes. Each Commissioner may take and rely on his own notes of evidence. If the evidence is taken by a shorthand-writer for the convenience of the whole Commission in considering their report, it does not, in my opinion, make the transcript of the evidence a public document or require the Commissioners to attach the evidence to their report. I may add that, as far as I have been able to discover, the evidence taken by the Public Service Commissioners under the Commission of 1880 (see Vol. II, Appendices, H.—2) does not appear to have been attached to the Commissioners' report, and certainly was not printed as part of the report.

I advise therefore that the Commissioners are not bound to preserve the whole of the evidence given before them, or such part of such evidence as they may think proper to treat as confidential; but whether they think the circumstances justify a departure from the general usage is one entirely for their discretion.

I may add that an inquiry into personal grievances appears to me not to come within the scope of the inquiry, and in this I understand the Commissioners' opinion agrees with my own; and I am clear that witnesses should be informed that no evidence relating to a charge against or in any way reflecting on the conduct or efficiency of a public officer will be received under a pledge that such evidence is confidential.

Wellington, 11th June, 1912.

C. P. SKERRETT.

After obtaining this opinion we gave careful consideration to the question whether we should adhere to our original decision not to publish any of the evidence, or whether we should publish such portions as the witnesses did not object to having published, leaving out only those portions which they wished to be treated as confidential. After a great deal of thought we decided not to publish any of the evidence, and we did this because our report is based (a) upon the evidence that has been given to us in confidence and which we cannot publish; (b) upon the evidence that witnesses do not object to having published; and (c) very largely upon the results of the examinations which we have made of the various Government offices, books, correspondence, and documents, and the numerous conversations that the different members of our Commission have had in the course of these inspections with a large number of officers conducting the different branches of the work of the various Departments. It appeared to us that it would be misleading to publish a comparatively small proportion of the evidence upon which our report is founded, and, as we could not publish everything, it would be much better to publish nothing.

ASSISTANCE FROM OFFICERS.

We are very pleased to be able to say that during the course of our investigations we have received the very fullest assistance not only from the heads of the various Departments of the Public Service, but also from all the other officers with whom we have come in contact. Any returns and information that we have asked for have been supplied promptly, and almost all the officers who have appeared before us to give evidence, or with whom we have had conversations, appear to us to have discussed matters as fully and frankly as we could have wished. In fact, we think we can go so far as to say that our inquiry has been welcomed by the Service, and that there has been no attempt to withhold infor-