

should indeed be referred to the Supreme Court of Canada for an opinion.

Senator Roblin: If my memory serves me correctly, I am of the impression that similar questions have been dealt with by the Supreme Court of Canada as to the conventions of the Constitution. They have made it clear that unanimity was not one of them. This opinion was expressed by the Supreme Court of Canada before our Constitution was passed, so I presume that the situation still exists today that unanimity is not one of the conventions of the Constitution, except as specifically provided for.

The new Constitution, however, does specifically prescribe that unanimity is required in certain particulars. My honourable friend has introduced an interesting argument, but I think the matter has been settled.

Senator McElman: I have another point that I wish the Leader of the Government in the Senate to consider and also take up with his cabinet colleagues. The Supreme Court of Canada said that the Parliament of Canada could not, of itself, amend the Constitution with respect to the character and powers of the Senate. The Supreme Court said that such an amendment would require the agreement of the provinces. It did not specify all of the provinces; it said "the provinces".

As my honourable friend knows, the Supreme Court of Canada answers only questions that are put to it. The question was not put to the Supreme Court of Canada as to whether all provinces must agree. Therefore, the Supreme Court of Canada did not answer that question.

With respect to the convention and practice relating to amendments that affect the Parliament of Canada, its constitution and its powers, the consensus at all conferences has been that it did require all provinces to agree. Therefore, I repeat that although there have been opinions expressed by the Supreme Court of Canada with respect to the Constitution, there has been none on this question. The question has never been put to the Supreme Court of Canada and I suggest to you that it should be.

● (1530)

I suggest that if the government does not wish to put that question to the Supreme Court of Canada, it might be interesting if the Senate, since it is so directly involved, asked the Supreme Court of Canada to decide that question.

Hon. Stanley Haidasz: Honourable senators, in view of the fact that Canada's northern territories are integral parts of Canada, and that they have their own governments and legislatures, has the Government of Canada extended any opportunities or courtesies to date to the northern territorial governments so that they may be apprised of the proposals of Senate reform which the Leader of the Government has mentioned in his communiqué?

Senator Roblin: Honourable senators, the government is constitutionally bound by the provisions of the Constitution, and that is what it is carrying out.

Senator Haidasz: Does that mean that the territorial governments and legislatures will be ignored in this important matter, that the Government of Canada will not even extend to them the courtesies of asking them for their ideas on Senate reform?

Senator Roblin: I doubt that the government will ignore any informed opinion or uninformed opinion on this matter. With respect to its official attitude to the matter, it is bound by the Constitution.

Hon. George van Roggen: Honourable senators, this is not a question to the Leader of the Government in the Senate so much as an observation on his statement and the answers he has given to the many questions posed to him this afternoon.

Harking back to my earlier suggestion that some mechanism be found so that honourable senators can express their views at this time on this matter, I am concerned if I take as the general thrust of the answers from the leader that what is happening is not a simple proposal from the federal cabinet on an isolated thing being put to the provinces, such as a suspensive veto on money bills and the government seeking their support, but indeed a negotiation being opened up with the provinces on who knows how broad a range of reforms.

By the time the provinces come back with their own pet ideas, and if agreement is secured, which might be difficult, we would then have an agreement that is delicately balanced because the federal government has traded off one thing with one province or another thing with another province. That would then come before Parliament in the form of a bill, and all hell would break loose if somebody tried to tinker with it because it was so carefully constructed at the federal-provincial executive level of government. To bring that before Parliament so that we could all have our say would be meaningless, because it would be strenuously defended by the government with its majority in the House of Commons because it had been negotiated.

I am pleading for some input at an early stage so that the provinces themselves, quite apart from the federal government, can appreciate the fact that there is a large measure of agreement on reform. Conceivably, we could even arrive at a consensus on which they could work.

So, my plea is for discussion at this time, not simply a debate on legislation after a deal has been carefully struck with all the give and take required between the provinces and federal government.

Senator Roblin: My honourable friend is on interesting ground. The Senate undertook an intensive examination of itself and discussed reforms that ought to be brought in. That examination took place under the chairmanship of the late Senator Maurice Lamontagne, and occurred several years ago. There was also a special Joint Committee on Senate Reform, the report of which has been deposited in Parliament, but that report was not the subject of any consideration by the Senate. As I recall, neither was the Lamontagne report.

Senator Frith: The Lamontagne report was debated by way of Inquiry.