

saying, in effect, "Look, we'll deal with Parts I and II, and since it looks as if we are all going to be talking about Part III because of the constitutional proposal regarding a Bill of Rights, we will leave it."

Senator Donahoe: I thank the honourable senator for his intervention. I merely say that I am speaking from results, not from what actually took place or what was said. The honourable senator may be perfectly correct in saying that the joint committee took the opposite view to ours, and that that was a known and recognized view at the time our report was being prepared, but I would retaliate by asking when it was that a viewpoint advanced by a committee of this chamber was eliminated merely because a different and contrary view was advanced in the other place or by the joint committee.

Hon. Joan Neiman: I wonder if I may intervene for a moment?

Senator Donahoe: Yes.

Senator Neiman: My recollection of these events is slightly different from that of Senator Donahoe. Unfortunately, I did not know that this subject would be raised today, or I would have drawn my file. Senator Donahoe was quite right in saying that we on the small committee started out by being personally opposed to the idea of entrenchment of the Bill of Rights, merely because of our particular backgrounds and disciplines in common law. After many meetings, which were attended very faithfully by Senator Donahoe, much testimony and the completion of research papers, my very distinct recollection is—particularly following the testimony of Mr. Gordon Fairweather, the Chief Commissioner of the Canadian Human Rights Commission and, as you know, a former Attorney General of New Brunswick—that we came to a somewhat different conclusion. You will recall that Mr. Fairweather testified that at one point he was opposed to entrenchment but after a time he came to see that it was probably right, just and proper at this point in our history. As a result of our conversations with him, it is my recollection that all of us came to the point of view that we opposed total entrenchment without the consent of the provinces. The approach we preferred was to go ahead with entrenchment, as far as the federal government was concerned, and then to persuade the provincial governments, by example as well as through negotiation, to follow our lead.

That is the basis upon which I drew up my report, and I was sure at the time that I had the concurrence of our subcommittee. As Senator Frith has just said, the decision of the full Legal and Constitutional Affairs Committee was that we would be overtaken by events because a Bill of Rights had already been presented, or was being prepared, and that it seemed superfluous to advance our views. Certainly, my recollection is that that was the type of report that we had intended to put forward in our subcommittee.

Senator Donahoe: Honourable senators, I accept what Senator Neiman has said and I find nothing wrong with it. However, I think enough has been said on the subject, and I do not propose to go into it any further. I merely want to say that, in

[Senator Frith.]

my opinion, there must be many persons listening to this speech, if I can call it that, who have no knowledge whatever of what transpired in that committee, because it was carefully arranged so that no matter what the committee argued or what conclusions it arrived at, they were never referred to in any report of the Lamontagne committee. I introduced the subject, not to discuss what took place in our subcommittee or to imply that anybody was of a different point of view or had changed their views, but merely to indicate that, because of what happened, I personally have grave doubts as to the value of the report of the Lamontagne committee, because I have exact knowledge of the portion of it to which I was or should have been a party.

● (1510)

I looked at the resolution, and I found that I had to stop and think: In what context will this resolution be used if it is adopted? We are in a position where the matter we have been arguing about—that is, an entrenched Bill of Rights—is to be adopted by a foreign parliament to become the law of this country. It is to be adopted imminently, not months or weeks from now, but possibly days. A minister of the Crown has been cooling his heels in a foreign capital waiting to bring it back.

The Queen of my country, the Queen of Canada, is being—I don't know what word is fitting—cajoled and, perhaps, has willingly accepted an invitation to bring the Constitution to Canada. I have told you that I will not be in attendance for the next three weeks. Thank God I will be away during that special day on which the Queen will be here. I may not be invited, but if I am invited I will not have the pleasure or necessity of declining the invitation because I disagree with what is being done. I will regretfully decline the invitation because of my absence; I will be visiting a foreign country.

I have thought about what the resolution means to this Senate. I would defy any senator on the opposite side of the chamber to stand and say that, when this foreign country has decided our Constitution for us by making the Canada Bill law, in our Constitution you will find a section which will provide that this body shall have the rights it has enjoyed for 115 years and shall not be reduced to the right of a suspensive veto, and that it will not be reduced to merely providing a purely delaying tactic when it has exerted the entirety of its force. That is what is going to happen.

Senator Frith: I will take up that challenge. That will be the situation with regard to constitutional amendments, but not with regard to legislation.

Senator Donahoe: I am not talking about constitutional amendments.

Senator Frith: The honourable senator said that the Constitution will provide that the Senate's traditional rights will be changed and reduced. He is correct on the question of its right regarding constitutional amendment. The provision in the constitutional resolution to which he is referring regarding suspensive veto applies only to constitutional amendment and not to legislation. We will still have our absolute veto over legislation.