

Hon. Mr. ROBINSON: It has been suggested that divorce cases should be referred to the Exchequer Court of Canada. I remember very well a discussion I had with the late leader of the House, and he favoured the idea. Following that up, I may say that the Law Clerk of the Senate has been at work studying the situation for some time, but he could not get anything ready for this session. He hopes to have a Bill ready for next session, when it can be discussed on its merits. It would be a great advantage to have such a court to deal with divorce, particularly where the question of domicile arises, for the Exchequer Court would have jurisdiction over the whole Dominion. We have a good man engaged on the preparation of the Bill to which I have referred.

Hon. Mr. COTÉ: In support of the motion to recommit this Bill to the Divorce Committee, I want to say that I have been in the Senate since 1933 and this is the first time that we have had to discuss the report of the Divorce Committee and go into the evidence.

Hon. Mr. ASELTINE: Pardon me. We are not discussing the report. The report was adopted by the Senate. This is an entirely different matter.

Hon. Mr. MURDOCK: Second reading.

Hon. Mr. COTE: Quite so. I stand corrected. The second reading is very important. I have a great deal of regard for the legal acumen and attainments of those members of the Divorce Committee who have opposed the amendment. Generally speaking, I may say I think lawyers who have had a good deal of practice at the Bar are usually well trained and able to give a judgment on a matter of not very complicated evidence, such as the evidence in a divorce case. On the other hand, I am not ready to uphold the proposition that the layman who listens to that evidence necessarily is wrong if he comes to an opposite conclusion. The honourable senator from Parkdale (Hon. Mr. Murdock) has such strong doubts as to whether the Divorce Committee should have reported favourably on this petition, that although usually I do not take an interest in divorce cases, I think I should hesitate to let this Bill go through. That doubt is supported by the statement of the honourable gentleman from Moncton (Hon. Mr. Robinson). He does not go so far as the honourable senator from Parkdale, but, like a good judge, he admits he is perplexed and is not ready to say what his judgment would have been if he had been present at the end of the trial. That influences my judgment too. If

Hon. Mr. HAIG.

we are going to sit in appeal, say, from the report of the committee, we are deprived of argument with reference to the evidence. I do not know whether we have been very helpful to His Honour to-night, or whether we have sufficiently full knowledge of the rules to discuss this matter and enable His Honour to reach a considered and quick decision on the point of order. I always take the view that His Honour is very much in the position of a judge. If the advocates before him do not prepare their case and supply their authorities, they are putting a rather difficult proposition to the judge. However, it has been ruled that it would not be proper to refer to the evidence in full session of the Senate. The honourable gentleman from Sorel (Hon. Mr. David) seemed surprised at that proposition. It does seem astonishing that a committee of the Senate can do something that a plenary session of the Senate cannot do. However, that is not the question now, and the point has been ruled on. So we have been deprived of reference to the evidence, and really I am not in a position to give a judgment on the merits of the case. I see there is a good deal of doubt about it.

Hon. Mr. HAIG: Did you read the evidence yourself?

Hon. Mr. COTE: I read parts of the evidence. For that reason I would urge that the amendment of Senator Ballantyne be adopted. Do not let this divorce petition be killed by us to-night. Let it go to the committee for reconsideration.

Hon. Mr. MURDOCK: My honourable friend from Winnipeg said a little while ago that the respondent said, "Never, never, never." I challenge him to show one answer of "Never" that was given when she was being examined by her own solicitor. The "Never" came in when she was being cross-examined. Her answers on direct examination were "Yes" or "No," concise and plain.

Hon. Mr. ROBINSON: To refer the Bill back to the committee is an effective way of killing it. I think we had better settle the question one way or the other.

Hon. Mr. BALLANTYNE: The honourable senator from Ottawa (Hon. Mr. Coté) says that since he has been in this Chamber this is the first time a divorce bill has been discussed and refused. The first session I attended was ten years ago, and I myself objected to a bill without quoting very much of the evidence, and the Senate refused to give it second reading.