

ing to the administration of justice in the provinces, I understand the apprehension of the provinces with regard to the secondary effects of this bill on such administration.

[*English*]

I recognize that in some of the provinces there is a feeling that the official languages bill affects directly the duties and responsibilities of the provincial governments to an unwarranted extent. I have in mind the provisions of the bill dealing with the question of official languages in court proceedings and more particularly that section of the bill which permits proceedings in criminal matters heard by provincial courts to be conducted in either language in certain circumstances. A number of provinces have expressed the fear that these provisions of the bill entrench upon their jurisdiction relating to the administration of justice in that they affect the administration of justice relating to the courts in their provinces. As I said, as a matter of constitutional law and having been advised by the law officers of the Crown and others, I have not felt that this objection was well founded. Indeed, the appeal division of the Supreme Court of New Brunswick, in the case of Jacques Belisle and Jacques Moreau which was decided in June, 1968, unanimously held that parliament has exclusive jurisdiction to enact legislation respecting the use of language in criminal proceedings, but in practice it is obvious that these provisions might make it very difficult for the administration of justice in the provinces to be carried out if we attempt to achieve too much too quickly.

● (3:30 p.m.)

With this in mind the government has decided to amend the bill so as to recognize more clearly this obvious impact on a field of provincial interest and responsibility. Therefore, Mr. Speaker, despite parliament's undoubted legal authority to legislate in respect of criminal law and criminal procedure, in my view the bill should avoid the effect of placing the provinces in a difficult posture by creating new burdens on the administration of justice that cannot be discharged immediately.

It is our hope that the provinces will wish as quickly as possible to take steps to achieve the goals that all governments set for themselves at the constitutional conference of 1968. Indeed, we should not forget that the Confederation for Tomorrow Conference, convened in Toronto by the Prime Minister of Ontario

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in 1967, accepted the principle of linguistic equality in Canada for Canadians.

So, Your Honour, it would be my hope that with this and other changes which we propose, no province will find it necessary to challenge the constitutional validity of the enactment. I wish to stress again as I have said already in this house, Sir, that we are prepared to meet that challenge if it is made, but it is our judgment that a constitutional challenge relating as it would to the fundamental aspect of national unity would be unfortunate, indeed, a tragic circumstance for Canada, particularly in this period of constitutional reform. By bearing in mind the practical concerns of the provinces, and in particular by following the process of consultation that was initiated by this government, I hope that the federal government will have demonstrated a flexibility of approach necessary to the implementation of this very important legislation which we regard as fundamental to our confederation without in any way, Sir, sacrificing the principles of the bill.

Let me say that the discussions I had with the provincial Attorneys General of the western provinces, the correspondence I have had with the Attorney General of Nova Scotia and the meeting I had with Prime Minister Bertrand were all very frank and helpful. They led to a number of suggested changes in this bill other than those I have just referred to in order to meet problems in respect of the administration of justice in the provinces. I hope and I believe that the provincial governments will follow that process of consultation which has been meaningful.

**Mr. Lewis:** Would the minister permit a question? Can he indicate a little more precisely what amendments he is referring to in respect of language in the courts? Is he only dealing with clause 11 of the bill or will there be wider amendments?

**Mr. Turner (Ottawa-Carleton):** I think the hon. member will find that they deal particularly with clause 11 of the bill. I intend to go into as much detail as the procedure in this house on second reading will allow, and to table the amendments which we intend to propose at the committee stage.

**Mr. Diefenbaker:** There will be no restriction on the minister at all so far as I know. We will be very glad to hear them. This will give body to a bill which at the moment is very hollow.