With the advent of the Charter of Rights and Freedoms, the bilingual districts notion was dropped. We believe that such a geographical constraint on the language rights of Canadians is constitutionally suspect. Such a fixed criterion is inherently arbitrary and incompatible with the administrative flexibility that is necessary to make the constitutional language rights a practical, workable and living reality in the relationships between Canadians and the federal institutions that exist to serve them. Amendments to the Bill that would restore this geographical and numerical flexibility are equally dubious, as a matter of constitutional conformity.

Indeed, Section 20 of the Charter guarantees the right of members of the public to services in either language from federal offices where there is a significant demand for communications with and services from that office in such language, or where due to the nature of that office itself, it is reasonable that communications and services from that office be available in both English and French. These criteria epitomize the need for flexibility, and I would like to review them in somewhat more detail to lay to rest misconceptions and misrepresentations about this part of the Bill.

The "demand" test of Section 20 of the Charter is first and foremost a quantitative one, while the "nature of the office" component is essentially a qualitative one, going to the intrinsic qualities of the office, irrespective of demand. However, this is not to say that there can be no qualitative aspects to the significance of the demand, or that the quantitative aspect is strictly numerical. If the drafters of the Charter wanted to cast the demand criterion of Section 20 exclusively in numerical terms, they could have easily done so in the language of Section 23, which provides for minority language education "where numbers warrant".

• (1130)

Indeed, the original October 1980 version of Section 20 provided for services in both languages from federal offices located in areas in which it would be determined that a substantial number of persons within the population used that language, but this formulation was criticized at the time and replaced by the notion of "significant demand".

In any event, even a "where numbers warrant" test cannot be met, the courts have told us, by the strict imposition of an immutable or geographical limitation in legislation. There must be some flexibility of application. To fix, without any justification, an arbitrary figure would, as I have indicated, demonstrably risk violating the provisions of the Charter.

In Bill C-72 we have outlined a variety of quantitative factors, including numerical ones, that the Governor in Council may have regard to in prescribing by regulation circumstances in which there is significant demand. I want to bring these to the attention of the House. They include the number of persons in the English or French linguistic minority population in the area served by the office, the proportion of the minority population to the total population of the areas served by the office, and the volume of communications or services between the office and members of the public using each language.

We have also insured that the Governor in Council will have the flexibility to take into account any other factors that the Governor in Council considers appropriate as well as the particular characteristics of the linguistic minority population.

This latter qualitative factor implies that in some cases the special needs and conditions of a minority language community may result in the demand being considered significant enough to justify the provision of bilingual services even where a purely numerical criteria might suggest otherwise. This is consonant with our commitment to supporting the development of vital minority communities expressed elsewhere in this legislation, and with our commitment to Canada's linguistic duality in the Meech Lake Constitutional Accord.

I would like to turn now to the important area of language of work. Section 16 of the Charter guarantees that the official languages have "equality of status and equal rights and privileges as to their use in all institutions of the Parliament and Government of Canada". These constitutional rights are stated very broadly. There is no doubt, in my view, that they include equal status, rights, and privileges in respect of the use of these languages in the work environments of federal institutions. The entitlements flowing from Section 16 are not qualified by Section 20's tests of "significant demand" at federal offices or the nature of the office.

It was thus incumbent on the Government to develop a legislative scheme which would respect the principle of equality of status of the two languages in federal institutions in a way that would reflect the reality of the country and which would be implemented without enormous administrative difficulty.

The guarantees of the Charter are subject, by virtue of Section 1, only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society. If the language-of-work entitlement were expressed exclusively as an individual right, major problems in implementation would have resulted. Consequently, the right is shaped and conditioned in a reasonable, workable and, above all, fair manner by the corresponding duties which are imposed on federal institutions by Part V of the Bill.

Part V recognizes, in Clause 34, that "English and French are the languages of work in all federal institutions, and officers and employees . . . have the right to use either official language in accordance with this Part". Clause 35 then provides that in the National Capital Region and other prescribed regions work environments of federal institutions are to be "conducive to the effective use of both official languages and accommodate the use of either official language by its officers and employees".