

senator from Toronto-Trinity (Hon. Mr. Roebuck). Both these gentlemen are able lawyers and understand thoroughly the principles of law.

I should like at this time to offer some criticism, not of the Government or of the committee but of *Maclean's* magazine, which carried a vicious article, written by an Ottawa reporter, criticizing the conduct of the Senate in its handling of divorce last session. Our Divorce Committee recommended 407 petitions, of which the House of Commons passed 402, rejected two, talked out two and gave one the six-months hoist. Honourable senators, for many years I have been a member of the bar of my province and have earned my living by the practice of law. I do not claim to be the ablest lawyer in Canada, but perhaps I could be classed among the reasonably fair members of the profession. In all my experience I have not heard of a trial judge in my province or elsewhere who has had the good record of having his decisions reversed on appeal in only five cases out of 407. The courts of appeal frequently have their judgments reversed by the Supreme Court of Canada, and when our cases went to the Privy Council the decisions of the Supreme Court were sometimes reversed by that body. It seems to me, therefore that the committee having recommended 407 petitions, of which only five failed to pass the other house—only two were actually rejected—had a marvelous record last session. Indeed, I don't believe King Solomon in all his wisdom could have claimed a better record.

I am surprised that *Maclean's* would publish the criticism it did in view of the magnificent job done by the committee last year. A good many honourable senators feel that too much of the time of the Senate is taken up with questions of divorce and, of course, many senators are opposed to divorce *ab initio*. However, two Canadian provinces are without divorce courts, and the people of those provinces must come to Parliament to have their cases heard. Therefore, I do not believe that I, as a member of the Senate, can refuse to hear those cases. That principle applies especially to senators who come from provinces whose people have a right to have their cases heard by a provincial court.

In view of all the circumstances, I repeat, I am most surprised that a publication such as *Maclean's* magazine would challenge the Senate on the question of divorce. I think I could tell it a good many other matters about which there might be some criticism—for instance, I would like us to get through the session in five months instead of six, and perhaps we would if some honourable senators made shorter speeches. But, seriously,

the question before us is whether the Divorce Committee did a good job in the consideration of the cases it recommended and that were sent to the House of Commons, and whether that house dealt with them properly.

One further point: When a bill for divorce goes from the Senate to the House of Commons, that house is, as it were, sitting as a court of appeal on the evidence. Members of this house who are lawyers know well that the courts of Canada, Great Britain, United States and many other countries in the world recognize the principle that the trial judge who sees the parties and who hears the witnesses first-hand is a better judge of the facts than anybody who reads the evidence later. For that reason, a court of appeal always hesitates to override the decision of a trial judge on a question of the truth or otherwise of the statements made by witnesses before him.

Now, honourable senators, in the handling of divorce petitions that come before Parliament we of the Senate Divorce Committee are the trial judges, we are the ones who see and hear the witnesses. May I be allowed to digress for a moment? Some years ago a very distinguished member of our house, who would be here today were he not ill, was associated with me on the committee, as was also a newly summoned senator. On one occasion we were hearing a contested case, and the question for us to decide was whether the wife-petitioner or the husband-respondent was lying. After we had heard all of the evidence I turned to the senator who had been with me for five or six years and I said, "John, how about it?" He replied, "The wife is telling the truth". I said, "I agree with you on that". Then I turned to the other senator, who was just as able and as conscientious as we were, and I asked him "What do you think?" His reply was: "Well, I don't know who was lying and who was telling the truth". I said to him, "That is one matter you have to decide for yourself on this committee, whether the petitioner or the respondent is telling the truth, and you have to base your judgment of the case on that". As I say, honourable senators, the trial judges—the committee members—are the ones who can make that decision better than anybody else.

I am glad to see that the time for receiving petitions has been extended. And in conclusion I want to congratulate Senator Roebuck upon his work as chairman of the committee. I have often congratulated Senator Asetline. I had the honour to serve on the Divorce Committee under the chairmanship of the late Senator McMeans and the late Senator Robinson, when we used to have only fifty or sixty cases a year to deal with. When Senator Asetline got to be chairman the number