

*Official Languages*

member for Cumberland-Colchester North (Mr. Coates) nods his head.

Hon. gentlemen are trying to get parliament to say at this stage that the bill is not within our constitutional competence. I respectfully suggest that this is an impossible position for members to take. We gave the bill second reading and referred it to a committee of the house. We have, in fact, said that the bill is within our competence. To ask us now to say it is not within our competence seems to me to be something parliament cannot do at this stage.

Second, I disagree with the hon. member when he suggests that unless the government refers the bill to the Supreme Court of Canada for a decision before it is passed there can never be any settling of the constitutional point, if there is such a point. I shall suggest in a moment that in my view there is no constitutional problem. However, surely the hon. gentleman is wrong in that respect. I know that the province of Ontario has an act which enables it to refer a constitutional matter to the appropriate court. To my knowledge most of the provinces of Canada have such legislation. It would certainly be possible for any individual affected by the operations of this act, if he has occasion to take the matter to court, to raise the constitutional validity of any section of the act that is related to his particular situation.

● (4:30 p.m.)

**Mr. Coates:** Will the hon. member permit a question? In view of the fact that the hon. member sat through the debate in the special committee that was set up for the purpose of considering the bill, would he give me an example of how a Canadian citizen may be able to challenge its constitutionality before the courts?

**Mr. Lewis:** Let us assume for a moment that someone is adversely affected by the operation of this act and thinks he has a case which he can take to court on a motion for an injunction to stop the deputy minister from doing something to him as the result of a report of the commissioner, or any such set of circumstances, and that citizen of Canada went to court; he could challenge the validity of a particular section or the whole act which has affected him adversely. There are all sorts of ways in which this matter could come to court for a constitutional decision if the occasion arose.

**Mr. Knowles (Winnipeg North Centre):** This is how lawyers make their living.

**Mr. Lewis:** Unfortunately that is so. I do not claim to be a constitutional expert but I simply cannot accept the argument that this bill is in any way contrary to section 133 of the B.N.A. Act or to section 91(1) of the same act. It seems to me that the bill in no way impinges on the provisions of those sections and is limited strictly to operations within the federal departments and within the federal sphere of constitutional competence.

As a lawyer I do not share the fears that some people have expressed about the constitutionality of the bill that is before us. In any case, since when has parliament had to make such a decision at the stage of a bill at which we are now? That decision was made by the government on the basis of the opinion received from the law officers of the Crown and whatever other opinions they sought. As a matter of fact, the Minister of Justice (Mr. Turner) travelled across the country and met with the Attorneys General of the provinces, as a result of which certain amendments were proposed to the special committee, and later adopted, to meet some of the objections that were raised. I repeat that since parliament has already passed this bill on second reading and therefore said that it is within its competence to deal with this measure, it seems to me illogical for parliament to say now that we should reverse ourselves on that point, which is what the amendment in effect means. I can understand the present amendment being one way of attacking the bill if one is opposed to it, as some hon. members are, but the majority which supported the bill in principle on second reading cannot, it seems to me, accept such an approach.

I want to add that in my view the injection into this discussion and into the discussion across the country of the legal point of whether or not there may be constitutional objections to this bill does not do a service either to the law which we are attempting to put through the house or to the objectives which we are attempting to achieve, assuming that those objectives are achieved by the bill which is now before us. I do not think it serves the purpose of Canadian unity or Canadian understanding to insist that parliament deal with this measure, not on the basis of the principles involved in the measure, not on the basis of the means provided in the measure to deal with the question of language rights in this country, but on the basis of an argument about whether or not the bill is constitutional. Some of us, who are perhaps as competent as others, are firmly of the opinion that there is no constitutional obstacle