

The CHAIRMAN: My next point is this: the exercise of jurisdiction is a delicate point at the present time because it has been exercised by the provinces for the last 100 years. That is the way they have exercised the jurisdiction in stating what kind of contract exists in civil marriages between the wife and the husband, and they have dealt with separation of bed and board; they have dealt with the way of the wife getting all that is necessary for the bringing up of the children, and everything that concerns the children. These matters have been dealt with by the Civil Code of the provinces all over Canada for 100 years.

I certainly would not advise the committee that we should pass the bill or amend it at the present or deal with it in any way, except to advise all the attorneys-general of the provinces and ask them if they can come and give their opinion as to what they feel about it.

Now, you know, of course, in this session there will be no time to do that. We have to give reasonable notice to the attorneys-general of the provinces so that they can come before the committee and state their positions on this subject. I was suggesting to the sponsor of the bill that we will deal with the matter this morning, and that will be the end of the committee meetings during this session, because the session will be finished next week. There is no possibility for us to hear the attorneys-general during this session, and then send the bill to the Commons and have it go through. I would like the bill to remain as it is without being reported to the Senate except to say that the committee has not had time, and does not feel they have the time at this point to go through it in this session. If the sponsor wishes to put the bill back for consideration next term, I would advise that he do so very early in the session so that we shall have time to call the attorneys-general and get their opinion about it and then thereafter we shall deal completely with the bill. I think it would be very dangerous for the Parliament of Canada to deal with a matter which has been dealt with by the provincial authorities for 100 years without telling them of our intention to do so and without giving them the option to express their opinion.

That is the feeling I have this morning, and I think the sponsor of the bill, Senator Pouliot, is also willing to have the bill treated in that fashion for the moment. If the committee agrees with me we will have it published in the report that the bill remains as is. It is important to have the opinion of the attorneys-general, and it might be wise to put an end to the bill so far as this session is concerned. It is a very important matter.

Senator STAMBAUGH: I would like to ask a question. Is it not your opinion that this matter would have to come before the Supreme Court of Canada, if we pass it? It does not seem to me there is any doubt that the Province of Quebec, for instance, would take it to the Supreme Court. Having regard to the confusion and difference of opinion among leading constitutional lawyers, I would think it might be as well for us to ask the opinion of the Supreme Court before we finally pass it.

The CHAIRMAN: Don't you have the feeling it would be better if we had the opinions of the attorneys-general of the provinces so that they cannot say that we have dealt with the bill and have referred it to the Supreme Court without consulting their opinion as a whole? I feel it is very important to have the opinions of the attorneys-general of the provinces. They have their own ideas on it. We must remember we have had millions of marriage contracts passed from Confederation until the present time which we might subject to some kind of invalidity, if we were to change the law as proposed in this bill. Before submitting the bill to the Supreme Court, I think we should give a chance to the provinces and if they come to the conclusion that this should be clarified at the federal-provincial conference, and if necessary by amending the B.N.A. Act, they would have an opportunity of doing so.