

Supreme Court Act

we would be encroaching upon the rights of the provinces, and that in an indirect manner we would be introducing an amendment into the legislation of the provinces, and particularly into the civil code of my province.

While I am speaking on this amendment I should like to set one other matter right. Reference has been made to the decisions of the Canadian Bar Association at its meeting last month. I happened to be present at that meeting, and I was also present at the meeting of the committee when the resolution was passed. I want to emphasize here that those who drafted and adopted the resolution purposely refrained from expressing any view as to whether or not appeals to the privy council should be abolished. I have heard several hon. members opposite state that the Canadian Bar Association said it was not in favour of abolishing these appeals. The resolution, which is in *Hansard* where it can be read by anyone, says in express terms that the Canadian Bar Association refrains from expressing any such views.

I just wanted to re-establish that fact. For these reasons, Mr. Chairman, I shall vote against the amendment.

Mr. Drew: Mr. Chairman, this amendment can very easily be the subject of a difference of opinion as to whether or not it is desirable. That is something on which the opinions of hon. members are bound to divide. But whatever reasons there may be for not dealing with this amendment, they are not the reasons that have been put forward by the Minister of Justice. He has resorted to a device which was used at an earlier stage of this debate to create an impression that has no relationship to the arguments that have been put forward in support of this amendment, or to the reasons the mover gave for introducing it. The minister suggested that the only interpretation we could place upon this amendment was that it was an expression of lack of confidence in the Supreme Court of Canada. Not a word in that amendment can be so interpreted in any reasonable reading of it. The amendment may or may not be worded exactly as each legal brain would say best interpreted the desire to preserve the doctrine of *stare decisis* in regard to those cases that have been decided over the years; but if the words do not appropriately express that idea a better way could well be pointed out. However, I repeat that there is not a word in the amendment which justifies any suggestion of lack of confidence on the part of the mover of the amendment in the Supreme Court of Canada as a court capable of rendering judicial decisions upon such matters as may come before it.

[Mr. Cannon.]

The minister went further and said that to incorporate in the legislation itself an explicit declaration in regard to the principle of *stare decisis* would also, by inference, be a reflection upon the Supreme Court of Canada and an expression of our lack of confidence in that court. Let me come back to the resolution of the Canadian Bar Association. In doing so I emphasize the fact that as far as I am aware no hon. member has suggested that the opinion of the members of the Canadian Bar Association has any more validity or weight here than the expression of opinion of a group of men who, in spite of what may be said by the hon. member for Temiscouata, are mainly the senior members of a profession qualified to deal with subjects of this kind. As recently as four weeks ago, at the very time the Prime Minister and the Minister of Justice were in Banff, they passed the resolution unanimously. In addition to urging that any steps of this kind should not be proceeded with until there had been some opportunity for an examination of their effect upon minority rights, the constitutional position and so on, they made certain other recommendations in regard to the judges of the supreme court which it would appear to be the intention of the government to follow, whether or not that is a result of the resolution. Moreover, in that resolution they declared that the principle and doctrine of *stare decisis* should be preserved.

The Prime Minister has said that he is in agreement with that idea; but with all respect to the position he occupies and to his great legal standing, his support of that idea does not become an incorporated part of any statute that may be passed by this house. What will subsequently determine the effect of any legislation that may be passed is the wording of the statute itself, not what may have been said by any hon. member of this house, the Prime Minister or anyone else, as to what he thought should be done once the bill became a statute. But it goes further than that. We have something in the nature of an interpretation of what was in the minds of the members of the bar association. Hon. members have heard read a press report of a statement by the president of the Canadian Bar Association, presumably speaking in his official capacity, who said that in his opinion there should be a declaration of the acceptance of the doctrine of *stare decisis*.

That being so, if it can be suggested that the desire to have adopted an amendment which will place in the act itself a declaration of that principle reflects in some way upon the confidence enjoyed by the Supreme Court of Canada, then most certainly can it be said that by their unanimous vote the members of the Canadian Bar Association were reflect-