

mention of the Upper House or Senate? In the negative, in what regard or regards, and to what extent?

On December 21, 1979, the Supreme Court of Canada brought down a unanimous negative decision on the matter. In fact, when the question was put here in the Senate as to whether the Parliament of Canada can abolish the Senate, the unanimous reply was "no".

Moreover, in its decision the Supreme Court states that the Senate has a vital role to play in the Canadian federal system on the basis of the considerations of the British North America Act and the parliamentary debates of 1865, according to which one of the objectives of the institution of the Senate, as a part of the federal legislative system, is precisely to ensure the protection of the various regional interests in Canada.

The Supreme Court of Canada does not give a definitive answer to parts of the second question, but it does give negative replies to the other paragraphs of the question. As the second question is very long, and seeing honourable senators already have been sent a copy of the decision by the devoted Clerk of the Senate, Mr. Robert Fortier, I shall not quote it *in extenso*, but shall merely draw your attention to paragraphs A, C, D, E(i), (ii), (iii), on which "for lack of details on the context, or of a written bill" the court does not commit itself definitively, contrary to paragraphs B, E(iv) and F, on which it renders a definitive ruling.

In short, the Supreme Court's reply to the second question is that all federal acts must be approved by the Senate and that Parliament does not have the power to change the number or the proportion of senators, nor is it empowered to legislate on the election of some or all senators. Senator Connolly has in fact explained in detail the ruling of the Supreme Court in his speech of April 17, 1980.

Here are some of the questions I would ask the abolitionists: What criteria do you use to say that all senators are rejects and that this body known as the Senate must be rejected as a bunch of inept, unfit, incompetent and senile people? What criteria do you use to say that all Senate employees must have the same fate? Did you estimate the cost of establishing an alternate body? Are you sure that such a body would really satisfy the hopes and wishes of Canadians? Have you considered the political impact of such a drastic change in our system? Have you considered that this might hinder the workings of our system? Have you considered that, despite your good faith, you would create parliamentary chaos?

● (1530)

It would be most interesting, honourable senators, to have some answers to these questions and to others which you would certainly want to add.

To examine the various recommendations made on the reform of the Canadian Senate, I think we must first of all go back to a document entitled *The Constitution and the People of Canada*, published in 1969 by the federal government. This document was presented in the context of the federal-provincial effort for constitutional reform which started in February

[Senator Leblanc.]

1968 but which unfortunately ended in failure by the now famous Victoria conference of June 1971.

Regarding the Senate, the document indicated that it should be reorganized to provide for the expression in it, in a more direct and formal manner, of the interests of the provinces and areas. A revised Senate should have the same powers it now has, except that the Senate's rejection of a bill could be overcome by the lower house, in accordance with specific procedures. The Senate should be invested with a new jurisdiction to approve nominations by the federal government. The Senate should get a special responsibility in dealing with legislative measures concerning official languages and human rights. There are other proposals that would be too long to list here.

The thing to remember, however, is that the main objective of the federal government's 1969 proposals was to develop in the Senate a strong instrument of federalism in which there would be effective expression of the interests of all citizens.

In 1972, the Special Joint Committee of the Senate and the House of Commons on the Constitution of Canada published a report whose Chapter 13 dealt specifically with the reform of the Senate. The committee recommended a new distribution of Senate seats, a new method for the selection of senators, but not the election of the senators, a change in the compulsory retirement age, a power of suspensive veto for six months, reformed legislative attributions, no special jurisdiction to confirm appointments.

In 1973, the Honourable Senator David Croll, in a speech made in the Senate, submitted a 12-point plan for reform of the Senate. There followed a most interesting debate on March 13, May 31, June 12 and 19. Not all speakers were necessarily in agreement with the twelve proposals of Senator Croll, but they agreed generally that some of the changes proposed would have to be accepted to improve the work done by the Senate.

In the Throne Speech debate that followed the 1974 election, Prime Minister Trudeau proposed what he called a "humble start" to Senate reform. He suggested two simple reforms: to limit the duration of senatorial appointments and to grant suspensive veto to the second house.

In a study submitted in June, 1974, to the Canadian Political Science Association, Professor Colin Campbell proposed some changes which he considered essential to ensure the Senate greater efficiency: the appointment by the provinces of some senators; the redistribution of Senate seats among the provinces, a right of suspensive veto for six months to a year; special responsibility as regards approval of certain federal appointments and certain fields which are subject to special policies, such as official languages; change of procedure concerning the appointment of the Speaker of the Senate and of the government and opposition leaders.

More recently, during a symposium on the Senate organized by the Canadian Parliamentary Group, held in Ottawa on January 26, 1979, Mr. John Hayes spoke of the upper house in other countries; Senator Jacques Flynn spoke of the work-