

taking of advice. Certainly, advice is not a command; advice is not a whim. The Prime Minister just does not "feel like" doing something and proceeds to give instructions to the Governor General. Advice has particular meanings. I am not going into those definitions, but I would like to put on the record the fact that Speaker Charbonneau, in his activities over the last several months leading up to the introduction of Senator Stanbury's motion, was consistently reluctant to take the advice of the Senate.

We may observe, for example, that many of Speaker Charbonneau's rulings over the past few years—and I have taken the time to go back and read a few—along with the Speaker's rulings in the other place, show consistent attempts to degrade the rights of the Senate under consistent citations of sections 53 and 54 of the Constitution Act. Well, honourable senators, the Senate has spoken on that issue. Had the Speaker of this chamber taken the advice of the Senate and of honourable senators, he would have researched to ascertain exactly what the opinions of senators were on some of these matters. Speaker Charbonneau has consistently refused to take the advice of the Senate—such advice as, for example, the famous Ross Report. In that report, Senator Ross clearly delineated the powers of the Senate regarding those sections of the Constitution. Senator Ross was a Conservative. He was the Leader of the Government here in the Senate around 1918.

It is unfortunate that Speaker Charbonneau is not in the Chair today because it would have been nice, I thought, to see him and to share with him some of these ideas. He is not here—so be it. In any event, on that matter he did not take the advice of the Senate.

Another area in which Speaker Charbonneau has been reluctant to listen to the Senate is that of the use of section 26, invoked for the appointment of what we on this side in recent months have learned to call the "swamp" senators. Had Speaker Charbonneau attempted to ascertain what senators' opinions were on that action or on similar actions, he would have discovered that in 1877 the Leader of the Government in the Senate and the Senate moved and passed a motion of censure—they called it a want of confidence—against Alexander Mackenzie's government. That is interesting because at that time it was a Tory-dominated Senate.

I should like to put on the record the fact that in 1873, when Alexander Mackenzie attempted to have Lord Dufferin recommend that section 26 be invoked for the purposes of essentially swamping the Senate, his request was ignored. The literature basically says that Lord Dufferin put the request in his pocket and waited for an election. But the important point that I am making is that when the request went forward to Lord Kimberley, the then Secretary of State for the Colonies, he was crystal clear on why he would not give advice to Her Majesty on the question of the appointment of more senators. I shall read from his dispatch exactly what Lord Kimberley stated:

You will readily understand that Her Majesty could not be advised to take the responsibility of interfering with the Constitution of the Senate, except upon an

[Senator Cools.]

occasion when it had been made apparent that a difference had arisen between the two Houses of so serious and permanent a character, that the Government could not be carried on without Her intervention, and when it could be shown that the limited creation of Senators allowed by the Act would apply an adequate remedy.

This is important, honourable senators. Lord Kimberley was saying that no one, but no one, was to interfere with the Constitution of the Senate. At the time, Senator Campbell and Senator Wilmot were so seized of Lord Kimberley's resolve that they moved a motion in this chamber in support of him and in tremendous condemnation of the government of the day. That government had made a request, but no action followed. No action was taken. The Senate at that time censured the government—never mind the Speaker—for what turns out to have been a thought, because no action was taken.

I think Speaker Charbonneau could have equipped himself to some degree with the history of the Senate, with what I would call advice, the collective historical racially unconscious mind of the Senate as it has worked for 123 years until now. That is what "the advice of the Senate" means—the advice of the Senate as responsible government. It means carrying through, from generation to generation, those fine thoughts and principles that have made everything vital and all systems come alive.

Honourable senators, I should like to repeat that the motion was made by the Honourable Mr. Campbell, the then Leader of the Government in the Senate, seconded by the Honourable Mr. Wilmot, who was somewhat unique because he was the only member of the Senate chamber who actually took part in the conference on that issue of the deadlock clause.

**Senator Corbin:** He was from New Brunswick.

**Senator Cools:** Yes, he was. These are very important men. I shall read from that resolution, which is to be found at page 130 of the *Debates of the Senate* in the year 1877:

The Honourable Mr. *Campbell* moved, seconded by the Honourable Mr. *Wilmot*,

To *Resolve*, 1st. That by the 26th clause of the *British North American Act*, 1867, Her Majesty the Queen is empowered at any time in her discretion, and upon the recommendation of the Governor General, to direct that three or six Members be added to this House, provided that the persons so summoned to a seat therein represent equally the three divisions of *Canada*.

Honourable senators, this resolution has five segments to it and I will read what, to my mind, is the important clause. It is as follows:

The House desires to express its high appreciation of the conduct of Her Majesty's Government in refusing to advise an Act for which no Constitutional reason could be offered; and to record their opinion that any addition to the Senate under the provisions of the 26th clause of the *British North America Act* which is not absolutely necessary for the purpose of bringing this House into accord with the House of Commons, in the event of an actual