

may have power to make such regulations herein as to them may seem advisable; be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, that from and after the passing of this act so much of the said recited act as is hereinbefore recited shall be repealed.

I apologize for this long quotation. Summarizing, may I say that in the act of union the words, "all public instruments whatsoever relating to said legislative council and legislative assembly or either of them," embrace currency and the issue of bank notes; and the words, "all printed proceedings of what nature soever," also embrace currency and the issue of bank notes. Who, for instance, after the passing of 3 and 4 Victoria, would say that bilingual currency was not prohibited? If bilingual currency was prohibited by 3 and 4 Victoria, chapter 35, then did it not become non-prohibited, permissible, permitted, legal and constitutional when 3 and 4 Victoria was repealed? Would not the old Roman law maxim find its application here—"exclusio unius affirmatio alterius"—the exclusion of the one means the affirmation of the other.

In constitutional law does not the repeal of a prohibition render the thing prohibited permissible, permitted, legal and constitutional? Therefore may I not conclude that bilingual currency, having been prohibited by 3 and 4 Victoria, chapter 35, became permissible, permitted, legal and constitutional when 3 and 4 Victoria was repealed?

Thus stood matters before 1867. Then came the British North America Act, section 133 of which reads:

Either the English or the French language may be used by any person in the debates of the houses of the parliament of Canada and of the houses of the legislature of Quebec; and both those languages shall be used in the respective records and journals of those houses; and either of those languages may be used by any person or in any pleading or process in or issuing from any court of Canada established under this act, and in or from all or any of the courts of Quebec.

Paragraph 2 reads:

The acts of the parliament of Canada and of the legislature of Quebec shall be printed and published in both those languages.

So far as I know, 11 and 12 Victoria, chapter 56, repealing 3 and 4 Victoria, chapter 35—and both are imperial statutes—was never abrogated; therefore the argument, I humbly submit, is this: that section 133 of the British North America Act simply enacted that thereafter English or French in certain circumstances should be optional, but that there should be an obligation to print in both

[Mr. Dupré.]

English and French certain records, documents, acts, proceedings and so on. But what was already permissible, permitted, legal and constitutional, outside of article 133, remained as such. Not only were not 3 and 4 Victoria, chapter 35, and 11 and 12 Victoria, chapter 56, not abrogated by the imperial parliament, but I refer the house to article 12 of the British North America Act—I will not cite the whole article—where it will be seen that all powers, authorities and functions under any act of the parliament of Great Britain or the parliament of the United Kingdom of Great Britain and Ireland, and so forth—

—shall, as far as the same continue in existence and capable of being exercised after the union in relation to the government of Canada, be vested in and exercisable by the governor general . . .

In other words, if I put the right interpretation upon article 12 of the British North America Act, the statutes 3 and 4 Victoria and 11 and 12 Victoria were never abrogated. Then was enacted the British North America Act in 1867. Our forefathers intended then to take a step forward, not backwards, and Cartier and other representatives of lower Canada would never have given their consent to any pact which would have curtailed the rights of the French language.

Since 1867 the status of the French language has been as follows, I submit: first, obligatory as regards part of the enumeration contained in article 133 and optional as regards the rest of the enumeration; secondly, permissible, permitted, legal and constitutional outside the enumeration contained in article 133. But I would go so far as to say that very likely article 133 covers the case of bilingual currency and that bilingual currency is included in the enumeration of article 133. This is a matter for legal discussion; but speaking generally I do not think that the status, rights and use of the French language should be restricted rigidly to the letter of article 133 of the British North America Act. The use of the French language should be interpreted in the spirit of article 133. It should be encouraged and should be more widespread than the definition in article 133 seems to indicate.

Sir Robert Borden on one occasion, after citing this article 133, said, speaking of the French language:

I realize that in federal affairs both these languages occupy an official status.

These words will be found in Hansard of May 10, 1916, page 3692. May I then conclude that bank notes and state currency come within the definition of federal affairs, occupy an official status and therefore should be