

Senator POULIOT: And the bill that was referred to the Supreme Court was about the solemnization of marriage?

Mr. HOPKINS: Yes, it had to do with validity.

Senator POULIOT: Therefore the question was as to the validity of marriage?

Mr. HOPKINS: That is right, sir.

Senator POULIOT: And it was under the exception to the exception?

The CHAIRMAN: Yes.

Mr. HOPKINS: But it dealt with both.

Senator POULIOT: It dealt with the exception to the exception. It referred to the exclusive powers of the provinces compared with the exclusive powers of the Parliament of Canada. It seems to be contradictory, but when one thinks of it it is impossible not to understand the point. In the reference to the Supreme Court and the Privy Council, it was a bill that was sponsored in the House of Commons regarding the celebration of marriage. And this was a provincial matter.

Mr. HOPKINS: Correct.

Senator POULIOT: And the judgment of the Supreme Court was to the effect that the Parliament of Canada should not encroach upon the rights of the provinces to pass legislation that belonged exclusively to the provinces. I think I have made myself clear.

Mr. HOPKINS: That is quite right.

Senator POULIOT: Now the present legislation which is before the committee is exactly the reverse, and there is no question of the exception to the exception, but it is the exception to the general rule that civil rights belong to the provinces. By the way did you have a look at the original Civil Code?

Mr. HOPKINS: I am not an expert on the Civil Code, although from time to time I have occasion to refer to it.

Senator POULIOT: You know the Civil Code had come into force eleven months before Confederation. It existed at the time of Confederation and therefore it may be presumed that the Fathers of Confederation had seen the code that had been passed before writing the B.N.A. Act or having it passed by the Parliament at Westminster. Don't you think so?

Mr. HOPKINS: It is possible.

Senator BELISLE: May I ask a question? How urgent is it that we pass this bill? The reason I ask this is that as an ordinary layman I must admit I am confused about the opinion given here this morning. Is it not possible to have a final decision by the proper authority?

Mr. HOPKINS: Only by the Supreme Court.

The CHAIRMAN: You could only have a definite opinion from the Supreme Court.

Senator BELISLE: The honourable senator and Mr. Hopkins seem to be well qualified, and there are probably other able senators here who have other opinions, but I am confused.

The CHAIRMAN: Everybody is confused because, as a matter of fact, the Supreme Court has never decided anything on that point.

Senator FARRIS: Mr. Hopkins is doubtful as to whether this is valid or not. I flatter myself that I know some constitutional law, but I wouldn't undertake to give an opinion on that.