

*Criminal Code*

The bill also provides that persons whose language is neither of the two official languages may be tried in the official language in which they are most proficient, whether that language is English or French in the province where the trial is to be held. Naturally, and I want to underline this, Mr. Speaker, this does not, obviously, abrogate the rights that people now have under the Bill of Rights by which an interpreter is guaranteed for persons on trial who speak neither of Canada's official languages.

We have been discussing the provisions contained in this bill with the provinces since last fall, both at the political and at the official levels, and the legislation was reviewed again very recently at a federal-provincial meeting of deputy attorneys general held in Ottawa earlier this month. Not a single province was opposed to the concept embodied in this bill, and each of them, I think, recognized the need at this particular time for us in Canada and in this parliament to legislate in this area.

Indeed, the very positive and encouraging reaction from many of the provinces bodes very well for the future of this country. The attorney general of Nova Scotia has termed the purpose of this bill a laudable objective. The attorney general of Ontario has written to me to state the following:

I welcome the initiatives set out in your letter, which I understand have now been placed before Parliament with the introduction of Bill C-42 on April 4, 1978.

As you will have noted, Mr. Speaker, last week the attorney general of Ontario introduced complementary provincial legislation to bring into effect within Ontario the provisions of this bill when it is passed. Their chief concern, as is to be understood, is that proclamation of the bill not be carried out until they have been closely consulted on the date of implementation. I have given that undertaking in writing to provincial attorneys general, and I repeat that undertaking here this evening.

Proclamation, as is provided for under the bill, will be on a province by province basis. This means that the law will not come into force throughout the country at the same time. I indicated when I introduced the bill that I hoped it could be proclaimed and implemented very quickly in the province of Quebec. I have today received a letter from the minister of justice for Quebec expressing his appreciation for consultation on the measure, expressing his willingness to go forward and expressing, obviously, his desire to be consulted in working out the mechanics of proclamation and implementation.

As I indicated, the province of Ontario has requested this legislation and has introduced complementary provincial legislation. The provisions apply in New Brunswick where there is a system now under the Official Languages Act that embodies much the same thrust and principle of this bill, and I would hope it could also be implemented as quickly as in the province of Manitoba, thereby covering in those four provinces the largest communities of both French and English-speaking minorities.

I recognize that not all provinces can accommodate these changes at the same moment, and some, understandably, for

[Mr. Basford.]

demographic reasons, have greater resources in personnel and other resources for these measures. This bill and its proposal for implementation are as flexible and as sensitive as possible to assist the provinces in putting the legislation into effect.

We have reassured the provinces that the bill does not require entire court proceedings to be held in the official language of the accused since this would obviously cause serious difficulties in some provinces in respect of the need to hire and train prosecutors and other court officials perfectly fluent in the minority official language.

The scheme of the legislation is that the accused person very quickly at his first appearance in court will be advised by the judge that he has the right to be tried in French or English, at his choice, by a judge or judge and jury who speak that language. The judge may, after receiving that election from the accused, in appropriate cases order that the trial be presided over by a judge and jury who speak both official languages, who are bilingual. Where such orders are made it would be possible, if appropriate, to have trials held in a bilingual fashion, subject to the rights of the accused to be assisted by an interpreter for those parts of the trial conducted in a language other than his own. Prosecutors and court officers would also be assisted by interpreters, if necessary.

The bill provides that courts may order a change of venue within the same province when the trial cannot be conveniently held within a given territorial division. Some provinces have suggested that we allow change of venue between provinces, but I do not feel this would best serve the interests of justice as far as the accused is concerned. It also raises certain jurisdictional problems, by reason of change of venue of an accused's trial from one province to another, that are very difficult to resolve. Thus we have chosen instead, and in keeping with suggestions made by certain other provinces, to provide for regulations to be made by lieutenant governors in council in each province so that if the province so wishes it may allow for these measures to be in force only in some territorial divisions of a particular province.

This recognizes that there are within many provinces settlements or pockets of population using English or French as a minority language. In such areas these measures can be easily introduced. There are, however, many communities or districts in English-speaking parts of Canada where little French is spoken and where the population is very small and, similarly, communities and districts in provinces in French-speaking parts of Canada where little English is spoken. Thus, courts of other territorial divisions not able to proceed in the official language of the accused because of the lack of adequate language capacity may order the trial transferred to one of these designated territorial divisions.

● (2052)

The provinces and the federal government will have to give greater attention in the future, when making appointments to the bench, to the language capabilities of the candidates. The same should apply when hiring some Crown prosecutors and