

and that it alone cannot abolish either the Senate or the House of Commons.

Honourable senators, I think most people thought that this had always been the law. But now it has been confirmed by the highest court in the land, and the decision is binding on governments and the Parliament of Canada.

The second question to which the court directed its attention, and which is referred to in the judgment as paragraph (f) of question 2, was as to "whether bills approved by the House of Commons could be given the force of law after the passage of a certain period of time, notwithstanding that the Upper House had not approved them." This, too, was a proposal of Bill C-60.

The court found that a provision of this kind would seriously impair the position of the Senate, because it would permit legislation to be enacted without the consent of the Senate. For this reason the court found that Parliament cannot impair the role of the Senate in that process; that is to say, in the legislative process prescribed by clause 1 of section 91 of the B.N.A. Act.

Honourable senators, it was the introduction in the House of Commons of Bill C-60 in 1978 which gave rise to the reference, as I have said. Bill C-60, *inter alia*, proposed to replace the Senate with a body to be called the House of the Federation. That proposal, if implemented, effectively would have put all ultimate power over federal legislation in the House of Commons. The new second chamber's right to amend bills, should the Commons not concur, was to be abolished. In such circumstances Canada, for practical legislative purposes, would then have had a unicameral federal legislature. In addition, the composition of the proposed new house would have been dominated by appointees of the 10 provincial authorities. The decision of the Supreme Court calls a halt to both propositions.

It is not too much to say that the court's decree has had the effect of preserving, for the time being at least, the parliamentary system as we know it in this country. Henceforth, no government, regardless of how firmly it controls the House of Commons, can abolish the Senate without the Senate's concurrence, or, as matters now stand, without the legislative intervention of the Parliament of the United Kingdom, where the B.N.A. Act, in this area, alone can be amended.

There is a procedure available in Canada whereby such amendments to the B.N.A. Act can be achieved. That procedure is called the "joint address" from the Parliament of Canada to the Parliament of the United Kingdom. In this procedure the Senate must play its part; but then, so must Westminster. In most cases, today, the concurrence of the provinces would antedate the whole exercise of the joint address.

● (1550)

Honourable senators, the validity of the court decision to which I have referred is well reasoned; it is clear; it is extremely well written; it cites the essential precedents without being heavy or burdensome to the reader. It was the unani-

mous view of the eight judges who sat. It is not appealable. It is a pronouncement of historic significance.

All this is not to say that constitutional reform in federal matters in Canada is unattainable, nor is it to say that prospects for Senate reform have been frustrated. It means simply that such substantive changes in the British North America Act, when they require action by the Parliament of the United Kingdom, must carry the concurrence, not only of the House of Commons but as well of the Senate.

From my own experience in this chamber, and particularly in the Special Committee of the Senate on the Constitution, I am convinced that senators are as anxious as any group or groups or individuals to support the work of reform. I am equally sure that senators, who are probably as expert as anyone else in the requirements for an effective second chamber in Canada, would prefer to see the process of reform conducted within the proven structure of the parliamentary system as we know it. It would be tragic for a country like Canada, with its great potential, to embark upon a plan which would trade the basic elements of its federation—like the Parliament we have now, but reformed—for some untried, experimental establishment. The Canadian federation has been made to work. With prudence and goodwill, a renewed federalism can continue to preserve and develop the heritage of Canadians for the greater well-being of existing and future generations.

I believe this can be best achieved in the Canadian federal state by preserving the institutions of the parliamentary system—a system that has a proven validity and which has been tested in war and in peace both here and elsewhere.

Honourable senators, the cry for change is ever present in the body politic, particularly in respect of representative institutions. This is because society, and the people and institutions which comprise it, are dynamic. New inventions, new requirements, new aspirations and new standards are constantly evolving in the social cauldron. There is not always a standard to test the excellence or the appropriateness of new plans, but there must be a standard. Change for the sake of change is hardly a suitable test. Popular demand or *vox populi* may not necessarily be *vox dei*! Modern people are easily persuaded of the value of revolutionary concepts. Such ideas are sensational and, in the hands of the populist, or the demagogue, with the superficial slogan and the available media, they propagate themselves. This is not fanciful. This has happened and we see it happening.

To build upon tested institutions is the part of prudence and wisdom, and I think it has better promise of ultimate success. There is a maxim on the walls of our Speaker's chambers. It is chiselled into the wood panelling for permanency. It reads *Aude sapere*—Dare to be prudent—and it is addressed to legislators. To be prudent is not always glamorous, eye-catching, or popular, as is the desire to destroy.

The word "reform" is badly used in so many contexts. There is a difference between regressive and progressive change. Real reform must be progressive. I apply this thought to proposals