

guaranteeing language rights of accused before courts where it is practical and where the provinces want it.

● (2142)

I have spoken at some length, Mr. Speaker, so let me say in conclusion that I sincerely hope the Minister of Justice will accept our amendment. As I have said, under the constitution the administration of justice falls under provincial jurisdiction so that both levels of government should proclaim that act with each other's consent.

I appreciate the attention which members of the House have given me tonight on this very difficult legal and sensitive matter. I trust that in my work as a member of the Standing Committee on Justice and Legal Affairs I will continue to receive the co-operation of hon. members opposite, as I have in the past, and that they will be as fair as they have been when we on this side have proposed amendments.

Mr. Basford: Mr. Speaker, before the hon. member resumes his seat—he asked me to put my question at the end of his remarks—I wonder if he would entertain a question.

Mr. Woolliams: Certainly, go ahead.

Mr. Basford: Without commenting on the substance of the policy of the hon. member's amendment, he dwelt at some length on the question of the constitution and the administration of justice and I wonder whether therein he had taken into account the case of Jones and the Attorney General of New Brunswick, in which the Supreme Court held that the power to legislate language in criminal cases was necessarily incidental to the federal power under section 91.27 of the criminal law, including procedures in criminal matters.

The second part of my question regards the fact that the hon. member dealt at some length with the provisions in the Criminal Code relating to Quebec and Manitoba which provide for mixed juries. So far as I can discover—and perhaps the hon. member can add to my information—the last mixed jury in Quebec was in the Coffin murder trial of some years ago, and as far as my counsel from Manitoba can determine, they have never been used in Manitoba, certainly not in recent times.

Mr. Woolliams: Mr. Speaker, I will answer the last question first. Sections of the law are there to be used. That was part of the meat of my speech tonight. The law must be practical. It does not mean that a mixture is used. There is a difference between a jury roll and an impanelled jury. If there is a roll of 50 per cent English-speaking and 50 per cent French-speaking members of the jury, it is left to the discretion of the court. So that if the accused says that his language is English, he can have an English jury; but if his language is French, he gets a French jury. It is not good having a mixture of 50-50 because then 50 per cent of the jury would not understand what is going on, and that would be grounds for a new trial.

With reference to the matter relating to the Supreme Court of Canada, I have stated where the last statement was made. I have not read it so I cannot answer the particular case quoted

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by the Minister of Justice. I can only refer to Abraham Lincoln. One morning he pleaded a case on one side and in the afternoon he pleaded another case on the opposite side. The judge said to him: "This afternoon you say one thing, but this morning you said the opposite." "Well", said Lincoln, "this morning I only thought I was right; this afternoon I know I am right"!

Mr. Lorne Nystrom (Yorkton-Melville): Mr. Speaker, I want to just say a few words in the second reading debate of the bill that is before us to indicate that we support the bill and the principle of the bill. I think it is the type of bill we need in this country; it is going in the right direction. Perhaps there will be need for some minor housekeeping amendments which I will support at the committee or at the report stage.

I took the minister at his word when he said that he had consulted the provinces and the provinces had indicated their initial support for the principle of the bill. I also took him at his word when he said that in the implementation of the bill the provinces will have a great deal of flexibility, in terms of their own timetables, in such provinces as Quebec, Ontario and New Brunswick where the bill will be of much greater use than it would be in British Columbia, Saskatchewan or Newfoundland. For these reasons I would like to indicate that we agree with the bill and we are glad to see the provinces agreeing to it in principle.

Another point which I think is very important—and the minister mentioned it in his communiqué—is that under the Bill of Rights of our country people of other language groups in Canada will have the right to an interpreter before the courts. I know that this type of provision is very important in a riding such as mine where there is a large number of Ukrainian, German and Polish-speaking people, even the odd Scandinavian such as myself, or our Indian people. That right is guaranteed under our Bill of Rights and was reiterated by the Minister of Justice (Mr. Basford) as an important right.

May I remind hon. members that in ridings like mine people of other origins make very little use of the courts because they are most law abiding citizens, as we all know, but that right is there for them if they cannot speak the English language, and they can always have an interpreter available to them in court. That is a basic right which we must defend in this country, whether it applies to Italians in Toronto or Ukrainians in Saskatchewan. It must be there for those people so they can testify in their own language before the courts.

Under the bill before us people will be allowed to testify in their own language and to be judged in one of the official languages as well as have a jury which understands either English or French. It is one of the basic rights which must be provided in the country from coast to coast if we want Canada to stay together. There must be an understanding of both language groups, an understanding by Quebec of its English minority and an understanding by English Canada of the French minority. As the hon. member for Saint-Denis (Mr. Prud'homme) says, this exists already, and since that good will does exist, it should be put into the law of the land. We should