

The Address—Mr. Francis

men succeeded him as prime minister. It fell to Sir Mackenzie Bowell—

[Translation]

—the leader of Canada's Orangemen, the then Prime Minister to stand for minority rights. The Conservative government introduced measures in Parliament for the protection of minority rights. The 1977 Liberal government must do the same to protect minority rights.

[English]

Mackenzie Bowell said they would ask the Privy Council whether an appeal by the minority lay with the cabinet of Canada. The answer was yes. There were public hearings, and the government of the day introduced a remedial order instructing the restoration of the separate schools. The government of Manitoba did nothing. Then the government of Canada, under Sir Mackenzie Bowell, introduced a remedial bill which was debated at great length. It was filibustered, and failed to pass by the time the life of the parliament expired in 1896.

When Laurier came to power with the Liberals in 1896, a compromise was negotiated with Manitoba which for the first time provided a legislative base for the instruction and use of the French language in the schools of that province. It was an act of shame by the province when, some 20 years later, that right was abolished. However, we can be proud that it was subsequently restored and has been enlarged and strengthened by the province in recent years.

As a result of that situation, when the government of the day realized it could not disallow a bill which was clearly within provincial competence, Blake introduced a resolution in the House of Commons in 1890. The resolution said the government should have the option of going before a court of the land to determine the constitutionality of the bill. Sir John A. Macdonald supported the resolution and it was passed after debate, becoming the basis of section 55 of the Supreme Court of Canada Act.

I sincerely hope that a matter as delicate and as fundamental as this will not become the subject of partisan political politics. I welcome the statement by the Prime Minister with regard to a referendum. The leader of the New Democratic Party said there was no reason for a referendum. One very good reason would be that it could be conducted in the two official languages. There is no reason to think that the referendum of the Parti Québécois will be conducted in the two official languages. The federal initiative on a referendum is a very wise and good measure which I am pleased to support.

● (1502)

I was pleased to hear the Prime Minister say that a flexible attitude will be maintained with regard to federal-provincial negotiations. It is my sincere hope that there will be a testing of the constitutionality of this provision. It is significant that the sections of the Manitoba legislation which were tested related to schools and not to the abolition of language rights. They were not tested until 1909 and 1916, 19 years and 26 years after the legislation, respectively. It is not the right thing

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to leave private parties at their own initiative and expense to test piecemeal before the courts, over a long period of time, before constitutionality can be established. Machinery was created as a result of the previous experience which allowed an option for the government to examine.

A great bulk of the legislation in Bill 101, which I have read carefully, will be declared constitutional; some sections will not. But I hope there will be an orderly testing of those sections which are not constitutional. One cannot count on the actions of private parties to initiate these matters. If the government were to refer the question to the courts, the argument would run that there is no way in which the country would win. If the legislation were found constitutional, of course, that would set the seal of approval upon it. If it were found unconstitutional, it would be an Anglophone court which would impose this upon the province. That would give Mr. Lévesque an election issue.

The legislation is either constitutional or it is not. If it is constitutional, a reference to the courts will not change anything. The argument is that an Anglophone-dominated court is going to do it. The superior courts of Quebec are Franco-phone-dominated. One could also argue, "How are the Anglophone minority groups in the province of Quebec going to get a fair hearing?" The argument is that the Federal Court cannot test it because it is dominated by Anglophones, but meanwhile all the testing is by courts dominated by Francophones in the province of Quebec.

If the courts were to declare the legislation constitutional, there would be an option available to the minority, under section 93 of the British North America Act, to make an appeal to the federal cabinet. That was the parallel option which the aggrieved minorities in the province of Manitoba utilized so effectively following the legislation of 1890 and the decisions of the Privy Council. I hope the answer of the government of the day will be, if minority groups were to appeal to the cabinet, "We will do as much for you as the Conservative government did in 1895 for minorities. We will give you a fair hearing. We will consider the remedial measures." I hope the cabinet would not say, "This is coming to mother for things you should not come to mother about". Confederation means just that, that there is an appeal to some kind of central authority which will assume responsibility for minority rights across the country and is prepared to take the consequences of taking a stand for minority rights.

I am not sure I understood the Prime Minister's remarks correctly. I should like to quote from *Hansard* of October 19, 1977, page 38, as follows:

The French language and culture must be preserved in the province of Quebec, but it must also be preserved among the French-speaking minorities in the other provinces, in the same way as we suggest that the English-speaking majority in the other provinces must of course ensure the preservation of its own language and culture in the province of Quebec for the English-speaking minority.

Is it the responsibility of the other nine provinces to preserve the English language and culture in the province of Quebec? The Prime Minister said that if this is not done, we will have the two solitudes; we will have a province speaking only French and the rest of Canada speaking only English, and