

*Official Languages*

assumed that if there had been any attempt to make French an official language in the legislature or the courts of Ontario, George Brown would have left the coalition government of the province of Canada, with the result that Confederation would have been set back or would never have been accomplished at all. Similarly it may fairly be assumed that if any attempt had been made to make French an official language in Nova Scotia or New Brunswick it would have been strenuously opposed by Charles Tupper and Leonard Tilley. There is support for this assumption in the views expressed by Professor D. G. Creighton, our most distinguished Canadian historian.

I believe I can also say that if the Fathers of Confederation could have looked in on parliament discussing this bill within the confines of what they conceived to be our constitution, they would not have appreciated that it was the same constitution or the same British North America Act.

I realize that times are changing and that in times of change people arrive at a different appreciation of what words in the constitution mean. I appreciate that the Supreme Court of Canada might today very well give a broad rather than a narrow interpretation to sections 133 and 91 (1) of the British North America Act. That is possible. But that is not what we are talking about now. We are talking about a bill that, as far as I am concerned, is completely ultra vires the parliament of Canada until it has been referred to the Supreme Court of Canada and a decision secured as to its constitutionality. If the government were as certain of the constitutionality of the bill as it indicates it is, there would be no hesitancy in referring it to the Supreme Court of Canada. It has not been referred to that court because there is real concern about its constitutionality.

The Minister of Justice (Mr. Turner) has a smile on his face. I say to him that Mr. Justice Thorson was a former minister in a Liberal administration who was appointed by a Liberal government to the second highest judicial office in the land, and I think his attitude and opinion should be given very serious consideration by a Liberal or any other government. Further, his appointment came about only after an illustrious legal career during which he was Dean of the Manitoba Law School.

● (4:20 p.m.)

This matter is not as simple as the government would have the public believe. It is serious because I believe this institution is not competent to consider the legislation without first having its constitutionality clarified by the Supreme Court of Canada. I

[Mr. Coates.]

believe the amendment we are considering should have been proposed as soon as the bill was introduced. If the bill had been referred to the Supreme Court of Canada and the decision of that court had been that the government had the competence to act, there would be no dissenters in this house and Canadians would believe, rightfully so, that the government could legislate as it intends to legislate. But because the bill has not been referred to that court and there are grave fears in the minds of many Canadians as to its result, I have no hesitation in opposing it. Indeed, my conscience would not allow me to do otherwise.

I appreciate the words of the hon. member for Swift Current-Maple Creek. I realize that his amendment will be defeated, but I shall support it. I am pleased the amendment is before the house because at least future generations of Canadians will appreciate that every attempt was made to secure clarification of the constitutional aspect of the bill. Some people may be misguided into thinking that an attempt may be made by an individual to challenge before the Supreme Court of Canada the constitutionality of the bill. The government is well aware that this cannot be done. As far as I know, only the governments of Manitoba and Saskatchewan have enabling legislation with which to attack the constitutionality of the bill. No individual Canadian can do this before the Supreme Court of Canada. Therefore we will be placed in the position where there will never be a clarification of the constitutionality of the bill. There will always be a cloud hanging over the bill because Canadians were not allowed to be informed by the Supreme Court of Canada since this government would not act in the interest of all Canadians and be certain of its rights. As a result, I shall support the amendment. Although I anticipate it will be defeated, I hope it will pass.

**Mr. David Lewis (York South):** Mr. Speaker, I rise for just two or three minutes to say that we cannot support the amendment, and to give very briefly our reasons for taking this position. First of all, it is clear from the speeches in favour of the amendment that hon. gentlemen are trying to persuade parliament to express doubts about the constitutionality of the bill that is before us. In other words, if the amendment were passed parliament would be saying that we do not really believe the bill is within the competence of parliament to pass. I notice that the hon.