

Official Languages

This section merely says that in four particular situations it shall be open to any citizen of Canada to use either the French or the English language. There is nothing in the section which is limiting or restricting. There is nothing which says that the French or the English language can be used only in those situations. I would point out that if this were the case we would not have been able to extend the use of the English language across the North American continent. If that section is a bar to the extension of the French language it is equally a bar to the extension of the English language and this, surely, would be an absurd construction to place upon such a provision. The section is permissive, it is not restrictive.

Finally, since this bill relates to federal institutions operating within the federal power and within the competence of parliament, it is our submission on the basis of the legal opinion given to us that it does not constitute an amendment to section 133 and, not being an amendment to that section, it is not affected by 91(1).

This, in brief, is the answer to the argument that the bill is unconstitutional. We are firmly of the view that it is constitutional. But I am not going to decide it. No hon. member of this chamber will decide it. We have to operate, I believe, on the assumption that any measure which is put forward by the government is constitutional unless and until it is successfully attacked in the courts. If we were to operate in any other way we would never do any business here.

For the hon. member for Cumberland-Colchester North to say that if the Minister of Justice were sure of his ground he would have gone to the Supreme Court of Canada first is unreasonable, since that argument could be applied to any piece of legislation introduced into this chamber. Once a bill has been introduced on the basis of the best advice obtainable, parliament moves on the assumption that it is constitutional until some citizen who feels himself aggrieved, or some province which feels itself aggrieved—I trust it will not happen in this case—challenges the constitutionality of the measure. Parliament must go on the assumption that it has power to enact bills put forward, an undertaking having been given by the government that, on the best advice available, parliament is competent to deal with the legislation.

We have to urge the house to reject this amendment so that we can reach the final

[Mr. Turner (Ottawa-Carleton).]

stage and decide whether or not this legislation is to receive third reading.

Some hon. Members: Hear, hear.

Mr. G. W. Baldwin (Peace River): Mr. Speaker, at an earlier stage in this debate, following a speech setting out his position by the hon. member for Swift Current-Maple Creek (Mr. McIntosh) who moved this amendment, I was obliged to differ from the point of view he put forward. In doing so I said—and I repeat it now—that I respected the sincerity of his motives. He has maintained a constant position. To use the words of Voltaire, while I may disagree with him I defend his right to say what he has to say and make his views known.

• (4:50 p.m.)

Speaking for this party, I must declare that we cannot support this amendment. I will give in two or three sentences my reasons for being unable to follow the hon. member's reasoning. Before I do that, Mr. Speaker, in reply to something that the Minister of Justice (Mr. Turner) said may I say that merely because a government brings in a measure which has received the approval of the law officers of the Crown, and which it is advised is properly drafted and is constitutional, is no reason at all that the house must accept it. If I honestly and sincerely believed that this or any other measure was unconstitutional I would be derelict in my duty if I failed to attack it.

Outside the house I have attacked a great many statutes of the federal parliament and of provincial legislatures. In some cases I have been successful in persuading the courts that I was right. Without in any way disparaging the knowledge and professional skill of those who work in the minister's department, having been here a great many years I do not have that sublime faith in their ultimate judgment that the minister must necessarily have. Therefore I enter the caveat that if at any time in the future it is my honest belief that a measure introduced in this house is constitutional, I shall not hesitate to say so and to attack it.

In this case I cannot do so. The pertinent section here is section 133 of the British North America Act. The language of section 91(1) drives one back to section 133, and that is the section we must consider. As I see it, clause 2 of the bill deals with what in my opinion are the administrative rights of the federal government, rights that have been