

Judgments of the Supreme Court of Canada

The Acting Speaker (Mr. Béchard): Order. The hon. Minister of Regional Economic Expansion on a point of order.

Mr. Marchand (Langelier): Since I was once a member of the royal commission on bilingualism and biculturalism and since I know very well that bilingualism in the public service is one of the subjects that will be dealt with, I wonder what are the grounds of my hon. friend for saying that there will be no reference to it in the commission reports.

Mr. Fortin: Mr. Speaker, I am very glad that the hon. minister is asking me such a question.

My reliable source was precisely the hon. minister himself, and I wanted him to admit that the commission would deal with that subject. I thank the hon. minister and I am very happy Mr. Speaker, to have the assurance that the Royal Commission on bilingualism and biculturalism will deal with it.

I should like to quote the words of Mr. Morin in this regard. They will give us food for thought; we should, as parliamentarians, look fully into the matter.

I quote:

However, any constitutional arbitration system—the expression and the problem are fashionable these days.

—which would result in systematically subjecting Quebec to the decisions of a court whose members would in the majority be English-Canadians or appointed by the central government could not win the confidence and the support of Quebecers, as the statements we have mentioned indicate. It is pointless to object that all States, even sovereign States, now accept that their disputes be taken to court for, in that case, the judges or arbitrators almost always represent third parties, whereas in the present Canadian system—

This is fundamental, Mr. Speaker.

—the central power is at one and the same time judge and party. Nor can one claim that this question is of little importance, as the advocates of the *status quo* sometimes maintain; just imagine what the reaction would be in federal quarters if the provinces appointed all the judges of the Supreme Court.

Mr. Speaker, there would be a general outcry. All ministers and hopefuls would say that the provinces have no say in the matter, that this does not fall within their jurisdiction; yet the provinces are judged by the Supreme Court.

I bring my remarks to a close with these words:

Canadian constitutional arbitration, as it exists at the present time—

Mr. Morin's judgment is most severe—

—drags all sorts of remnants of the Victorian era and of British colonialism; it makes Quebec dependent on the central authority which has gradually replaced the imperial power. Any jurisdictional system that would claim to perpetuate such a situation would be a constant source of tension, and even of division, between Quebec and the Canadian federation.

Mr. Speaker, it is not only Mr. Morin who is interested in this question. There is also Mr. Jacques Brossard, a professor at the Institute of Public Law at the University of Montreal. He has also studied the evolution of the Supreme Court and all the cases brought before it. He reaches the following conclusion, published in "*Le Québec dans le Canada de demain*", a most objective work published in Montreal, at les Editions du jour in 1967. Mr. Brossard said the following, and I quote:

The jurisprudence of the federal Supreme Court has proved, on the contrary, inasmuch as this Court was free to judge according to its own tendencies quite favourable to the federal State.

Its first judgments were centralizing. They remained so inasmuch as the weight of the jurisprudence of the Judicial Committee did not compel it to take into account the balance required by federalism—

● (5:30 p.m.)

The Acting Speaker (Mr. Béchard): Order. I am sorry to interrupt the hon. member but his time has expired.

Mr. Fortin: Mr. Speaker, only one more minute, with the consent of the house.

The Acting Speaker (Mr. Béchard): Is it so agreed?

Some hon. Members: Agreed.

Mr. Fortin: Mr. Speaker, it is useless to go on quoting Mr. Brossard since he merely bears out Mr. Morin. In my opinion, all members have understood the point.

Before concluding my remarks, Mr. Speaker, I would like to put forward a proposal to prove that the motion could actually be adopted and that something similar already exists.

Members who practise law are perhaps aware of the existence of the Jackett charter concerning all the judgments rendered by the Privy Council.

Mr. Speaker, in that charter, one finds in one column all the judgments and in another, the year in which the case was heard. In another column, appears the name of the