

Inquiries of the Ministry

least by the provinces, regarding the entrenchment of language rights in fields within provincial jurisdiction?

Right Hon. P. E. Trudeau (Prime Minister): Mr. Speaker, the measure of agreement was stated in the communiqué. I am doing my best to try to understand what the Leader of the Opposition is asking. As I say, it appears to be clear in the communiqué, but perhaps the hon. gentleman would like to ask a supplementary question.

Mr. Stanfield: Perhaps I might be more specific in order to help the Prime Minister. Was there any agreement to entrench language rights, for instance, with respect to provincial courts in the country apart from federal courts?

Mr. Trudeau: Obviously not, Mr. Speaker. There is nothing in the communiqué about provincial courts. Even when we mention federal courts I would caution against using the word "agreement". He knows that this was indicated as a feasible approach, and I would not, on behalf of any of the provinces, want to say that they agreed in a firm way. It was considered to be a feasible approach to constitutional amendment.

Mr. Stanfield: I have one further supplementary question, Mr. Speaker, which I ask again for the purposes of clarification. Was there any agreement that any rights now entrenched in the British North America Act in respect of the use of language in the courts would be removed? I am referring now to entrenched rights which exist, for example, in the province of Quebec. Was there any agreement that these would be removed?

Mr. Trudeau: If there had been agreement on that, Mr. Speaker, it would have been stated in the communiqué, but it was not.

Hon. Marcel Lambert (Edmonton West): I have a supplementary question, Mr. Speaker, which arises from the Prime Minister's indication the other day that either the French version or the English version of the communiqué could be used as it suited one's case. I should like to ask the Prime Minister whether there was a consensus among the provinces that any province could move into a more or less unilingual position, une position unilingue, que ce soit l'anglais, que ce soit le français, with regard to courts or official documents and so forth and so on?

Mr. Trudeau: Monsieur le président, qu'on lise in English or in French la position est la même; le communiqué does not talk about ce qu'on disait en réponse to the Leader of the Opposition.

Mr. Lambert (Edmonton West): Mr. Speaker, this is linguistic gear shifting. I am using the terms of the communiqué. Since the Prime Minister insisted the other day that they meant the same thing. I ask again whether there was agreement between the premiers of the provinces and the Prime Minister that any province could decide to move into a more unilingual position than now

[Mr. Stanfield.]

exists under the constitution and in practice, or is the interpretation that appeared in the public media yesterday and today one that has arisen as a result of the confusion caused by being able to use whichever version of the communiqué one wants to use?

Mr. Trudeau: Naturally, the subject was discussed, but if there had been agreement on anything of this nature it would have been put in the communiqué. There was nothing in the communiqué to this effect. As I told the Leader of the Opposition a moment ago, we did indicate in the communiqué that the federal government would be obliged under this proposed formula, if it were adopted, to entrench the two languages in the federal courts as we do now under the Official Languages Act. But there was no reference in there to what would happen to the provincial courts.

PROPOSED AMENDING FORMULA—EFFECT OF PART III

Mr. J. P. Nowlan (Annapolis Valley): Mr. Speaker, without shifting language gears, and looking at the English text of the communiqué issued after the conference, the statement of conclusions, I should like to ask the Prime Minister if the third proposal under the amending formula setting out amendments of concern to Canada plus one or more but not all provinces is the type of feasible approach which could allow Quebec and the federal government to remove section 133 from the British North America Act?

Right Hon. P. E. Trudeau (Prime Minister): Mr. Speaker, I cannot, of course, predict what would be done with section 133. As the communiqué says, all governments will want to see the implications, legal and otherwise, which flow from the adoption of such a formula. The question asked by the hon. member is one which I cannot answer. It is a matter of legal interpretation—what would happen if such an amending procedure were in the constitution. It would depend upon the form in which it was there and it would depend on what else was left in the constitution and what was withdrawn.

Mr. Nowlan: Mr. Speaker, I quite appreciate part of the Prime Minister's answer in that this does involve an interpretation of a third feasible approach to the amending formula. But given the wording of the communiqué that the constitution could be amended by a resolution of consent at the federal level, plus the consent of the legislature of a province concerned, if there is any thought of amending the fundamental rights in the BNA Act for one province, what is the position of New Brunswick and its statute passed in 1968-69, an Act respecting official languages in New Brunswick and section 16 of that Act—

Mr. Speaker: Order, please. I say with respect that it seems to me we are becoming involved in a rather complex and complicated constitutional discussion. The hon. member perhaps might ask the question briefly and I suggest the Prime Minister should attempt to reply to it briefly.