

in order that the voice of the minority may be heard, to submit minority reports concurrently with the main report.

Mr. Speaker, it would have been desirable after the proceedings of the Special Joint Committee of the Senate and the House of Commons on the Constitution to be able while reading the report of those proceedings to notice the dissent that was expressed from time to time either on questions of principle or opinions concerning some of the subjects that were dealt with. But such is not the case. If you peruse the report of the proceedings of this committee, whose report is being tabled in the House, nowhere can you see the names of one or more members who had taken objection. All that was done was to put the question, count the votes and say, for instance, ten members are in favour of the motion and 11 are opposed; therefore, the motion is negated.

This is all that can be read in the reports of the proceedings. Perhaps if the heading "dissenting" had been put into those reports, I should not be making this request of the Chair today.

Besides, I would also refer the Chair to the mandate conferred to the committee by the government. The latter did not say: The committee shall consider such and such viewpoint or government policy but it merely advised: We appoint a special joint committee of the Senate and of the House of Commons on the constitution of Canada in order to study the Canadian constitution.

The government did not lay any policy on the line when it asked the committee to study the constitution of Canada and, in my opinion, the mandate did not commit the government at all. This is why the report does not bind the government. In fact, it can reject or accept it in whole or in part. I feel that this is an important point in the matter I am raising.

I should also like to recall a precedent dating from June 23, 1971, when the report of the Standing Committee on External Affairs and National Defence was submitted. I refer to paragraph 26 on page 3114 of the proceedings of the committee. This committee has submitted to this House a main report where dissidences were recorded. I refer this House more particularly to paragraphs 26 and 27 which read:

26. Some members of the Committee feel they are not able to concur with the Committee's findings, even though they approve a number of specific conclusions. In their view, the evidence and the facts which emerged from the Committee's examination justify a much more critical assessment of the first policy paper.

And the matter of minority opinions continues to be raised.

I therefore uphold that my request is well founded and that the precedent which I just quoted must bind the Chair to consider favourably the point of order which I raised.

Mr. Speaker, I say again that I have here copies of the minority report of the hon. member for Matane (Mr. De Bané) and of myself, in the two official languages, and that I am prepared to table them if the Chair so decides. But before I close, I would like to say that, subject to the decision given by Your Honour, I reserve the right to move in the House a motion asking leave to produce the documents to which I have alluded.

Constitution of Canada

[English]

Mr. Andrew Brewin (Greenwood): Mr. Speaker, I should like to support the hon. member for Charlevoix (Mr. Asselin) in the point of order he has raised. It seems to me it is one of very great importance. Whatever may be the technical and legal position taken in the past, I believe the time has now come when official recognition should be given to dissenting or minority reports.

Some hon. Members: Hear, hear!

Mr. Brewin: The great growth in the number of committees, the development of the committee system, the importance of the matters referred to committees, and the scholarly investigations of important subjects sometimes made by the committees through the hearing of witnesses have made it timely that we look very carefully at this rule which seems to provide at present that minority reports are not to be tabled. It is ridiculous to suppose that these committees are in fact unanimous in their findings. Yet the filing of only one report creates the impression that there has been a unanimous point of view; this is a misleading impression.

The committee we are now discussing has spent months studying the whole question of the fundamental law of Canada, namely the constitution of Canada. If my recollection is correct there are some 100 recommendations in the report, and it would be extraordinary if the members of the committee, representing as they do not only the different parties but all regions of Canada, came to a unanimous decision on all these recommendations. Yet the minority views may have very great value when the House comes to review this fundamentally important subject. They should also be of very great value to the public in its concern about the fundamental framework of all our parliamentary and governmental activity.

I shall cite very briefly at least two historic references to instances where dissenting reports later became the orthodox opinion of the majority. One was the case of a great theologian named Athanasius who stood out against 300 of his colleagues and pronounced a theological doctrine which eventually was accepted by the councils of the church and is now incorporated in the orthodox doctrines of the church. Another example is the dissenting opinions of two great United States justices, Mr. Justice Hughes and Mr. Justice Brandeis, whose dissenting opinions in the United States Supreme Court became the prevailing opinion of the whole court and expanded tremendously the field of civil liberties and the scope of the Bill of Rights in that country.

• (1430)

I understand that our present rule is that a committee, provided a majority of its members agree, may refer to a minority view if it wishes to do so. I would suggest that the responsibility for expressing minority views should be on those who hold such views. If the rule, through some technical, historic background, is that no minority report can now be presented, I urge that it be considered by the appropriate committee and changed. I say that it will be of value to the public discussion of fundamental issues if viewpoints are stated clearly. Indeed, a unanimous report,