

Judgments of the Supreme Court of Canada

And just to prove that what I contend is not unfounded, I will put on record some quotations to illustrate that we do not wish to compile statistics, but to warn the government, or the hon. members of all parties, in order to improve that situation so that these two languages will be treated on an equal footing.

Mr. Jacques-Yvan Morin, professor at the Law Faculty of the University of Montreal, wrote in the September 1967 issue of the *Revue du Barreau canadien* an article entitled:

"Quebec and Constitutional Arbitration: From Scylla into Charybdis."

I shall now quote a most interesting excerpt from the above:

However, there still exist today cases where minority ethnic groups must, to settle their differences with the majority group, appeal to courts of justice that are established and appointed by that majority. All relationships of political subjection, colonial structures for instance, have given rise to such situations. Many examples could be mentioned of conquered people, more numerous even than the population of the metropolis, seeing their laws and their institutions brought under the control of foreign courts and subjected to their interpretation methods.

Mr. Speaker, I shall mention a concrete case to show how French-speaking people are being treated and what is the working language in the Supreme Court.

Anyone interested in judicial and constitutional matters knows that Mr. Morin is an expert in that field. He stated and I quote:

There is no certainty, for example, that French-Canadian judges appointed by Ottawa since 1875, on the whole, have, to any substantial extent, departed from the lines adopted by their English colleagues. This is in no way an attempt to cast doubts on the intellectual qualities of the ten French-Canadian jurists who have sat on the Supreme Court since that time—

It is worthy of note that the above was written in 1967 and that few French-Canadians have been appointed to the Supreme Court, Mr. Speaker.

—on the Supreme Court since that time and have been most of them excellent law technicians, but it must be noted that they were slaves to the system. We understand their position better as soon as we know that in most decisions on constitutional matters French-speaking judges draft their judgments in English. Mr. Justice H.-E. Taschereau, although a strong opponent of confederation during the 1865 debates, drafted 33 of his decisions out of 35 in English; Mr. Justice P.-B. Mignault, 17 times out of 19; Mr. Justice D. Girouard, all his decisions; Mr. Justice L. Brodeur, 17 times out of 20; Mr. Justice T. Rinfret, 28 times out of 35.

[Mr. Fortin.]

• (5:20 p.m.)

Mr. Speaker, in my opinion, this proves beyond the shadow of a doubt that I am not simply looking for statistics since at the present time some very conclusive, although incomplete, information is available. I want the Department of Justice to see to it that the Supreme Court which is a fundamental body in a federative system, reflects the image of Canada.

We do not want to impose our views to the English-speaking people nor subject them to discrimination but we simply want them to understand that our linguistic rights are equal to theirs in the Supreme Court of Canada.

Mr. Speaker, we have no grudge against English-speaking judges because they are competent. However, the fact that up to 1967 only ten French-speaking judges had been appointed to the Supreme Court since its establishment, is an example of discrimination because there are certainly more than ten French Canadian judges competent enough to be appointed to the Supreme Court.

Besides, Mr. Speaker, this is the worst kind of discrimination if French Canadian judges on the Supreme Court cannot draft their judgment in their mother tongue but that, as in over 85 per cent of the cases, they should do it in the other official language.

Mr. Speaker, it is important in my opinion not to deal lightly with this matter and the house should give it its undivided attention.

By raising that question, Mr. Speaker, I do not mean to offend anybody. I am not alluding to anyone in particular, even not to the Prime Minister, his assistants or his colleagues who are making efforts at the present time in order to ensure respect for the principle of bilingualism.

We are paying millions now for the drafting of the report of the royal commission on bilingualism and biculturalism. And when this commission will publish its report on public service, there will not be a single word—I know it from a usually reliable source—about the public service as a whole.

That is why I have to put questions on the order paper in order to know to what extent the French language rights are being respected in the different federal departments and whether French Canadians are adequately represented. Now, Mr. Speaker, we want to obtain the same information with regard to the Supreme Court.

Mr. Marchand (Langelier): Mr. Speaker, I rise on a point of order.