

Senator POULIOT: Yes. I have not checked for every province, but I am under the impression that it is as you say.

The CHAIRMAN: According to the provincial legislation for each province.

Senator POULIOT: According to the provincial legislation and it dated back before Confederation.

Senator ASELTINE: A married woman is a "feme sole" in common law of the provinces.

Senator POULIOT: Yes, and they have the same power as spinsters and as men regarding the disposal of immoveable or real estate property.

I find that there was a discrimination in the Province of Quebec and I asked in the first place if anyone had come to Ottawa and had asked for an amendment to the Constitution to give the powers concerning marriage to the provinces.

The CHAIRMAN: Of course, senator, this does not concern the bill, because we do not undertake to change the Constitution and transfer marriage to provincial jurisdiction.

Senator POULIOT: Yes, sir, but I am coming to the second part of my question, which relates to the precedents for federal legislation concerning marriage. On that point, Mr. Chairman, I would ask leave of the committee to put on the record my question and the answer of Senator Choquette, which is to the same effect as the answer of Senator Macdonald (Brantford). It appears in Senate Hansard of October 31, 1962.

Hon. SENATORS: Agreed.

*(For extract from Senate Hansard of October 31, 1962, see appendix to today's proceedings).*

Senator POULIOT: That shows that nobody asked for a change of the constitution.

Then I asked another question and it was this: Were any representations made to the Government of Canada for amending the law concerning marriage and divorce, in order to grant married women's rights?

The answer was "No".

There are many precedents both in the early statutes of Canada and in the revised statutes of later years. There is naturally the act concerning marriage and divorce. It concerns the marriage of an aunt with her nephew and of a brother-in-law with a sister-in-law. Honourable senators are familiar with that point of the law. When I asked the question, honourable Senator Choquette replied that the answer was "No" to the first question and "No" to the second.

Honourable senators, I have a few notes which I would like to put on the record, if you allow me; and you may question me on the matter if you feel that you need some more explanation.

#### THE B.N.A. ACT, 1867:

In 1857 Sir George-Etienne Cartier sponsored a bill for the appointment of commissioners to write the first drafts of the Civil Code and of the Code of Civil Procedure of Lower Canada. Three commissioners were appointed two years later, in 1859. They had to do their work in great haste in order to complete it on time for the Quebec Conference which took place in 1864. It was at that conference that the so-called Quebec Resolutions were drafted. They were the first draft of the British North America Act of 1867. In virtue of section 92 of that Act