Criminal Code

Mr. Eldon M. Woolliams (Calgary North): Mr. Speaker, in speaking to Bill C-42 today I would first like to endorse the words of the parliamentary secretary, that we did carry out a very thorough, careful, and thoughtful study in-depth at the committee stage of this bill, and came up with some pretty good answers.

In order that the House will understand the position we first took on this side, and in order that it will not ever be misunderstood at any time by anyone anywhere, let me state that when the bill was first presented to this House it said that the legislation would be deemed to have become law on proclamation of the federal government.

The second important thing it said, leading to the position we took, was that every accused person should be informed by the judge before whom he was being tried that he or she had the right to be tried in the French or English language.

During my speech at the second reading stage I took the position, on behalf of my party, that the bill required two amendments. I suggested that either there must be enabling legislation brought in by the provinces in order that there might be a joint proclamation, or the bill could be brought into effect by proclamation of the federal government after legal, and I would emphasize that word "legal", consent by the province, whether it be British Columbia, Alberta, Saskatchewan, Ontario, or even Quebec. That was our position at second reading.

At that time I made a short speech and proposed those two amendments. I do not think I am breaking any confidence with the Minister of Justice (Mr. Basford) when I say that we had several meetings during which he expressed the feeling that the amendments I suggested had merit. He saw some difficulty in the words "consent" and "joint proclamation". As a result, there was a compromise. After all, the art of politics is the art of making the impossible possible.

I did go along with the suggestion, on behalf of my party, that the federal government could proclaim the bill, but before doing so it must have consultation with the provinces, and not something wishy washy by the Minister of Justice. I make nothing more of that than to say that the minister will not soon be the Minister of Justice.

I have heard here in parliament, as have other hon. members, ministers giving their word, only to see the opposite happen. I remember the Hon. Judy LaMarsh once saying that social security numbers would never be used by members of parliament. Before the ink used to write that statement was dry that practice became part of what we were obliged to do in the House. I have always taken the view that the greatest protection human beings have is the protection of the law.

I told the Minister of Justice I would accept that suggestion on one ground, namely, that consultation had to be consultation by law, and that consultation had to take place before the bill could be proclaimed in Alberta, British Columbia, New Brunswick, Prince Edward Island or any other province. In other words, the federal government had to consult in a serious and meaningful manner with provincial governments, that consultations had to take place by law, and until that process had been completed the bill could not be proclaimed in any province.

The reason for this is very simple. In some provinces there are areas with very few French-speaking people. There would not be a sufficient number to make up a jury or to provide the necessary court reporters and registrars. In fact the minister admitted that in at least one province, even considering all the judges in that province, he could not find one that was bilingual. We must have a practical approach.

The first amendment I proposed, and which has now been put forward by the parliamentary secretary, is that consultation must be by law, and not just at the convenience of the Minister of Justice or his officials.

● (1222)

The second amendment was with regard to the date of implementation. Some of my French Canadian colleagues took great exception to this and wanted to stipulate a time limit of two years. However, they themselves were voted down by their own members. I can appreciate their position and that they do not want to wait forever, because Christmas must come some day. I was not in any way unfair, nor was I inflexible in any way, but I pointed out that we should leave it open because any government, whoever the minister of justice may be, is responsible to the people, to his cabinet and, above all, to his leader.

If the Minister of Justice fails to fulfil the responsibility he has to Canadian law, then public opinion would soon take a course whereby he or she would have to change their ways. According to this section amendment the government could move a proclamation exclusive of the time of negotiation, even if it takes three years. I am thinking now of Prince Edward Island where it would have taken three or four years just to get them to phase in this bill once the federal government decided to proclaim it, exclusive of the time of consultation. Under the amendment, it would be two years before it would become law. This seemed to be a very fair approach and is almost the proposal I put forth on second reading.

There is a third catch which the Minister of Justice and I discussed, and I just wish that he were here. I am not breaking confidence with him, because it is a question of law. It dealt with the qualification of a jury, which would be a matter for the provinces to decide. For example, if I was holding a trial in Calgary and the sheriff brought together 60 German-speaking people—and considering our whip, I had better put some Poles in there—and some Poles and some others who could not speak English—I am not suggesting that our whip cannot speak English—the defence attorney would challenge the whole panel on a motion to the judge and say that those people were not qualified because they could not speak English and therefore were unable to comprehend what they would hear in evidence. Thus, the question of qualification is very important, and I wanted to review it thoroughly so there would be no misunderstanding.