

*Official Languages Act*

In my opinion, this illustrates the difficulties which are inherent in an absolutist provision such as the primacy proposal. I would remind Members of the House that the Constitution, in Section 1 of the Charter of Rights and Freedoms, recognizes the need for flexibility in the operations of government by providing for such reasonable limits to the guarantees provided by the Constitution as may be prescribed by law. The principle of recognizing limits to the applications of laws is a most important dimension in the legal framework which governs our Canadian society. If such limitations were absent, as appears to be the case with the primacy proposals contained in this Bill, indeed the consequences could be serious.

While Section 16 of the Charter of Rights states the general principle of equal status for both official languages, some limit to this right for French or English and to equal rights is in the very nature of government activities. I suggest that this is why it is in that section of the Constitution. We cannot read Section 16 of the Charter alone and give it an absolute content. It must be read in conjunction with the other sections of the Constitution. We have to consider exactly how Section 16 is going to be applied to any government activities, which do not exist by and of themselves but are there to provide services to individuals and to the public.

• (1740)

I see my time is up, Mr. Speaker, and I would like to thank the House for this opportunity to bring forward this point of view.

[*Translation*]

**Mr. Mike Cassidy (Ottawa Centre):** Mr. Speaker, I wish to congratulate the Hon. Member for Simcoe North (Mr. Lewis) for the quality of his French and for his effort to participate in the debate in both official languages of this country. For my part, I would like to support the bill introduced by my friend the Hon. Member for Ottawa-Vanier (Mr. Gauthier) and his suggestion to have the said Bill referred to the Joint Committee on Official Languages Policy and Programs for further study.

I remember that when Mr. Walter Baker, the then Hon. Member for Ottawa-Nepean, was the spokesman of his party on this issue, he had supported in principle on behalf of the Progressive Conservative Party a similar Bill introduced by the Hon. Member for Ottawa-Vanier (Mr. Gauthier). He had definitely supported also his effort to have the Bill referred to a committee for further study. And frankly I am quite disappointed by the decision which the Progressive Conservative Party seems to have made, now that it is in power and unfortunately deprived of Mr. Baker's wise advice, not to allow the bill to be reviewed by the Committee on Official Languages.

Mr. Speaker, I would like to congratulate also my hon. colleague for his Bill and I, for one, suggest that it would be quite appropriate to consider again this proposal and the

motion that the Official Languages Act be given primacy over all other legislation and not only in the Constitution.

The Hon. Member from the Progressive Conservative Party who has just spoken has indicated that since the Canadian Constitution refers to the official languages and grants equal status to both of them, that is enough, and there is no need to require legislation to assert the primacy of the Official Languages Act over all other legislation adopted by the House or orders in council, and so on. Frankly, Mr. Speaker, I would be very skeptical about a statement to the effect that only judges, following an appeal made by a citizen, could rule whether the wishes of Parliament in the official languages field have been met. I would say that if we definitely and actually want to guarantee rights pertaining to the official languages, the concept of primacy makes much more sense than simply providing for such rights in the Constitution. The reason is that court proceedings are time-consuming. Since it is a costly process as well, it is not within the means of the average citizen. There have been recently the Bilodeau case in Manitoba and also a similar case involving a Montrealer, both of whom went before the Supreme Court for a parking ticket. Up to now those cases have cost thousands of dollars for the defence of rights provided under the Official Languages Act. Then, if those cases can be so expensive and so difficult in spite of the experience we have gained, the idea of giving primacy to those rights in the law of the land makes good sense.

[*English*]

I would say as well, Mr. Speaker, in replying, I suppose, to the comments made by the spokesperson for the Conservative Party, that it is surprising to find those Hon. Members changing their point of view from the days when they were in the Opposition now that they are in Government. It is also surprising to hear the argument that because the Constitution is there, therefore, this Bill is negative and should not be proceeded with, even to the extent of having it studied within the Official Languages Committee, a joint committee of the Senate and of the House.

The declaration in Clause 1 of this Bill is quite simple. It says that the Official Languages Act has primacy unless there is a specific declaration by Parliament in another Bill to the contrary. And there remains flexibility in the Bill because it is left up to Parliament to make the decision in each case as to whether or not it wants to exempt a particular piece of legislation from the primacy of the Official Languages Act. That is something which is quite easy for Parliament to do.

I believe, however, it is very important that that be done as a specific act of Parliament and not as something which is done offhand or, quite possibly, Mr. Speaker, something which is done as a consequence of the desires of some officials who might persuade the Minister to let a piece of legislation slip through, one which may not apparently touch on the Official Languages Act but which may, in fact, do so at the expense of the bilingualism which we seek to achieve in this country under federal law.