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Monday, December 15, 1997

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

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THE SENATE

Monday, December 15, 1997

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

BUSINESS OF THE SENATE

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, before we begin "Senator's Statements," I wish to put on the record that there is agreement that all the matters that were frozen on Friday, including all the emergency debates and the matters of privilege, will remain frozen until tomorrow, if that is agreeable to all members of the chamber.

Hon. Noël Kinsella (Acting Deputy Leader of the Government): Honourable senators, that is also our understanding.

The Hon. the Speaker: Honourable senators, is it agreed?

Hon. Senators: Agreed.

The Hon. the Speaker: Honourable senators, there remains the question of the privilege motions, two of which I have: one from Senator Tkachuk and one from Senator Kinsella. Under our rules, these should be presented orally during "Senators' Statements." I assume that we will proceed with that, or is that also frozen?

Senator Carstairs: Honourable senators, my understanding is that that, too, remains frozen, but in no way does it hamper the use of the rules for the senators who have raised matters of privilege. If there is no agreement tomorrow and they raise their matter of privilege, no one on this side will intervene to say that they have not obeyed the rules.

Hon. David Tkachuk: Honourable senators, I have a question before we proceed. All I am doing today is making the oral statement in order to fulfil the requirements necessary to raise a question of privilege. It is my understanding that His Honour will then reserve as he wishes on this matter. However, I do not want this matter to be jeopardized, because it concerns not only me but all honourable senators.

I understand the ruling, and I understand that the two leaders have made this agreement, but I was not aware of it until just now. I thought my question would be dealt with this afternoon.

The Hon. the Speaker: Honourable senators, I must admit that not proceeding at the earliest opportunity on a question of privilege is a somewhat different way of dealing with the matter. However, within the Senate, we are free to establish our rules as we wish, provided there is unanimous consent. I gather that what is being asked right now is whether there is unanimous consent to freeze everything as it is. That would mean, Honourable Senator Tkachuk, that your question of privilege would still be taken up, either tomorrow or whenever there is agreement to do so, and it would not be necessary for you to proceed with the oral statement today, nor for the Honourable Senator Kinsella to proceed with his oral statement. The matter is simply frozen in time, as it was last Friday. Your questions will be taken up when there is agreement to proceed with questions of privilege.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I should like to draw your attention the presence of some visitors in our gallery.

[*Translation*]

We are pleased to have members of the regional council of Italian-Canadian seniors with us today. This non-profit organization was founded nearly 25 years ago by our colleague Senator Ferretti Barth. Its 11,000 members belong to 72 seniors' clubs in the Montreal region. Their choir, "Il Campanello d'Oro," under the baton of Perry Canastrari, treated us to Christmas music today at noon in the parliamentary rotunda. We welcome you to the Senate of Canada.

[*English*]

SENATORS' STATEMENTS

EUTHANASIA

ROLE OF PARLIAMENT IN SETTING PARAMETERS

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, on Friday, the Supreme Court of Manitoba, Appeals Division, made a ruling with respect to a Manitoba case. That Manitoba case involved a young child who apparently had been shaken, fell into a coma, and is now breathing but is being supported in other respects.

Honourable senators, the judges made an interesting ruling. The child is now in the custody of the Child and Family Services agency, and no longer in the custody of her parents. That agency requested that the hospital apply a "Do Not Resuscitate" order so that no extraordinary measures would be taken to preserve the life of this child. The court ruled that that request by the Child and Family Services agency was not necessary, and that the decision should be left in the hands of the doctor.

Honourable senators, this is just another example of an end-of-life decision which will have serious consequences across the country. It is a decision that has been taken by a court, and is one which I feel should be taken by parliamentarians and by legislators. We have failed to engage in the proper assessment and, in my view, bring forth legislation that would deal with such cases either one way or the other.

It is necessary for legislators to speak. If we fail to fill the vacuums, the courts of this land will step into those vacuums. In my view, this is not a role for the courts; it is a role for legislatures throughout this country.

•(1410)

THE SENATE

REAFFIRMATION OF COMMITMENT OF SENATORS

Hon. Marie-P. Poulin: Honourable senators, much has been said recently about attendance requirements and about rules and regulations regarding our conduct in fulfilling our duties as parliamentarians. The debate on Friday raised many points which must be addressed and resolved, sore as they may be. In the final analysis, the issue is the way in which we conduct national business and the effectiveness of our work.

Senator Murray aptly remarked that it is timely to address the larger problems that are being posed. Senator Stewart pointed out some of the difficulties involved in overcoming attendance irritants, such as travelling from different parts of the country, and how the workload might be arranged more efficiently.

These and other matters definitely need to be sorted out, preferably sooner than later, because the constant disparaging of this institution undermines the credibility of each and every one of us. It belittles a cornerstone of our constitutional democracy. We all wish to focus our full energies and resources on the parliamentary business at hand.

[*Translation*]

Honourable senators, this debate reminds me of my first impression as the senator for Northern Ontario: the gap between perception and reality.

We hear far more about the perception. The perception that people are taking advantage of the public purse within an institution that no longer has a place in today's world; the reality is lost in an avalanche of criticisms. The reality is that the Senate as an institution is more pertinent than ever before, because of the numerous socio-economic changes that very often demand immediate solutions. Our country needs discernment, experience and maturity for a calm and rational examination of the issues of the day.

The Senate represents a huge collective wealth. Honourable senators, I see today in this chamber former premiers, former ministers of the Crown, party leaders, members of the federal and provincial legislatures; business leaders, bankers, financiers, administrators, bureaucrats; professionals in the fields of health, education, law, communications, tourism, agriculture and natural resources, with the very recent addition of a nun. I see representatives of visible minorities, aboriginal people, the disabled, I see a Senate with a composition of close to 25 per cent women, one based on geographical and regional representation. A Canada in microcosm, which looks after the interests of all Canadians. Such is the spirit in which the Fathers of Confederation created a bicameral Parliament.

The Senate therefore provides a collective balance to the people of Canada, to the parliamentary system, to democracy.

[*English*]

Honourable senators, the gap between the perception of this institution and the reality has widened in the past few weeks. The phenomenon is all the more serious because it occurs in a context where faith in the political process as a whole is diminishing constantly, and may even be at its lowest point in a very long time.

Senator Cools put it aptly when she said:

> ...the attendance and work records of most senators are excellent.

The Hon. the Speaker: Honourable Senator Poulin, your three minutes have expired. Are you requesting leave to continue?

Senator Poulin: Yes.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Poulin: Thank you, honourable senators.

I totally agree that we should review the way in which we conduct our business, be it attendance, travel, research, committee work or public activities. We have identified what ails us. Let us seek a cure once and for all, and let us do it through frank and open discussions, with the goal of drawing up a code of conduct with teeth. Let us show all Canadians that this place is one of integrity and dedication, of relevance and vitality, of allegiance and commitment, and of purpose and principle. Surely, this fine institution and the people it serves deserve nothing less. Let us do it for the right reasons: to give each senator representing a different region of this country, an industry or a profession — very often a minority — the tools to better serve Canadians from coast to coast to coast.

HUMAN RIGHTS

PERCENTAGE OF VISIBLE MINORITIES IN PUBLIC SERVICE

Hon. Donald H. Oliver: Honourable senators, we have just received the latest annual report on employment equity in the public service. This report was released quietly, without any public fanfare. After reading it, it is not hard to determine why.

This report tells us that virtually no progress was made in the last year to increase the number of visible minorities in the public service. True equality and equal opportunity for advancement, quite frankly, do not exist. The most recent act and its regulations came into force on October 24, 1996 and replaced the act of 1986. Therefore, we had a 10-year period to correct the inequities that existed in the public service, 10 years to see substantive progress. Unfortunately, progress has occurred only at a snail's pace.

Canadian society is adapting at a much quicker pace. Canadians recognize that women, visible minorities, aboriginal peoples and people with disabilities are playing a more active role in our society. Canadians recognize that to succeed as a nation we must embrace the needs, the views, the ways of the diverse groups from which the fabric of Canadian society is woven.

The government must recognize that public servants are here to serve Canadians, and they do a commendable job considering their diminishing resources. Our public servants are the face of our government, and Canadians must see themselves reflected in that institution. Nine per cent of the Canadian workforce is made up of visible minorities. That is the target set by the Government of Canada. Yet, the representative rate of visible minorities in the public service is well below that. It stands at only 4.7 per cent, approximately half of what it should be. While this figure is depressing, it is shameful when one considers that it has taken 10 years to reach that number.

How far have we come in 10 years? In 1986, representation of visible minorities stood at 2.7 per cent. It has taken 10 years to reach 4.7 per cent, a paltry increase of 2 per cent. In the last year, representation increased by only 0.2 per cent. Honourable senators, at this rate it will take us until the year 2020 to reach the government's present target of 9 per cent. That is shameful and unacceptable.

The situation is worse when we look at the executive group level. At this level, visible minorities make up only 2.5 per cent of employees. So much for the paranoia of the Reform Party and their private member's bill, C-257. So afraid were the Reformers that visible minorities would be taking over the public service that they introduced this bill which would gut the Employment Equity Act and remove all reference to visible minorities. They do not need this bill. Our departments have already seen to that by their lack of action.

•(1420)

We have a serious problem and it will get worse in the years ahead. Demographic projections of the Canadian labour force indicate that by the year 2000 the majority of new entrants into the new labour market will be members of designated groups. If we cannot reach a 9-per-cent target now, what will happen in the next 10 years? While our Canadian work force will rapidly become more diverse, government will be lagging far behind.

Our departments must make extra efforts to recruit from the visible minority population. They must reflect the face of Canada.

It was interesting to note in this report that many departments highlighted their activities: Citizenship and Immigration Canada, Human Resources Development Canada, Agriculture and Agri-Food Canada, Revenue Canada, Health Canada, to name a few. Noticeably absent from this list was the Department of National Defence. The one department that has a record of discrimination in Somalia could find nothing positive to contribute to this report. Is it any wonder, therefore, that the Minister of Defence recently appointed an eight-person watchdog committee which does not include a member from a visible minority?

Perhaps the defence department should take note of the positive steps taken by the Atlantic Canada Opportunities Agency and the Treasury Board of Canada. These two organizations now conduct interviews with departing employees to identify potential problems. It is unfortunate that the Department of Defence will not follow that practice.

The Hon. the Speaker: I regret to interrupt the Honourable Senator Oliver, but his three-minute period has expired.

Senator Oliver: I would ask for leave to continue.

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

Senator Oliver: We have a long way to go before true equality is found in our public service. We have a long way to go before true equality is found in Canada. We must encourage our deputy ministers and their personnel officers to continue to work towards a minimum goal of at least 9 per cent. It is an achievable number, but it will only be reached if there is the will to do so. Visible minorities across Canada will be watching.

ROUTINE PROCEEDINGS

CAPE BRETON DEVELOPMENT CORPORATION

FINAL REPORT OF SPECIAL COMMITTEE TABLED

Hon. John G. Bryden: Honourable senators, pursuant to the order of reference adopted by the Senate on October 22, 1997, I have the honour to present the final report of the Special Committee of the Senate on the Cape Breton Development Corporation which deals with the annual report, corporate plan and progress reports of the Cape Breton Development Corporation and related matters.

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Bryden, report placed on Orders of the Day for consideration on Wednesday, December 17, 1997.

CANADIAN NATO PARLIAMENTARY ASSOCIATION

SECOND REPORT OF FORTY-THIRD ANNUAL SESSION HELD IN BUCHAREST, ROMANIA, TABLED

Hon. Bill Rompkey: Honourable senators, I have the honour to table the second report of the Canadian NATO Parliamentary Association which represented Canada at the forty-third annual session of the North Atlantic Assembly, held in Bucharest, Romania, from October 9 to 13, 1997.

INCOME TAX ACT

NOTICE OF MOTION PROPOSING AN AMENDMENT

Hon. Duncan J. Jessiman: Honourable senators, I give notice that on Tuesday next, December 16, 1997, Senator Meighen will move:

> That the Senate urges the Government, in the February 1998 Budget, to propose an amendment to the *Income Tax Act* that would increase to 30 per cent, by increments of 2 per cent per year over a five-year period, the foreign property component of deferred income plans (pension plans, registered retirement savings plans and registered pension plans), as was done in the period between 1990 to 1995 when the foreign property limit of deferred income plans was increased from 10 per cent to 20 per cent, because:
>
> (*a*) Canadians should be permitted to take advantage of potentially better investment returns in other markets, thereby increasing the value of their financial assets held for retirement, reducing the amount of income supplement that Canadians may need from government sources, and increasing government tax revenues from retirement income;
>
> (*b*) Canadians should have more flexibility when investing their retirement savings, while reducing the risk of those investments through diversification;
>
> (*c*) greater access to the world equity market would allow Canadians to participate in both higher growth economies and industry sectors;
>
> (*d*) the current 20 per cent limit has become artificial since both individuals with significant resources and pension plans with significant resources can by-pass the current limit through the use of, for example, strategic investment decisions and derivative products; and
>
> (*e*) problems of liquidity for pension fund managers, who now find they must take substantial positions in a single company to meet the 80 per cent Canadian holdings requirement, would be reduced.

POST-SECONDARY EDUCATION

SPECIAL COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT

Hon. M. Lorne Bonnell, Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(*f*), I move:

> That notwithstanding the orders of the Senate on October 8, 1997 and on December 10, 1997, the Special Senate Committee on Post-Secondary Education be authorized to present the final report of its study on the serious state of post-secondary education in Canada, no later than Thursday, December 18, 1997.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

QUESTION PERIOD

BUSINESS OF THE SENATE

DELAY IN TABLING ANSWERS TO ORDER PAPER QUESTIONS— REQUEST FOR ANSWERS

Hon. Colin Kenny: Honourable senators, I have a question for the Leader of the Government in the Senate. It deals with how slow the government is in responding to questions, specifically questions 2, 4, 7, 8, 9, 11, 12, 14, 16, 17, 19, 21, 23, 24, 27, 28, 29, 30, 37, 38, 39, 40, 42, 43, 44, 45, 47, 49, 50, 51, 52, 53, and 55. All of these questions have been on the Order Paper since October 1 of this year. More to the point, all of these questions were on the Order Paper in the last Parliament, and my office informed the parliamentary returns officer in each department that they would again be placed on the Order Paper in this Parliament. We are, thus, not talking about a delay just from October, we are talking about a delay going back to May.

These questions all have to do with the Alternative Fuels Act. They deal with the plans that each government department has in terms of implementing the act in this fiscal year. Only three and-a-half months remain in this fiscal year. Why on earth is the government taking so long to give us these basic facts?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I understand the concern of my honourable friend. I also congratulate him with the initiative he has taken with respect to alternative fuels. We have been pressing the government officials and the appropriate authorities responsible for responses.

I can tell Senator Kenny that the Deputy Leader of the Government will be tabling responses to some of his written questions, specifically, those numbered 2, 11, 14, 39 and 71, later this day.

We will continue to try to make progress.

TRANSPORTATION

FUTURE IMPOSITION OF FEDERAL TOLLS ON HIGHWAYS—GOVERNMENT POSITION

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate. The Minister of Transportation, the Honourable David Collenette, recently appeared before The Standing Senate Committee on Transportation and Communications and he used the occasion to give an overview of his department. During the course of that overview, he said that he did not rule out the use of tolls on federal highways and some similar mechanism in relation to future highway projects.

•(1430)

As the Leader of the Government in the Senate knows, this can be a very controversial matter, as with Highway 104 in the province of Nova Scotia. Can the leader tell this honourable house if there are any other highway projects under consideration in Atlantic Canada that will involve the use of tolls?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, the Constitution of Canada is such that highways fall under provincial jurisdiction. There is no doubt that there was some controversy with respect to Highway 104. In that particular case, Transport Canada's only involvement was to match dollar for dollar. I believe the figure was $55 million. If my mathematics are correct, that would amount to $27.5 million each. The remaining funds for Highway 104 were provided via a bond issue by the Highway 104 Western Alignment Corporation.

With respect to other highways in Atlantic Canada that may be under consideration for tolls, that would be pure speculation on my part. I have heard rumours that a highway in New Brunswick may be under consideration, but, again, that would be a matter for the provincial government of that province to consider.

FURTHER IMPOSITION OF TOLLS ON TRANS-CANADA HIGHWAY—GOVERNMENT POSITION

Hon. Donald H. Oliver: Honourable senators, one of the concerns is that if Canadians decide to get in their car with their children and drive across the country, coast to coast, will they have to put their hand in their pocket and pay a toll every 10 to 15 miles?

The Minister of Transport referred to the upcoming thirtieth anniversary of the Trans-Canada Highway. Unfortunately, Nova Scotia was the first province to put tolls on this highway. Is the leader aware of any other province that intends to place tolls on its portion of the Trans-Canada Highway to make it inconvenient and expensive for Canadians to see their country?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, as I indicated earlier, I am not aware of any other highway in Atlantic Canada. As I said, there have been rumours of a private-public partnering with respect to a highway in New Brunswick that may run between Moncton and Fredericton. Indeed, there has been speculation that it would be done entirely through private financing. Again, I would bow to the authorities in New Brunswick to come up with a final answer in that respect.

With regard to the possibility of toll highways in other parts of the country, I would refer my honourable friend to the fact that the responsibility for highways is up to individual provinces. However, this is an interesting question, and I will attempt to ascertain whether other highways are being considered by provincial authorities for tolls of the kind suggested by my honourable friend.

SOLICITOR GENERAL

PUBLICATION ON INTERNET OF HATE PROPAGANDA AND CHILD PORNOGRAPHY—PUBLIC CONSULTATIONS—REQUEST FOR INFORMATION

Hon. Brenda M. Robertson: Honourable senators, my questions are to the Leader of the Government in the Senate and concern crime on the Internet, especially as it pertains to hate propaganda and child pornography.

At their meeting on December 4 and 5, the federal-provincial-territorial ministers responsible for justice agreed that this area needs particular attention. Federal officials indicated that this issue would be the subject of public consultation in the near future. Would the government leader check with the Solicitor General to determine when these public consultations will take place and who will be consulted?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I would be happy to, and I thank the Honourable Senator Robertson for bringing this to our attention because it is a matter of very serious concern to all Canadians. I will discuss the matter with my colleague the Solicitor General, and determine when those public consultations may be held. We are very happy that such consultations will be held, and we will determine the exact dates or the time-frames within which they will be held.

Senator Robertson: Honourable senators, would the Leader of the Government in the Senate also ask the Solicitor General and the Minister of Justice for a report on any specific measures to deal with hate propaganda and child pornography coming out of the meeting of G-8 Ministers of Justice and the Interior in Washington last week?

Senator Graham: I will take that question as notice and provide an answer as soon as I can.

MINISTER'S REPORT AND ANNUAL STATEMENT ON ORGANIZED CRIME—SENIORS VICTIMS OF TELEMARKETING FRAUD—REQUEST FOR CLARIFICATION

Hon. Brenda M. Robertson: Honourable senators, I also have a question regarding telemarketing fraud, a crime that has had such a devastating impact, particularly on older Canadians. For example, it is estimated that 40 per cent of all victims of phone scams are senior citizens and that phone fraud last year cost each victim $2,700 on average. Last week, on Friday, the Solicitor General is reported to have said that this kind of fraud will be a prominent part of his fight against organized crime.

In view of the fact that the Solicitor General's annual statement on organized crime, tabled in the other place on November 27, simply said that the government is committed to protecting the elderly and did not report on any measures taken or contemplated to fight phone scams; and in view of the fact that the final summary report of the recent meeting of federal-provincial-territorial ministers responsible for justice does not even mention the issue, would the government leader seek clarification of the Solicitor General as to what he meant when he said that phone fraud will be a prominent part of his fight against organized crime?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I would be happy to do so. I am glad the honourable senator raised the question because telemarketing fraud does not have any regard for age. It can attack anyone, seniors and others.

I myself was a victim of telemarketing fraud, oddly enough, in the sense my honourable friend spoke of earlier. It is a very serious matter, and I will bring forward an answer as soon as possible.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on December 2, 1997, by the Honourable Senator Forrestall regarding the amount of overtime logged at airports by air traffic controllers; and a response to a question raised in the Senate on December 6, 1997, by the Honourable Senator Cohen regarding the study of health effects of gasoline additive MTBE.

TRANSPORT

AMOUNT OF OVERTIME LOGGED AT AIRPORTS BY AIR TRAFFIC CONTROLLERS—GOVERNMENT POSITION

(Response to question raised by Hon. J. Michael Forrestall on December 2, 1997)

Safety is Transport Canada's first priority. The Department has the necessary regulatory powers to ensure the safe delivery of air navigation services by NAV CANADA.

Transport Canada continually monitors NAV CANADA's operations through the Civil Aviation Daily Occurrence Reporting System (CADORS) which includes follow-up review of all incidents. Audits and inspections of NAV CANADA air traffic facilities continue on a regular basis. Transport Canada has completed 22 such audits since NAV CANADA began operations in November 1996.

Transport Canada will ensure, through regular monitoring, audits and inspections that the civil air navigation system continues to be safe. Should any contravention of the applicable regulations be found, NAV CANADA is required to take immediate corrective measures or face enforcement action.

To date, there have been no major disruptions or occurrences related to employee overtime.

THE ENVIRONMENT

STUDY OF HEALTH EFFECTS OF GASOLINE ADDITIVE MTBE—GOVERNMENT POSITION

(Response to question raised by Hon. Erminie J. Cohen on November 6, 1997)

Methyl Tertiary Butyl Ether (MTBE) was one of the chemicals on the first Priority Substances List and was determined under *the Canadian Environmental Protection Act* to be non toxic in 1992.

Since 1992, a new database on MTBE has evolved to the point that officials in my Department felt it prudent to re-evaluate exposure to MTBE. This assessment has been ongoing over the past year and a half and will be completed in the first quarter of 1998.

In addition to assessments conducted in Canada and the United States, the World Health Organization's International Programme on Chemical Safety (IPCS) recently held a meeting with international scientific and industry experts (Ottawa; March 1997) to assess data on exposure and toxicity of MTBE. The Evaluation of the Task Group is currently being finalized by the International Programme on Chemical Safety.

Both Health Canada and the World Health Organization assessments on MTBE are subject to external peer review.

ANSWERS TO ORDER PAPER QUESTIONS TABLED

ENERGY—DEPARTMENT OF AGRICULTURE AND AGRI-FOOD—CONFORMITY WITH ALTERNATIVE FUELS ACT

Hon. Sharon Carstairs (Deputy Leader of the Government) tabled the answer to Question No. 2 on the Order Paper—by Senator Kenny.

ENERGY—DEPARTMENT OF CITIZENSHIP AND IMMIGRATION—
CONFORMITY WITH ALTERNATIVE FUELS ACT

Hon. Sharon Carstairs (Deputy Leader of the Government) tabled the answer to Question No. 11 on the Order Paper—by Senator Kenny.

ENERGY—FARM CREDIT CORPORATION—
CONFORMITY WITH ALTERNATIVE FUELS ACT

Hon. Sharon Carstairs (Deputy Leader of the Government) tabled the answer to Question No. 14 on the Order Paper—by Senator Kenny.

ENERGY—DEPARTMENT OF PUBLIC WORKS AND GOVERNMENT
SERVICES—CONFORMITY WITH ALTERNATIVE FUELS ACT

Hon. Sharon Carstairs (Deputy Leader of the Government) tabled the answer to Question No. 39 on the Order Paper—by Senator Kenny.

DEFENCE—COSTS OF DESTROYING LAND-MINES

Hon. Sharon Carstairs (Deputy Leader of the Government) tabled the answer to Question No. 71 on the Order Paper—by Senator Forrestall.

BUSINESS OF THE SENATE

DELAY IN ANSWERING ORAL AND ORDER PAPER
QUESTIONS—GOVERNMENT POSITION

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I am so envious of Senator Kenny's success that perhaps I should ask the Deputy Leader of the Government about a certain question in my name on the Order Paper going back several months. However, I can wait until tomorrow.

Hon. Gerry St. Germain: Honourable senators, I posed a question with respect to gun legislation, and I never did receive an answer. I find it surprising that I have not received an answer, given the high level of efficiency in Senator Graham's office, and I look forward to an immediate reply.

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I stand to be corrected, but I understood that an answer had been forthcoming in my honourable friend's absence. I will do a double check and have that answer copied if it is the right one. Perhaps it was not the one my honourable friend is seeking, but certainly there was an answer. I do not recall that there were any outstanding answers to questions raised by the Honourable Senator St. Germain in the last while.

•(1440)

Senator St. Germain: Honourable senators, there is reason to believe that the answer would not have been satisfactory.

I am concerned about what is happening with the workings of the Senate. If I was absent from my seat, I must have been in the back of the chamber.

ORDERS OF THE DAY

CANADA PENSION PLAN INVESTMENT BOARD BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Kirby, seconded by the Honourable Senator Joyal, P.C., for the second reading of Bill C-2, to establish the Canada Pension Plan Investment Board and to amend the Canada Pension Plan and the Old Age Security Act and to make consequential amendments to other Acts.

Hon. Donald H. Oliver: Honourable senators, this matter was adjourned in the name of Senator Kinsella, who has given me permission to speak.

I rise today to discuss Bill C-2. Officially, this bill is known as, "An Act to establish the Canada Pension Plan Investment Board and to amend the Canada Pension Plan and the Old Age Security Act and to make consequential amendments to other Acts." Unofficially, many Canadians have a different name for this bill. They call it the largest tax grab in Canadian history.

We believe that something must be done to guarantee that the Canada Pension Plan remains viable. Today, seniors, baby boomers and even young workers need to be reassured that there is some protection for them after they reach retirement age. Whether or not there will be a pension for our young people has been a hotly debated topic for many years. Many of them now expect that a viable pension plan will not exist by the time they reach retirement age.

If we all agree that changes to CPP are necessary — the exception being the Reform Party, which would like to abolish it — then it would make sense that all the parties in the other place and in this chamber work together to ensure that the best possible solution can be found, one that would benefit all Canadians. Obviously, this government disagrees.

From the introduction of this bill in the House of Commons, this government has done everything possible to limit debate. It has used time allocation to push this bill through the various stages. I am appalled that this bill, which will impact on every single Canadian alive today and generations of Canadians not yet born, has received so little public study. Why would a government limit discussion on a bill which is so important to Canadians? One can only conclude that they have something to hide. Otherwise, why not allow a full debate and adequate study? Could it be that they do not want Canadians to learn the truth about this monumental grab?

Honourable senators, Canadians will learn about it. Working Canadians will see the impact on their pay cheques, especially those who are self-employed. However, our young people, our university students, will remember this bill when businesses have less money to spend for summer jobs.

Through its actions, the government has told Canadians that it is urgent that this bill be completed now. They do not have time for further study. They have a deadline to meet. They have to deal with the provinces. Canadians need to know that not all provinces agree. British Columbia and Saskatchewan certainly do not, and Alberta is having second thoughts about it. Thus, the provinces have clearly indicated that there is, indeed, a lot of time to get this bill through.

Why, then, is this government in such a rush? Are they trying to hide from Canadians that this scheme is nothing more than a new payroll tax, a new tax that will see $11 billion disappear from the Canadian economy, an $11-billion tax grab that is not offset by other tax cuts or matching cuts to EI premiums, despite the huge surplus in that fund?

We all agree that the fund must be sustainable, but we have a different vision of how that might be accomplished. Regrettably, this government will not allow the time for other options to be studied and advanced.

This government proposes a 73-per-cent increase in premiums which will eventually rise to 9.9 per cent by the year 2003. The number 9.9 is an interesting number. I want to ask the Leader of the Government in the Senate to explain why it is 9.9 and not 10 per cent. Could it be that 9.9 was chosen because it is a politically acceptable number, while 10 per cent does not play as well in the media?

Because the government has rushed this bill through, Canadians cannot obtain the answers they need. They are left to speculate as to the government's true motives. They are left to speculate on why the premium hikes are back-end loaded, with the largest increases being from the years 2001 to 2003.

Canadians are asking themselves whether this, too, can be politically motivated. If the plan is in such a serious financial state that the government must rush through legislation, then why is there not an immediate, substantial increase in premiums, or why does the government not use some of its expected budget surplus to give a one-time infusion of cash to the plan?

Canadians are also trying to figure out why the premium hikes are staggered over a number of years. The premium rate will be 6 per cent in 1997; 6.4 per cent in 1998; 7 per cent in 1999; 7.8 per cent in 2000; 8.6 per cent in 2001; 9.4 per cent in 2002; and 9.9 per cent in 2003. This begs the question of why the increases are simply not averaged over those years.

Are the larger premium increases after the year 2001 designed to take place after Finance Minister Martin's projected leadership bid is over? Or could it be that the Liberals want one more general election out of the way before Canadians see the full impact of this bill? We simply do not know.

Is it possible that there are political reasons why this bill hits our younger generations so hard? Younger workers will pay higher premiums for approximately 45 years of their life, only to get fewer benefits. They are further penalized because the Finance Minister chose not to raise the $35,800 ceiling on incomes eligible for CPP contributions. If he had done so, it would have ensured that the soon-to-retire baby boomers would have picked up most of the cost of their own retirement. Could the decision to put so much of the burden on young Canadians be a reflection of the number of potential voters in each age group? We will never know, because the government will not allow adequate study of the bill.

This country has only begun to move out of the last recession. Jobs are still hard to find. Lay-offs are still a common occurrence. One of the ways that an individual could cope with the recession was to become self-employed. Included in this category are farmers, fishermen, doctors and consultants. They are another target of the Finance Minister.

More and more Canadians are working on contracts instead of in the traditional employer-employee relationship. Yet this bill punishes these Canadians for their creativeness and entrepreneurial skills. These Canadians must pay both their own share and the employer's share of the premium hike. For example, a self-employed individual earning $35,800 now pays $1,890 in contributions. By the year 2003, this same person will be paying $3,270. How many Canadians can afford to lose this much money from their take-home pay?

Individual Canadians will be losing more in each pay cheque, and companies will be paying higher taxes because no matter how you label this scheme, it is another payroll tax. Yet, in the future, when Canadians retire, they will have fewer benefits then seniors receive today.

This bill is supposed to help Canadians, yet it punishes the poor. The base income level below which one does not have to pay CPP premiums remains fixed and is not adjusted with inflation. Over the years, this will mean that more Canadians will be paying into the plan, and that the pool of individuals at the lower end of the economic scale who must pay CPP premiums will increase, but these are the ones who can least afford to lose any amount of money.

This bill will punish our younger workers. I have already mentioned that they will pay more to support the baby boomers, only to get less when they themselves reach retirement age. For many of our young, those are long-term problems. They have a much more immediate need. Who will hire them? Who will offer them the summer jobs they need to help pay for their university education?

Increased company contributions without a significant offsetting reduction in EI premiums means companies will have less to spend. Fewer summer jobs for students could well be one result. Let me explain.

The Canadian Federation of Independent Business estimates that for a business with 10 employees earning approximately $40,000, this will mean an increase of $7,000 in premiums that companies must pay by the year 2003, or the cost of two summer jobs — $7,000 in premiums.

One of the government's departments agrees with them. An Industry Canada study completed in December of 1996 says that the plan to raise CPP premiums could hurt employment for low-income, low-skilled workers, the very people who are most vulnerable to unemployment.

•(1450)

Joni Baran, an Industry Canada economist said that experts agree that rising payroll taxes "have negative short-term effects on employment." She concluded that:

> Payroll taxes will have a greater negative employment impact for these groups of employees. This is somewhat troublesome given that unemployment is concentrated among low income, low skilled members of the labour force.

We know from past experience that this group tends to be made up of mainly women, youth, those with less education, Atlantic Canadians, and employees in the retail and service sectors. These are the Canadians who will be hardest hit by this new tax.

Despite the fact that one of its own departments has expressed concern, there will be no opportunity to study the implications of this bill. The government is not willing to consider any other options.

We know that a federal study done in 1995 showed that the relatively modest increase in premiums between 1986 and 1993 resulted in 26,000 fewer jobs being created. This time, we are not facing modest premium increases but very significant increases. What will be the damage this time?

The Finance department tells us that it should be neutral, with no major impact. We need only look at the deficit projections over the last 10 to 15 years to know not to trust these predictions. In fact, Mr. Martin's 1994 blueprint for the economy entitled *A New Framework for Economic Policy* indicated that higher payroll taxes increase the cost of labour, at least initially, and reduce the incentive to produce new jobs. Whom should we believe?

There are other areas of concern. Bill C-2 will set up a new Investment Board, but serious questions remain. Why is the auditor being denied full access so that he can be both the auditor of the Canada Pension Fund Investment Board and the fund itself?

While the board must provide quarterly financial statements, there is no requirement that they be made public. Why?

What will be the impact of this $100-billion fund on the equity markets, an amount equal to 30 per cent of the monies currently held in Canada's rapidly growing mutual funds? What are the long-term implications for this in the corporate sector?

Will it be necessary, as suggested by Michael Beswick, president of the Association of Canadian Pension Management, to increase the 20-per-cent limit on foreign investment for Canadian pension funds?

Mr. Martin seems to resist this, and today in the Senate I noticed that Senators Kirby and Meighen are putting forth —

The Hon. the Speaker: Honourable Senator Oliver, the 15-minute time allotted has expired. Are you asking for leave to continue?

Senator Oliver: Yes, please.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Oliver: I commend to all honourable senators the interesting remarks made by Senator Meighen on this debate which outline in detail the effects that this can have both on corporate governance and on the investment community.

Many questions will remain unanswered because this government does not want further study. Clearly, it does not want to listen to the outside experts; otherwise it would have held public hearings.

Canadians will go into the future, trusting in a plan that was never fully studied and expecting that the Canada Pension Plan will be there for them when they retire.

Since the introduction of the Bill C-2, this government has shown an unwillingness to compromise and listen to reason. This government is gambling that they have found the one and only solution, and that the right solution is their solution.

I hope this government has guessed right because, if not, hundreds of thousands of Canadians will pay for this government's mistakes in the future.

Hon. Duncan J. Jessiman: Honourable senators, I, too, rise today to speak on Bill C-2, the Canada Pension Plan Investment Board Act. I will not repeat what has been so ably said by so many other senators who have spoken before me, that is, explain how this bill is structured so the plan will receive more funding, reduce and rationalize pension benefits, and create the Canada Pension Plan Investment Board. Rather, I should like to look back at the time before we had any such plan.

I am told the seed of such a plan was planted in the minds of certain actuaries and economists working with Walter Gordon back in the early 1960s and became part of the election platform for Lester Pearson in the 1963 federal campaign. It was to be part of the 60 days of decision that the Liberal campaign promised to undertake following the election. As Judy LaMarsh wrote in her book *Memoires of a Bird in a Gilded Cage*, published in 1969:

> All these decisions were taken in a climate of deliberate haste, for to put together such a plan in time to introduce it during the 1963 session was our goal. As months went by it became clear that it was unrealistic. There was too little time for us to make all the decisions and test their effects, much less for full consultation with the provinces and (and I emphasize this!!) for public education to understand the plan. So the goal of legislating the Plan was moved back, and we substituted instead the goal of production of a White Paper to explain the scheme in laymen's language.

Some six years after the idea was proposed and three years after it came into being, in 1966, she went on to state:

> Even reading it today, I find I am not layman enough to understand everything in it.

Then, in about 1965, several months before the 1966 legislation creating the first Canada Pension Plan, John Kroeker, an actuary and assistant to the Superintendent of Insurance, told the Finance committee studying the CPP that the government "hadn't looked into this thing adequately" with the result that he was fired.

You might say that that was 1965 and this is 1997, 32 years later, so what is the significance of the fact that an actuary, a Mr. Kroeker, warned in 1965 that the CPP would go broke? The same Mr. Kroeker appeared before the parliamentary Finance committee on November 19, 1997, and this is what he had to say in respect of Bill C-2:

> We started out flying blind and we are still flying blind. I have no more confidence in the approaches or steps they are taking now than those back then.

Surely, because of the importance of this legislation and how it will affect the lives of all of us, and in particular because it may be to the detriment of our young Canadians, this Senate should take the time to ensure that this is good law for Canada.

I appreciate that the government has consulted with the provinces; however, as you heard from Senator Oliver, two of those are not in favour of this measure, and a third is considering opting out. Even so, I am certain that the public at large is not aware of the consequences of this proposed legislation. This increase in premiums is another amount that is deducted from an employee's pay cheque as are income tax and employment insurance premiums. Whether you call it an investment for your retirement, as the Finance minister likes to say, or a tax, it affects the employees in the same way — less take-home pay.

At present, the federal government taxes income at three levels: 17 per cent for taxable income from one penny to $29,590; 26 per cent for taxable incomes from $29,590.01 to $59,180; and 29 per cent for taxable income from $59,180.01 plus. I am especially concerned about the middle-income people who pay the 26-per-cent rate. Not only are they taxed that amount by the federal government, they also, in that tax bracket, have to pay federal surtaxes. When you add the provincial income tax, the municipal taxes, employment insurance, and payroll taxes, taxpayers in the 26 per cent bracket, being the middle-income earners, will pay taxes of approximately 50 per cent before CPP premiums. When you add the CPP premium and then factor in the other taxes that we all pay, such as GST and various licensing fees, one does not need to be an actuarial scientist to conclude that the middle-income earner is paying too much in taxes.

•(1500)

The government crows about how it has reduced the deficit and may even be in surplus soon — let us hope that is correct. However, let us not forget that taxes at the federal level have increased by close to $11 billion, and the offloading to the provinces has accounted for another $7 billion during this government's mandate. Whether you are Conservative, Liberal, NDP or Reform, all of us know that the Canada Pension Plan is in trouble, and must be fixed.

I want the government to let the Senate do its job, namely, scrutinize the legislation closely and listen to the experts. We can then decide whether this is good legislation for our country. Are there alternatives to the approaches that the government and the provinces have decided upon? If there are, are they better than the present bill?

The following is what was said by Tom Courchene, an economist with the School of Policy Studies at Queen's University, in a paper published in the *Ottawa Citizen* on November 7, 1997:

> There is a much better way, on both social and economic grounds, to approach CPP reform than Ottawa and the provinces have conjured up.
>
> It's true that the CPP's unfunded liability is running in the $500-$600 billion range, but the already-accumulated, fully-funded assets of registered pension plans (RPPs) and RRSPs are even larger. What we need information on, and what the Department of Finance has never supplied, is a forward-looking (say, ten-year) accounting of the resulting overall revenue implications of the $700 billion-plus pool of RPP and RRSP assets. They must be enormous. Why not earmark a portion of these future taxes for deposit in the proposed arm's length CPP Investment Fund in order to take some pressure off the required premium increases for Generation X and beyond?

By that, he means the young people of Canada. He continues:

> After all, the decision to underfund the CPP was a conscious one taken at the program's inception (though faulty forecasts and program enrichments since have made things worse). The principal beneficiaries of underfunding are those of us in Generation XS —

You can make that "S" mean "senior" or "selfish." He goes on to state:

> — not Generation X. But this CPP underfunding is a sunk societal cost and certainly not an argument for saddling the young and unborn with a negative return on their CPP premiums, as is now being done. It should be solved with taxes and transfers that are more widely shared.
>
> We should also trim some of the CPP's frills. For instance, we still allow Generation XSers —

And by that he means seniors —

> — to accumulate money tax-free in their pension funds beyond the age of 65. This makes no social policy sense: These funds are retirement savings vehicles, not tax-assisted investment vehicles. Why not restrict the tax-free accumulation period to year 65 and dedicate the resulting revenues to the CPP investment fund?

Later, Mr. Courchene points out:

> When the new Seniors Benefit is in place, Ottawa will save 50 cents on Seniors Benefit for every dollar of CPP benefits. This is because for every dollar of CPP benefit paid, the income-tested Seniors Benefit will be reduced by 50 cents.

He then concludes:

> Ottawa and the provinces are making an enormous mistake by attempting to solve the CPP problem solely by adjusting the CPP itself. The underfunded liability is a "sunk" societal cost. To try to solve it by saddling Generation X with the unfunded burden is bad social policy...and has the potential to become disastrous economic policy.
>
> Generation X will not renege on the CPP per se. It will renege on Canada, and will take with it our investment in its human capital, which will seriously diminish Canada's economic prospects, not to mention those of the CPP.

I am certain that there are many more experts who have ideas that the Standing Senate Committee on Banking, Trade and Commerce could hear before this bill is rushed through Parliament.

I am urging the government to listen to our pleas. Let the Senate do the work it is mandated to do. Let this bill have a reasoned, sober, second thought.

On motion of Senator LeBreton, debate adjourned.

[*Translation*]

QUEBEC

LINGUISTIC SCHOOL BOARDS—MOTION TO AMEND SECTION 93 OF CONSTITUTION ADOPTED

On the Order:

> Resuming debate on the motion of the Honourable Senator Graham, P.C., seconded by the Honourable Senator Mercier:
>
> Whereas the Government of Quebec has indicated that it intends to establish French and English linguistic school boards in Quebec;
>
> And whereas the National Assembly of Quebec has passed a resolution authorizing an amendment to the Constitution of Canada;
>
> And whereas the National Assembly of Quebec has reaffirmed the established rights of the community of Quebec, specifically the right, in accordance with the law of Quebec, of members of that community to have their children receive their instruction in English language educational facilities that are under the management and control of the community and are financed through public funds;
>
> And whereas section 23 of the *Canadian Charter of Rights and Freedoms* guarantees to citizens throughout Canada rights to minority language instruction and minority language educational facilities under the management and control of linguistic minorities and provided out of public funds;
>
> And whereas section 43 of the *Constitution Act, 1982* provides that an amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province to which the amendment applies;
>
> Now therefore the Senate resolves that an amendment to the Constitution of Canada be authorized to be made by proclamation issued by His Excellency the Governor General under the Great Seal of Canada in accordance with the schedule hereto.

SCHEDULE

AMENDMENT TO THE CONSTITUTION OF CANADA

CONSTITUTION ACT, 1867

1. The *Constitution Act*, 1867, is amended by adding, immediately after section 93, the following:

"93A. Paragraphs (1) to (4) of section 93 do not apply to Quebec."

CITATION

2. This Amendment may be cited as the *Constitution Amendment*, year of proclamation (Quebec).

Hon. Gérald-A. Beaudoin: Honourable senators, the report of the Special Joint Committee on Quebec's Resolution has been accepted by this chamber with dissenting opinions. The debate on the resolution is nearing the end. First, we may regret that the delay was so short. It is not ever day that the Senate has a constitutional amendment before it. This is the case with the resolution before this house, which related to the non-application in Quebec of the four paragraphs of section 93, a very important article in our Constitution, which is part of the compromise of 1867.

The debate of the last few days, however, has dealt with the very substance of the resolution. All arguments for or against the resolution have been considered, I would say.

Even if I do not agree with their opinion, I understand the position taken by those who oppose the resolution. They want to keep the four paragraphs of section 93 and create, by legislation, linguistic school boards. In 1993, the Supreme Court declared that this is true, but this does not solve the political problem, because section 93 gives special privilege to two religions only and allows intervention of the Government and Parliament of Canada in the domain of education. Even if the position of those opposed were adopted, an amendment to section 93 to extend the same protection to other religious groups would still be necessary, for we cannot have two sorts of protection, a protection for the Catholics and Protestants and a legislative protection for the other religions. That is the essence of the right to equality. We would still be obliged to set aside paragraphs (3) and (4) of section 93, which have never been successfully used, in spite of the efforts of Sir Charles Tupper and Sir Wilfred Laurier at the end of the last century.

The situation is no longer what it was in 1867. The four paragraphs of section 93 were justified in the context of 1867. The existing rights and privileges of Catholic and Protestant schools were constitutionally protected at the time. Since then, Quebec has gone through the "Quiet Revolution." In Canada, ours is a pluralistic society; we live in the era of charters of rights and freedoms, internationally, nationally, provincially. Modern government legislates more and more in the field of education. That subject is not only important, it is vital. After the amendment, Quebec will have to legislate on education. A great debate is going to take place in the National Assembly of Quebec, within a year or two.

Reference was made to notwithstanding clauses, exemption clauses. As a jurist, I am not a fan of those clauses, although I accept their possible use, if it is absolutely necessary. I may say: "not necessarily a notwithstanding clause but a notwithstanding clause if necessary." I repeat, I am not a great fan of such clauses.

In the modern context, I am one of those who believe that with some legislative talent we may give effect to the wishes of those who desire to keep the teaching of religion, to the wishes of those who want to implement the international covenants which recognize the rights of parents in the field of education, covenants that Canada has ratified, as we should not forget. This is part of our values. Quebec, Canada, and the other provinces are all free and democratic societies. Our judicial system is strong and impartial. A majority in the National Assembly cannot ignore the wishes and the demands of Quebecers, without paying the costs.

I have attended all the sittings of the Special Joint Committee and heard and read all speeches in the Senate and in committee. This is a free vote. We should respect everyone's opinion. I am going to vote in favour of the Resolution of Quebec, on section 93.

[*English*]

Hon. Anne C. Cools: Honourable senators, I rise to speak against this resolution. I oppose it. I am strenuously opposed to the extinction of constitutional rights to denominational education in the province of Quebec. It vexes me that the application of the Constitution Act, 1867, section 93, is being repealed for the Province of Quebec. It pains me greatly that the resolution before us to extinguish minority rights has been advanced by the Liberal Government of Canada, and the Minister of Intergovernmental Affairs, Stéphane Dion. It pains me that the Liberal Party of Canada has chosen this course of action. In my speech in this chamber on October 9, 1997, I articulated many of my objections and concerns. I note that neither the government nor the minister has chosen to respond to any of them. Their silence reinforces my conclusions and my resolve to oppose the adoption of this resolution.

Honourable senators, I objected to Minister Dion's support of the wishes of the separatist Parti Québécois Government of Quebec, led by Premier Lucien Bouchard and his minister Jacques Brassard. I declared that as a Liberal I would decline to support such a separatist, ideologically driven wish to enact a state monopoly in education by extinguishing the constitutional rights to denominational education of section 93 of the Constitution Act, 1867. An article in *The Gazette* of Montreal on September 19, 1997 by Terrance Wills, headlined "School-board amendment set to roll," quoted Minister Dion saying:

> Mr. Brassard and I have a duty... And we will work together...

Honourable senators, I object to this collaboration with a separatist provincial government to extinguish minority rights.

Recently Minister Dion has told us some remarkable things in respect of Quebec secession and the Government of Canada's position thereon. I refer to Minister Dion's statements on this issue as reported in *The Toronto Star* in a December 9, 1997 article by Joel Ruimy entitled "PM may be past his prime — Harris." Minister Dion is reported as saying:

> We will negotiate secession if we have the certainty this is what Quebecers want — to give up Canada, to become an independent country. We have said that again and again and again.

Obviously I did not hear it. Mr. Ruimy's article quoted Prime Minister Jean Chrétien's concurring that:

> The question is, in a situation like that...there will be a negotiation with the federal government. No doubt about that.

Honourable senators, I do not know where, when, or how the Government of Canada has adopted this position of negotiating secession with Quebec.

Minister Dion, in a letter to Premier Bouchard reprinted in an article in *The Ottawa Citizen* on August 12, 1997, wrote about the will of Quebecers to secede and Canada's position, saying that:

> ...if Quebecers expressed very clearly a desire to secede from Canada, then their will would be respected. As you know, this position is highly unusual in the international community.

I would submit that that is highly unusual in Canada. This is most disturbing. I note that Minister Dion also spoke about the Supreme Court of Canada and the secession reference. About this reference, Mr. Ruimy's article in *The Toronto Star* of December 9, 1997 reported:

> In fact, Ottawa has taken the extraordinary step of asking the Supreme Court of Canada to rule that Quebec cannot secede without the approval of the rest of the country.

Therefore, the court is not only to consider the subject-matter, but to rule in a particular way.

I plan to have much to say about the intended decision or judgment of the Supreme Court of Canada in this matter, but not in this debate today on section 93.

Honourable senators, the debate today is about a constitutional change in the denominational education system of Quebec. Yet, I have observed that the debate has focused scant attention on education, the purposes of education, and schools themselves, and no attention on education as an act of human formation. The child is the adult in formation. The wisdom and persona of the adult is formed early in life, in early childhood, at play and at school, in the sandboxes in kindergarten and at home. For Christians and other denominational parents who wish their children to be educated in their faith, school is a particular and a pivotal institution. For denominations, schools and education must promote the simultaneous development of the psychological, moral, and intellectual consciousness of the child, a human being. Denominational education compels the intellectual training of the child in concert with its moral development, because denominational education upholds the intellectual development of children by reference to their deities, commandments, moral laws and values. The school is the centre of human growth. Schools are mediums, institutional centres for the transmission of knowledge, learning, and values to both new generations and between generations. A school is an institution for the vital, systematic, and critical assimilation of culture. A school is a living encounter with a cultural inheritance which assists children to develop as social beings.

Honourable senators, the purpose of school instruction is education. Education is the process of the development of human character and human formation. Education is the development of human beings, the equipping of children with the skills necessary to the growth of the whole person, the skills necessary to their individual personal integrations, and also to the collective social integration of social organization and civil society itself.

•(1520)

I have said that the purpose of education is the development of human beings, of human formation. Human beings are both matter and spirit, both body and soul, and are entitled to have the dimensions of their beings developed, formed and prepared for their life, their life's activities, and their life's journey by denominational education.

Honourable senators, religion and spiritual teaching are an effective contribution to the development of the human child in the measure to which they are integrated into general education. Denominational education had for its specific intention the complete denominational formation of its students by education with reference to God, the prophets, the laws of the denomination and religion, and by the institutional, intergenerational transmission of the values and beliefs that are the choices of parents.

Today, many parents of children in the so-called "public" schools are deeply concerned. Many describe aspects of public schooling today as "mis-education." Further, it is no longer clear that the civil authorities and government bureaucracies are properly educating children, neither is there clarity about the rights and expectations of parents for their children's education.

This resolution to repeal section 93 will hasten the moral and philosophical debate as to the definition of education and the political and constitutional basis of education. Shall parents' expectations, hopes, interests, and wishes prevail, or shall the state's bureaucratic interests for those children prevail? This debate is emerging in this country, and what we are voting on

today will hasten the debate. Minister Dion's constitutional amendment comes down on the side of the state — the Quebec state and in particular the Quebec separatist state — and asserts that the state's interests must prevail. I am opposed to that premise, just as I am opposed to the extinction of minority rights.

Honourable senators, I would like to close by reading from a work called *Introductory Papers on Dante*, written by Dorothy Sayers, a great classicist. I am referring, of course, to the Dante of the masterful and classical work *Paradise Lost*. In her 1954 book on Dante's works, Dorothy Sayers wrote:

> The widespread disinclination today to take Hell and Heaven seriously results, very largely, from a refusal to take this world seriously. If we are materialists, we look upon man's life as an event so trifling compared to the cosmic process that our acts and decisions have no importance beyond the little space-time frame in which we find ourselves. If we take what is often vaguely called "a more spiritual attitude to life," we find that we are postulating some large and lazy cosmic benevolence which ensures that, no matter how we behave, it will all somehow or other come out right in the long run. But Christianity says, "No. What you do and what you are matters, and matters intensely. It matters now and it matters eternally; it matters to you, and it matters so much to God that it was for Him literally a matter of life and death."

Dorothy Sayers' most famous work was her collection of 19 plays called *The Man Born to be King*. Back in the 1940s, she accomplished an enormous feat. She transformed the scriptures into a play for BBC broadcast. The result was astounding. Every Sunday night for several weeks, the entire population of England rushed to the radio to hear this drama.

In conclusion, honourable senators, as a Liberal, I oppose and regret this resolution before us. No part of my duty as a Liberal and as a senator compels me to support Quebec Premier Bouchard's and Minister Brassard's efforts to separate Quebec from Canada. No part of my duty as a Liberal and as a senator compels me to support their efforts to oust the application of the Constitution Act 1867, section 93 in Quebec. I shall vote against it.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I do not intend to speak at any length in this debate, since I have already spoken to the resolution on a number of occasions and expressed many concerns, the most recent time being last Thursday when the Minister of Intergovernmental Affairs appeared before the Committee of the Whole. Eloquent as he was and as persuasive as he tried to be, these concerns still remain. As a matter of fact, the minister confirmed their legitimacy by agreeing that removing Quebec from certain obligations will handicap a number of its citizens who are benefiting from what are described as both "rights" and "privileges." These rights and privileges are already incorporated into Quebec's Education Act and are protected from challenge through a notwithstanding clause which expires in 1999.

We have no indication from the Quebec government and no assurance from the minister regarding the fate of this clause, which will be reviewed in less than two years, so the debate will not end here. After the resolution receives Parliament's approval, it will shift to Quebec, where those who want the present confessional system to be maintained will no longer have the basic law of the land as their best advocate and legal support.

The minister quite rightly pointed out that as society changes, constitutions are amended to mirror these changes. In so doing, some citizens may be losers as the majority benefits. Constitutions are made to be changed, for if they did not include amending formulas, they would, in time, be ignored, if not become meaningless.

Be that as it may, honourable senators, we are being asked to take away something from our fellow citizens, as we are also being asked to do by amending Term 17. The two resolutions are totally different in content and execution, but I wonder if a pattern is not developing regarding religion in public schools, particularly as there is now a debate going on in Ontario questioning the validity of separate schools, a debate which is being fuelled to a large degree by what is being argued in Quebec and in Newfoundland.

However, the argument before us is not about the place of religion in publicly funded schools as such; rather, it is about the removal of the constitutional guarantee which allows it to be there in the first place. I am simply uncomfortable with removing something from the basic law unless there is an offset somewhere else for those who want to keep it for valid reasons.

In the case before us, the offset is Quebec's Education Act, which effectively extends section 93 guarantees for another two years or so. During this period, broad consultation will take place, and I have no doubt that all those who want to be heard will have an opportunity to do so.

Many who oppose this constitutional change doubt a satisfactory outcome to this consultation, and they, as so many others, are too well acquainted with the occasional pettiness of overzealous politicians, bureaucrats, interest groups and private citizens when it comes to such matters as the priority of the French language, how it is to be enforced, and how the linguistic minority feels it is being unfairly restricted when it comes to the use of the English language. These excesses are as repugnant to the vast majority of Quebecers as they are to those directly affected by them.

Quebec is basically a fair and tolerant society. In recent years, there have been so many examples of meanspiritedness that one can rightfully question those assertions. I think I know my province well enough to claim that, in the end, reason and fairness will prevail, although the road leading there is often too bumpy for many to travel to the end.

Based on this fundamental assessment, which provides reasonable confidence that those advocating the retention of their rights and privileges will find satisfaction under the new school system being implemented, and conscious of the overwhelming support for the school system itself, I will support the resolution with the hope that the debate surrounding it in this place will continue and that my confidence is not misplaced.

Hon. Gerry St. Germain: Honourable senators, I have a question for the Honourable Senator Lynch-Staunton.

•(1530)

How can we possibly support a deal which has been made with Minister Brassard and Premier Bouchard when they have not taken public issue with the former leader of the Bloc Québécois, Jacques Parizeau? It was he who chastised ethnics, whom he recently described as the Greeks, the Jews, and possibly others, for being the cause of the failure of the referendum in that province. The honourable senator says that there will be a consultation process. He knows, as do I, that when governments have a majority, they consult. In the end, however, they do what they want to do, regardless of any consultation.

How can we vote in favour of this motion and expect any justice to be dispensed to those who are not in favour of it? The honourable senator is a Quebecer. Can he explain it to me, please?

Senator Lynch-Staunton: Honourable senators, I will not answer the question specifically as to Mr. Parizeau's statements or Mr. Bouchard's reaction to them. That is outside of this debate.

What Senator St. Germain and others must realize is that the position supporting the resolution is supported by all parties in the National Assembly. It is not a separatist option as such, although the motion may have been sponsored by the Parti Québécois. However, the Liberal Party also supports it.

The Liberal Party has not committed itself to a position on the notwithstanding clause. It favours open consultation. The consultation which will take place in Quebec will be open and widespread. The result may not be the one we want, but the consultation will be there.

Remember, too, that 80 per cent of Quebecers are Catholics. In permitting the existing schools to make the designation on whether or not they should have religious content, all but a handful have been designated as schools with religious content. The need for religion is still strong in Quebec. That is something no government can afford to ignore. At the same time, the Protestant minority will also be heard. To my mind, it will receive consideration.

Obviously, what they are losing today is the strength of the section 93 amendment. However, the feelings in Quebec are so strong and the Catholic majority say so significant, that both religions will continue to be favoured in one form or another. "Favoured" is the word. The tragedy is that only two faiths are being favoured. The other faiths which will want to have public support will not have the same argument.

Let it be known, honourable senators, that in certain Montreal schools with large Muslim populations, rooms are designated just for them. There are Jewish schools, too, and probably others which do not come to mind at the moment. In other words, there is a tremendous tolerance for religious minorities in Quebec at the moment, particularly in the Montreal area where they exist. This is a tradition in Quebec which was, perhaps, initiated by section 93, but it has been continued because of long-standing practice. That is why I feel reasonably confident that, no matter what government is in place, it will continue.

Hon. Nicholas W. Taylor: Honourable senators, I should like to address a question to the Honourable Senator Lynch-Staunton.

Both Senator Beaudoin and Senator Lynch-Staunton touched on the idea that there are Roman Catholic and Protestant schools. The way I read section 93, there are minority or dissentient schools which may be Roman Catholic or Protestant. I have trouble understanding those who argue that there is no room in the majority system or the public system for the other religions. It appears to me that the majority system covers everyone. The only system that designates religion is the dissentient or minority one.

Perhaps Senator Beaudoin could answer my question.

Senator Lynch-Staunton: In 1993, the Supreme Court ruled that section 93 only applied within the limits of the City of Montreal, as it then existed, and Quebec City. Dissentient schools existed outside those two cities. "Dissentient" means nonconforming.

Perhaps Senator Beaudoin can now respond.

The Hon. the Speaker: Honourable senators, under the rules, questions can be asked only of the last speaker.

Senator Cools: Let us give Senator Beaudoin leave to respond.

[*Translation*]

The Hon. the Speaker: Honourable senators, I regret that the question must be asked of the last person who spoke on this matter. If the honourable senators agree, however, we can do as you wish.

Senator Lynch-Staunton: Honourable senators, I would ask that an exception be made. The question asked of me demands legal knowledge that I admit I do not have. Senator Beaudoin does have this legal and constitutional knowledge. Is the question not important enough to allow us to ignore the rules for a couple of minutes?

[*English*]

The Hon. the Speaker: Is it agreeable that we put the rules aside and ask Senator Beaudoin to reply?

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

Senator St. Germain: Could I pose another question to the Leader of the Opposition in the Senate?

The Hon. the Speaker: You may ask a question of Senator Lynch-Staunton, and he may reply if he wishes.

Senator Taylor: I have a supplementary question, honourable senators. I had not finished, and I do not think the Honourable Senator Lynch-Staunton answered my question. Let me put it this way: I did not understand what he said if he did answer it.

I still see quite clearly in section 93(2) talk about dissentient and minority rights. The point I am trying to make is that the interpretation or 'spin' that we from Western Canada put on that section is that the majority is everyone — Muslim, Jews and everyone else. 'Dissentient schools' are identified as being Catholic or Protestant. In the constituency which I represented for years, we had separate schools that were Protestant separate schools and we had Catholic separate schools. Trustees ran to represent the majority, whether it happened to be Muslim, Jewish, Protestant, agnostic or anything else. Therefore, it was never the case of one group saying that they did not have representation. If they were part of the majority group, they did have representation within the majority. The only religious right lay with the dissentient or minority group. I am trying to figure out whether it is the same in Quebec, because we apparently borrowed section 93 from Lower Canada in establishing the North-West Territories Act of 1869.

Senator Lynch-Staunton: I am on very shaky ground here, and I am sorry Senator Beaudoin is not being allowed to answer. However, he can certainly interrupt me with a question in which he might provide an answer, if necessary.

As I understand it, section 93 is interpreted and applied in each province differently. In Quebec, only a few years ago, the Supreme Court ruled that Catholic and Protestant education was compulsory only within the limits of the City of Montreal and in Quebec City as they were in 1867, more or less. Dissentient schools applied elsewhere in the province. I know that is not the way it is in Alberta, but that is the way it works in Quebec. That is the difference. That is the situation right now, and that is the situation which will be changed once the linguistic school system goes into effect in September of 1998.

•(1540)

Hon. Gerry St. Germain: Honourable senators, I have one more question for the Leader of the Opposition in the Senate.

Honourable senators, one of the most disturbing things that has happened to me in the 15 years I have been in Ottawa was hearing the recent statement by the Prime Minister that he was prepared to negotiate secession. We have Senator Cools stating in that Minister Dion has made similar statements, according to *The Toronto Star,* and now we have the Prime Minister making statements. As a Canadian, I do not believe that secession is an option. It is a non-starter in any way, shape or form. Any statements made in those terms could become self-fulfilling prophecies, and are very dangerous.

I am wondering, senator, whether there is any correlation between these statements. Are they being driven by what is occurring with Term 17 and changes to the Constitution for Quebec? These statements have been enunciated recently in dealings with the Province of Quebec and the ministers of the separatist party.

On behalf of the senators here and all Canadians, what is going on in this country? All of a sudden we have adopted this attitude. The majority of the people in Western Canada that I represent do not even want to discuss this subject. Are we being driven to this by the separatist forces in the Province of Quebec?

Senator Lynch-Staunton: Honourable senators, you must remember that the debate over linguistic schools has been going on in Quebec for over 30 years now. Quebec did not have a Minister of Education until 1962, and the Parent commission was the first serious study to lead to an eventual overhaul of the school system in Quebec. It has taken all this time to come to agreement. Long before the Parti Québécois government came into power in 1976, the topic of converting the school system from religion-based to language-based was being discussed.

It is unfortunate, perhaps, that it is being sponsored by a separatist government. Perhaps we would all feel more comfortable if it were sponsored by a less nationalistic-minded government. However, both parties have contributed to where we are today.

I am also disturbed by the statements made at both the federal and provincial levels, but I think on this one we are on the right track. With some fairness and understanding, which even this Government of Quebec can bring to certain major policies, I think we would do well in supporting the resolution.

The Hon. the Speaker: Honourable senators, I must interrupt the debate. There is an emergency, and we must evacuate the building for half an hour.

The sitting of the Senate was suspended.

•(1640)

The sitting of the Senate was resumed.

The Hon. the Speaker: Honourable senators, I apologize for the inconvenience. The security staff have assured me that the emergency was a false alarm, but it was wise to take precautions.

Honourable senators, I understand that we have concluded the debate on the motion.

It is moved by the Honourable Senator Graham, P.C., seconded by the Honourable Senator Mercier:

Whereas the Government of Quebec has indicated that it intends to establish French and English linguistic school boards in Quebec;

And whereas the National Assembly of Quebec has passed a resolution authorizing an amendment to the Constitution of Canada;

And whereas the National Assembly of Quebec has reaffirmed the established rights of the English-speaking community of Quebec, specifically the right, in accordance with the law of Quebec, of members of that community to have their children receive their instruction in English language educational facilities that are under the management and control of that community and are financed through public funds;

And whereas section 23 of the *Canadian Charter of Rights and Freedoms* guarantees to citizens throughout Canada rights to minority language instruction and minority language educational facilities under the management and control of linguistic minorities and provided out of public funds;

And whereas section 43 of the *Constitution Act, 1982* provides that an amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province to which the amendment applies;

Now therefore the Senate resolves that an amendment to the Constitution of Canada be authorized to be made by proclamation issued by His Excellency the Governor General under the Great Seal of Canada in accordance with the schedule hereto.

SCHEDULE

AMENDMENT TO THE CONSTITUTION OF CANADA

CONSTITUTION ACT, 1867

1. The *Constitution Act*, 1867, is amended by adding, immediately after section 93, the following:

"93A. Paragraphs (1) to (4) of section 93 do not apply to Quebec."

CITATION

2. This Amendment may be cited as the *Constitution Amendment,* year of proclamation (Quebec).

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Will those honourable senators in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators against the motion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "yeas" have it.

And two honourable senators having risen.

The Hon. the Speaker: Call in the senators. I am advised that there will be a 20-minute bell. The vote will take place at 5:10 p.m.

Motion sustained on the following division:

YEAS

THE HONOURABLE SENATORS

Adams
Atkins
Bacon
Beaudoin
Berntson
Bolduc
Bonnell
Bryden
Callbeck
Carstairs
Chalifoux
Cochrane
Cogger
Corbin
Fairbairn
Ferretti Barth
Gigantès
Grafstein
Graham
Hays
Hébert
Joyal
Kelleher
Kelly
Kenny
Kinsella
Kolber
LeBreton
Losier-Cool
Lynch-Staunton
Maheu
Meighen
Mercier
Milne
Moore
Murray
Nolin
Pearson
Pépin
Petten
Poulin
Rivest
Roberge
Robichaud (*L'Acadie-Acadia)*
Robichaud (*Saint-Louis-de-Kent*)
Rompkey
Spivak
Stewart
Stollery
Watt
Whelan—51

NAYS

THE HONOURABLE SENATORS

Cohen	Keon
Cools	Oliver
Di Nino	Robertson
Doyle	Rossiter
Forest	St. Germain
Gustafson	Taylor
Haidasz	Tkachuk
Hervieux-Payette	Wood—17
Jessiman	

ABSTENTIONS

THE HONOURABLE SENATORS

Butts
Lavoie-Roux—2

NEWFOUNDLAND

CHANGES TO SCHOOL SYSTEM—AMENDMENT TO TERM 17 OF CONSTITUTION—CONSIDERATION OF REPORT OF SPECIAL COMMITTE—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Fairbairn, P.C., seconded by the Honourable Senator Hébert, for the adoption of the Report of the Special Joint Committee on the Amendment to Term 17 of the Terms of Union of Newfoundland, deposited with the Clerk of the Senate on December 5, 1997.

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, I rise to participate in the debate on the report of the Special Joint Committee on the Amendment to Term 17, the Terms of Union of Newfoundland.

Honourable senators, let me invite you to take the Order Paper and Notice Paper of today, which is on your desk, and ask you to turn to page 5. On page 5, you will find the "Schedule Amendment to the Constitution of Canada," around which the report we are debating is focused.

It is important, honourable senators, that you very carefully read the words in this proposed amendment to the Constitution. I draw your attention to clause 17(1), which, in effect, is proposing that this Term 17 will apply in respect of the Province of Newfoundland. The proposed section 17(2) states:

> In and for the Province of Newfoundland, the Legislature shall have exclusive authority to make laws in relation to education, but shall provide for courses in religion that are not specific to a religious denomination.

Please underscore those words, honourable senators, because I will refer to them several times in my remarks.

I would also ask you to refer to the proposed section 17(3). Placed in the Constitution of Canada, it is suggested in this clause that "Religious observations shall be permitted in a school where requested by parents."

Honourable senators, either the House of Assembly for Newfoundland and Labrador wants to assume the exclusive responsibility for education or they do not. If they do, then why are we putting all of these redundant words after the word "education" in clause 17(2)? If we are agreeing with the House of Assembly for Newfoundland and Labrador and with the members of the other place that we wish to give to the House of Assembly of Newfoundland and Labrador the exclusive jurisdiction in matters of education, why do not we put a full stop after the word "education" in the proposed section 17(2) and delete the rest of it?

Honourable senators, I was able to rise and support the resolution affecting the schools in Quebec because I believed it was the right thing to do at this point in our history. Dealing with a linguistically developed school administration in the Province of Quebec, I believed the regime to be contemporary, appropriate and proper. Honourable senators, I also read the evidence which some of our colleagues heard while participating in the joint committee dealing with that resolution. I also listened very carefully — indeed, I had the opportunity to raise a question with the distinguished minister who appeared before the Committee of the Whole — to the minister's and the government's assessment of the will of the Catholic community in the Province of Quebec. We were told that the Catholic bishops of Quebec did not oppose that development in Quebec. However, honourable senators, that is one of the major differences between what we have just supported, which affects the schools of Quebec, and what we are being asked to support with reference to the schools of Newfoundland.

•(1720)

Honourable senators, first, the Roman Catholic bishops of Newfoundland and Labrador categorically, unequivocally, without doubt, without confusion, without any misunderstanding, have told us that the Roman Catholic Church does not see the rights that they presently have with reference to Catholic schools in that province. That is categorically different from the position taken by the Conference of Catholic Bishops in Quebec. Second, not only are the Catholic bishops of Newfoundland and Labrador opposed to losing the rights they presently have, but the Canadian Conference of Catholic Bishops, who did not oppose the change affecting Quebec, have gone on record opposing this amendment affecting the Province of Newfoundland and Labrador.

I have here a copy of a letter dated November 26 from the Canadian Conference of Catholic Bishops, signed by the Most Reverend Douglas Crosby, Bishop-Elect of Labrador City-Schefferville. The letter, addressed to all members of Parliament and senators, says, among other things:

> We have recently been informed by the Clerk of the Committee —

referring to the joint committee of the House of Commons and the Senate, which committee's report we are now debating

> — that time constraints prohibit the Committee from hearing our presentation. Because of the serious nature of the resolution before Parliament we deeply regret that we cannot be heard.

I looked, as you may, at the appendices to this report and found that the written submission of the Canadian Conference of Catholic Bishops was not appended.

The Canadian Conference of Catholic Bishops, like their colleague the Archbishop of St. John's, James MacDonald, who appeared before the joint committee, categorically reject the proposition that we should take away the right which the Catholic community has to Catholic schools in that province.

In their letter, the Canadian Conference of Catholic Bishops say a couple of important things which I wish to bring to the attention of this house. First, with reference to the incompetence, in their view, of governments to provide a course in religion, they refer to clause 17.(2) which says that after we give all the power and jurisdiction to the House of Assembly for matters of education, the government will design courses in religion and will want that in the Constitution.

Of clause (2) of the proposed amendment to Term 17, the bishops write that this remarkable clause purports to give the provincial government the exclusive authority to provide courses in religion. Instead of their own religious education programs taught by their own teachers, which they have enjoyed for 150 years and which is guaranteed by the Constitution, Roman Catholics in Newfoundland are offered the vague possibility of courses in religion that are not specific to a religious denomination. They go on to say in their brief:

> The proposal before you is so disturbing because it appears to create a secular religion that will ultimately undermine religious belief. It assumes that religion can be treated as a subject instead of as a way of life and a faith to be handed on. It weakens the ability of the particular denomination or religion to pass on its faith to its own members and, in the end, may undermine a person's ability to see the value in any particular religion. And who will teach these courses? At a time when religious studies programs at universities are moving away from having a particular religion taught by someone who has not practised that faith, this proposal seems a backward step.
>
> Apart from appearing to create a secular religion, the proposal completely overlooks the fact that in the Roman Catholic Church the only person who can decide on the content of a religious education program for Roman Catholic children is the local bishop. As previously mentioned, the bishops of Newfoundland and Labrador have accepted the religious education program developed and published by the Canadian Conference of Catholic Bishops.
>
> No matter how well educated or well meaning, government officials are simply not competent to provide a religious education program that is appropriate for Roman Catholic children.

Honourable senators, it is clear that at least the Roman Catholic bishops of Newfoundland and Labrador and, nationally, the Canadian Conference of Catholic Bishops, are telling Parliament, first, that in no way do they cede the right or entitlement which they presently have as protected by the Constitution and, second, that even if the power of Parliament is to be exercised and constitutional protection is to be ripped away from them, they are asking us to look at the words contained in clause 17.(2). They are saying that government cannot provide for courses in religion.

Honourable senators, compare that with what we have just adopted for Quebec. Nowhere have we put in the Constitution for Quebec that the government of Quebec will be teaching religion. Rather, a very wise accommodation was reached by the people involved in that province. Pursuant to that accommodation, under the Schools Act they are prepared to make arrangements to provide for Roman Catholic education in Roman Catholic schools. As Senator Beaudoin said earlier this afternoon, if necessary but not necessarily, we would even use section 33 to shield that provision if it is challenged.

In Quebec, Catholic education will be protected under the Schools Act. Equally, other denominations in Quebec will be able to come forward and work out an arrangement under the Schools Act. That is why one can understand why many faith communities in that great province have supported the proposal.

•(1730)

However, rather than doing it under the Schools Act, Newfoundland and Labrador they have tried to come up with a hybrid. In my judgment, it is a very dangerous hybrid. On the one hand, they want to abolish the present system, notwithstanding that the Roman Catholic bishops have said that they do not want to give up that right. The Pentecostal community has said categorically that they do not want to give up that right, which is what their numbers in the referendum indicated. The Seventh-day Adventist community is of the same view. Upon analysis, the numbers from the referendum indicate that these three identifiable communities do not agree that their entitlement be taken away from them.

Honourable senators, I thought Senator Kirby made an interesting observation in the debate on the report on the Quebec resolution. He observed how important it has become for Parliament to come up with a model or vehicle to examine these types of requests. How do we determine what the protected group desires? Can we come up with a formula? I commend to honourable senators Senator Kirby's remarks on that particular point.

When I compare the Newfoundland resolution with the Quebec resolution, as far as the Catholic community is concerned, the bishops are saying yes in Quebec and no in Newfoundland. In addition, with respect to Newfoundland and the Pentecostal community, one can add to the statement of their leadership before the joint committee, which was forthright, the analysis of the referendum numbers.

The Hon. the Speaker: Honourable senator, I regret to interrupt you, but your 15-minute time limit has expired.

Senator Kinsella: May I have leave to continue, honourable senators?

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Kinsella: Honourable senators, the Pentecostal community, the Roman Catholic community and the Seventh-day Adventists do not agree that their entitlement should be taken away.

The Catholic community did not turn out in great numbers. That is true. The areas where they live indicate that the majority of Roman Catholics who did vote voted "yes" in the referendum, which raises a couple of issues in my mind. On the one hand, in the Roman Catholic community, as witnesses told us, the bishop is the chief teacher. I just read for you from the letter of the Canadian Conference of Catholic Bishops, which said the local bishop determines Catholic religious education. If that is the nature of that faith community and the bishop plays the lead role in terms of education, a referendum on how that faith community operates ought to be irrelevant. If not irrelevant, it raises the question of freedom of association and that Roman Catholics should be free to associate. People are not obliged to participate in that association of Catholics. They can go to another faith community or no faith community at all if they so wish.

What the Catholic bishops of Newfoundland said is interesting, but, my goodness, we had a referendum. Honourable senators, I suggest to you that, if there were a referendum in Newfoundland on birth control, on female priests, and so on, the results would be overwhelming in the sense that it would probably not be congruent with the traditional teaching in that faith. That is not how that community determines its dogma or its teaching.

One must be careful in taking that type of analysis from votes and saying that this is what the Catholic community wants, when in actual fact the Catholic community is expressing itself as a faith community through the manner in which they have decided to do so. In his remarks a few days ago, Senator Joyal alluded to the hierarchy of the structure of that community.

Apart from the Roman Catholics, of course, are the Pentecostals. There, you not only have the vote results, but you also have the categorical statement of the leadership.

Honourable senators, in committee, we went beyond trying to determine what the affected classes of persons feel about this resolution. It is clear that those three faiths I mentioned are ceding in no way their entitlements.

Equally important, if the resolution were to be adopted and one was to give to the House of Assembly this exclusive jurisdiction over education, they could achieve the same result by placing everything in the Schools Act. As members of the Parliament of Canada, I suggest that we ought not take the risk associated with placing in the Constitution a clause stating that the government shall provide for courses in religion, nor placing in the Constitution a clause stating that religious observations shall be provided when requested by parents. If those two propositions and what they speak to are not all about shielding those activities from the Charter of Rights and Freedoms, then why are we putting them in there? Clearly, those provisions are there because proponents know that they are dangerous as far as the Charter of Rights and Freedoms is concerned.

Honourable senators, why should we be asked to place something in the Constitution which would run afoul of our constitutional values as expressed in the Charter? If the House of Assembly of Newfoundland and Labrador wishes to do so, it could try to do so and assume the responsibility. The people of Newfoundland and Labrador could be the adjudicators by drawing on the shield that is available to Parliament and every legislature in section 33(3) of the Charter, the *non obstante* provision.

Witnesses told us categorically that this Term 17 amendment is flawed in regard to the Canadian Charter of Rights and Freedoms, and it is also flawed in terms of the International Covenant on Civil and Political Rights to which Canada is a signatory.

From a domestic point of view, Professor Patrick Malcolmson told us that a Government of Newfoundland course in religious education would privilege some religious communities over others, opening up the distinct possibility for the marginalized to mount a Charter challenge. For the record, this is what he said:

> Term 17(2) should simply end after the word "education." Term 17(3) should simply be dropped. These changes would allow for the Newfoundland public school board to offer courses in religious instruction and permit religious observations in the public schools provided that such actions did not constitute a violation of the Charter of Rights.

So my conclusion then is the proposed amendment is clearly an honourable attempt at a compromise, but the wording of the amendment may be creating more problems than it solves.

Professor Donald Fleming spoke to us about the legal obligations Canada has in terms of the International Covenant on Human Rights. On that subject, he pointed out clearly that the case law which is available under the International Covenant on Civil and Political Rights speaks to this provision of Term 17 as being such that the human rights community of the United Nations will be condemning Canada for this clause.

•(1740)

What is interesting, honourable senators, is that when there is a violation of our treaty obligations under international human rights law, it is not the province that has to respond, it is the Government of Canada which has to respond. It will be the Minister of Foreign Affairs who will have to respond before the United Nations if Canada is found in violation of our treaty obligations.

Honourable senators, as Mr. Justice Kevin Barry of Newfoundland has said to us in his letter, if the Parliament of Canada approves this measure, it will have done an injustice to the members of the churches directly concerned by means of a flawed referendum process. It also will have created a shining precedent for other provincial governments who may wish to abolish constitutional religious rights of minority denominations.

In light of these kinds of considerations, honourable senators, and particularly in light of the fact that the joint committee whose report we are now debating did not hear from such an important witness as the Canadian Conference of Catholic Bishops, I move, seconded by Senator Doyle:

That the Report be not now adopted but that it be referred to Committee of the Whole for study and report.

On motion of Senator Murray, debate adjourned.

CANADA SHIPPING ACT

BILL TO AMEND—REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the fourth report of the Standing Senate Committee on Transport and Communications (Bill S-4, to amend the Canada Shipping Act (maritime liability, with amendments) presented in the Senate on December 12, 1997.

Hon. Lise Bacon: Honourable senators, I have the honour to move the adoption of this report.

Bill S-4 deals with the modernization of the Canada Shipping Act to ensure that the statute reflects the shipping realities of today. It amends Part IX and Part XVI of the Canada Shipping Act. Part IX deals with the global limitation of liability for maritime claims, while Part XVI deals with liability and compensation for oil pollution damage.

[*Translation*]

By implementing the Protocol of 1992, Bill S-4 will increase the amount of compensation available to the victims of damages caused by oil tanker pollution.

[*English*]

The amendments to Part IX of the Canada Shipping Act are based on the 1976 Convention on Limitation of Liability for Maritime Claims and its protocol adopted in May of 1996 under the auspices of the International Maritime Organization. The bill was reported with three amendments.

[*Translation*]

Two of those amendments concern the definition of the word "pollutant."

[*English*]

The committee heard and received submissions from representatives of interested parties in the proposed legislation.

[*Translation*]

Although there has been a broad consensus on the principles and objectives of the bill, this matter of definition was raised as presenting a certain problem to the stakeholders.

During our examination of this bill, industry representatives spoke of their fears concerning its inclusion in this bill at this stage, and indicated to the committee that there ought to be consultation between the marine industry and the Department of Transport in order to allow the interested parties to reach agreement on an appropriate definition.

[*English*]

Moreover, it was agreed that such a change would be better addressed when dealing with a bill that is making various amendments to the Canada Shipping Act, such as Bill C-15 and not Bill S-4, whose main objective is to implement an international convention.

At our hearings, officials from Transport Canada recognized that, if it was necessary to have a discussion on the definition it could be done in the context of a Canada Shipping Act amendment rather than in the context of Bill S-4.

The third amendment is of a technical nature and was made so that the English version corresponds to the French version.

[*Translation*]

The new legislation will enable Canada to join the ranks of the numerous countries which have spoken out against the old protocol and have already implemented the 1992 protocol. If Canada does not follow suit, we might have to make higher contributions to the international fund, given the reduced number of members of the 1971 protocol.

Motion agreed to and report adopted.

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Bacon, report placed on the Orders of the Day for third reading at the next sitting of the Senate.

[*English*]

TOBACCO ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Haidasz, P.C., seconded by the Honourable Senator Stewart, for the second reading of Bill S-8, to amend the Tobacco Act (content regulation).—(*Honourable Senator Milne*).

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, this bill was adjourned in the name of Senator Milne. She has indicated to me that she does not wish to speak to this bill. As far as I know, there are no other senators on this side of the house who wish to speak to it at this time.

On motion of Senator Kelly, debate adjourned.

[*Translation*]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

CONSIDERATION OF SEVENTH REPORT OF COMMITTEE—DEBATE ADJOURNED TO AWAIT THE RULING OF THE SPEAKER

On the Order:

> Resuming debate on the motion of the Honourable Senator Rompkey, P.C., seconded by the Honourable Senator Whelan, P.C., for the adoption of the Seventh Report of the Standing Committee on Internal Economy, Budgets and Administration, (*the use of Senate Resources by Senator Thompson)*, presented in the Senate on December 9, 1997.—(*Honourable Senator Corbin).*

POINT OF ORDER

Hon. Eymard G. Corbin: Honourable senators, I enlist your patience. I know it is not necessarily popular at this hour of the day to engage in a debate that can lead us down hitherto unexplored paths, but I am raising a point of order. I will ask Your Honour to rule on this matter at the end of my speech.

We are currently considering the seventh report of the Standing Committee on Internal Economy, Budgets and Administration, which it had the honour to submit on Tuesday, December 9, 1997.

The first paragraph of this report reads as follows:

> Your Committee notes the attendance record of Senator Thompson and recommends that, effective immediately:

Three disciplinary measures are then listed. The report closes with the following words:

> Your Committee, in conjunction with the Standing Committee on Privileges, Standing Rules and Orders, is continuing to study this issue.
>
> Respectfully submitted,
>
> WILLIAM ROMPKEY
> *Chair*

•(1750)

I do not want to play devil's advocate, but I have a problem with this way of doing things. Regardless of the actual or apparent seriousness of an alleged offence or incident, the issue must, in my opinion, be reviewed and dealt with according to the provisions of parliamentary law, that is the applicable customs, practices, traditions and rules. To depart from this could negate the Senate's powers. The fact that a committee would give itself such powers weakens the whole institution.

In this particular case, I think the Committee on Internal Economy, Budgets and Administration gave itself a power that is the exclusive prerogative of the Senate as a whole, chaired by the Speaker.

All matters of privilege must ultimately be submitted to the approval of this chamber and no other body. I find it disturbing that the Committee on Internal Economy, Budgets and Administration concluded, upon merely looking at a record of attendance, that it had to take action.

Not one member of that committee submitted the issue to the attention of the Senate as a whole, which is the appropriate place to deal with such issues. If we deprive a senator of some of his privileges, we are in effect targeting and jeopardizing the privileges of all senators. This is why it is so important to debate the issue this afternoon.

In this particular case, a record of attendance was examined. What is the reason for this register? To my knowledge, it was never intended to be used for disciplinary reasons. It was established for reasons of transparency, so the public would know who is present and who is not.

The register does not mention the reasons why a senator is absent. As Senator Murray pointed out in his speech on Friday, it is up to each senator to justify his or her absences. This is, in my opinion, a sound rule.

Nevertheless, if one or more senators, or all senators, have concerns about the reasons given for an absence, a series of absences, or a prolonged absence, the matter must be addressed within this chamber. This has not been the case, despite all the publicity that has been stirred up around the absences of the senator concerned by this report.

This concerns me. Based on random reasons, we can judge performance on an attendance record, as is the case today; tomorrow, it could be for some other reason; and gradually this committee, which is not equipped to consider such questions, can end up turning, to all intents and purposes, into a kind of Senate police. This is where such practices could lead.

I am going to quote some extracts from the *Rules of the Senate*, focussing on certain parts of it.

In Part I of the *Rules of the Senate,* which addresses interpretation, rule 2 reads as follows:

> Except so far as expressly provided, these rules shall in no way restrict the mode in which the Senate may exercise and uphold its power, privileges and immunity.

This clearly establishes the right of the assembly of senators, chaired by His Honour the Speaker, to determine its powers, privileges and immunities. Privileges encompass not only the privileges of all senators as a whole, but also the individual privileges of each senator who is a member of that assembly.

In Part III of the Rules, in the chapter *Order and Decorum*, rule 18(3) provides as follows:

> When the Speaker has been asked to decide any question of privilege or point of order he or she shall determine when sufficient argument has been adduced to decide the matter, whereupon the Speaker shall so indicate to the Senate, and continue with the item of business which had been interrupted or proceed to the next item of business, as the case may be.

This rule establishes the primary prerogative of the His Honour the Speaker to examine the question of privilege or point of order submitted to him. The Senate may appeal a Speaker's ruling. Ultimately, therefore, it is the assembly which decides on questions of privilege.

The Senate has instituted several standing committees, including the Committee on Privileges, Standing Rules and Orders, composed of fifteen members, four of whom shall constitute a quorum. This committee is authorized, first of all:

> (i) on its own initiative to propose, from time to time, amendments to the rules for consideration by the Senate;

Although these are broad powers, they do not, in my opinion, authorize it to judge the behaviour of a senator, unless instructed by the chamber to do so.

Rule 86. (1) (*f*) (ii), in referring to the functions and duties of the Committee on Privileges, Standing Rules and Orders, provides that the committee is empowered:

> (ii) upon a reference from the Senate, to examine and, if required, report on any question of privilege;

It is clearly indicated that this committee may not, on its own initiative, institute or initiate an investigation into a specific question of privilege concerning a senator or all senators, unless it has received a reference from the Senate.

Rule 86.(1)(*f*)(iii) states that the committee is empowered:

> (iii) to consider the orders and customs of the Senate and privileges of Parliament.

This, in my opinion, must be understood generally, and not specifically.

In the same rule, part (*g*) on the Committee on Internal Economy, Budgets and Administration reads as follows:

> The Committee on Internal Economy, Budgets and Administration, composed of fifteen members, four of whom shall constitute a quorum, which is authorized on its own initiative to consider all matters of a financial or administrative nature relating to the internal management of the Senate.

•(1800)

I interpret this mandate the Senate has given the Committee on Internal Economy to allow it to examine —

The Hon. the Speaker: Honourable Senator Corbin, I must interrupt you as the clock reads six o'clock. Do the honourable senators agree that I should not see the clock?

Hon. Senators: Agreed.

Senator Corbin: Honourable senators, I was saying that the Committee on Internal Economy is authorized to examine, on its own initiative, and this is where I have a problem, and I quote:

> ...all matters of a financial or administrative nature relating to the internal management of the Senate.

It is my understanding that the internal management of the Senate does not include the activities of individual senators. This matter is a question of privilege for the Senate as a whole, with His Honour the Speaker in the Chair. That is where the problem lies.

I now refer you to rule 90, regarding the powers of a committee and I quote:

> A standing committee shall be empowered to inquire into and report upon such matters as are referred to it from time to time by the Senate, and shall be authorized to send for persons, papers and records, whenever required, and to print from day to day such papers and evidence as may be ordered by it.

It seems clear to me that a committee can inquire into and report on any issue the Senate deems advisable to submit to it. In the present case, however, I cannot remember if this was done, but I do not believe the Senate gave the committee on internal economy a mandate to examine the attendance record of a certain senator, to report to the Senate and to propose disciplinary measures. Rule 93 provides:

> The Senate may appoint such special committees as it deems advisable and may set the terms of reference and indicate the powers to be exercised and the duties to be undertaken by any such committee.

The Senate has in the past struck committees to look at the privileges of various senators. I did not have time to look at precedents, but as I recall clearly, in the matter involving Senator Carney, a committee was struck to consider her question of privilege. Rule 93 makes this possible. It does so to prevent committees whose terms of reference are set and limited from assuming powers that are the Senate's own. That is how I understand the rules.

Finally, I quote rule 96.(7), which provides:

> Except as provided in these rules, a select committee shall not, without the approval of the Senate, adopt any special procedure or practice that is inconsistent with the practices and usages of the Senate itself.

I just said a moment ago that questions of privilege, questions concerning the behaviour, for example, of a senator, his absence or his activities are reserved for the Senate as a whole. If it so wishes, it may order a standing committee or even strike a special committee to look at the question that was first and foremost raised in this house.

It is certainly not my intention to endorse the behaviour of the senator in question.

The Hon. the Speaker: Honourable Senator Corbin, your 15 minutes are up.

Senator Corbin: I think I said what I had to say, honourable senators.

[*English*]

Hon. Colin Kenny: Honourable senators, I listened with great interest to my learned colleague Senator Corbin. He has, as always, researched the issues thoroughly and well. I have a great deal of respect for Senator Corbin and the work he does in this chamber. I would like to make some observations.

The Hon. the Speaker: The question has been raised, Honourable Senator Kenny, as to whether you spoke on this matter previously.

Senator Kenny: I do not believe so. The senator is raising a point of order, and I am replying to that.

Hon. Gerry St. Germain: Is it a point of privilege or a point of order?

The Hon. the Speaker: It was a point of order that Senator Corbin raised.

[*Translation*]

Senator Corbin: Just to clarify the matter, honourable senators, I said at the outset that I was raising a point of order and asking His Honour the Speaker to rule on the matter. I did not think it necessary to repeat it at the end of my remarks.

[*English*]

The Hon. the Speaker: Then it is a point of order.

Senator Kenny: I believe I am entitled to speak in response to a point of order, so I will continue, if I may.

I just said some nice things about Senator Corbin, if honourable senators will recall. For those who did not hear, Senator Murray has said that I am free to repeat them.

Senator Stewart: All the words before "but."

Senator Kenny: It is fair to say that the house is supreme and that it has delegated certain powers to certain committees. It has delegated them in particular ways. I draw the attention of members of the house to page 90, rule 86(1)(*g*) which states:

> The Committee on Internal Economy, Budgets and Administration, composed of fifteen members, four of whom shall constitute a quorum, which is authorized on its own initiative to consider all matters of a financial or administrative nature relating to the internal management of the Senate.

This report that we are addressing is not a report from the Standing Committee on Privileges, Standing Rules and Orders. That committee can deal on its own initiative to propose, from time to time, amendments to rules for consideration by the Senate; but this is not a report from that committee. It is a report from the Standing Committee on Internal Economy, Budgets and Administration which has a broad mandate to look into whatever it chooses.

That committee is making a report to this body which is the ultimate authority. Nothing can happen until this body makes a decision on this report. This body can accept, vary or reject the report which has come forward from Senator Rompkey as chairman of the Standing Committee on Internal Economy, Budgets and Administration.

In the event that a wrong has been done, or in the event that someone's privileges have been interrupted, that senator has the opportunity to come and present themselves here, to rise in their place and ask for a reference to the Rules Committee.

Rule 86(1)(*f*)(ii) states:

> upon a reference from the Senate, to examine and, if required, report on any question of privilege;...

If someone's privileges have been affected as a result of this report from the Committee on Internal Economy, they can come here and ask for a reference to the Rules Committee who will again examine the question and report back on whether that individual has faced interference in the exercise of his privileges.

I should also point out that the Standing Committee on Internal Economy, Budgets and Administration is a large one, and it is large for a reason. It gives a better flavour and a better sense of the Senate, so that one has a better understanding of what is going on. The same applies to the Rules Committee. With both committees combined, you have almost onethird of the chamber involved in this exercise.

•(1810)

I certainly believe that Senator Rompkey's report is in order. I believe that it is appropriate for us to be considering the report that he has filed, which is listed as No. 1 on page 6 of the *Order Paper and Notice Paper*. That report is before this supreme body of the Senate to judge collectively. It is up to us to decide whether we wish to adopt, vary, or reject that report presented by Senator Rompkey.

Senator St. Germain: Honourable senators, I have a question to ask of Senator Kenny. I refer to rule 43(1) which states:

> The preservation of the privileges of the Senate is the duty of every Senator. A violation of the privileges of any one Senator affects those of all Senators and the ability of the Senate to carry out its functions outlined in the *Constitution Act, 1867*. Action to ensure such protection takes priority over every other matter before the Senate. However, to be accorded such priority, a putative question of privilege must meet certain tests.

If a privilege has been violated and a senator is unable to attend, how does this reconcile with the action taken by the committee? I am not referring to the issue in which the media is interested, which does exist. However, if a senator is incapacitated and cannot appear in the Senate to protect himself or herself, it is the duty of each and every one of us to ensure that there is no violation of his or her privilege.

Senator Corbin has researched this matter, and I should like to direct this question to him, but I understand that under the rules I can only ask a question of the senator who has just spoken on the issue.

Senator Kenny: Honourable senators, I do not pretend to be an expert on the rules of anything, but I think that if any senator believes that Senator Thompson's privileges have been violated or interfered with, they have an obligation and a duty to stand and say so, and ask this chamber to refer the matter to the Standing Committee on Privileges, Standing Rules and Orders, which will, in turn, examine the question. There is absolutely no problem with the senator being represented there by counsel.

My motion on Friday made it clear that Senator Thompson could appear by himself, or with counsel, or could have counsel appear on his behalf. There is no problem at all with any senator moving a motion now relating to Senator Thompson's privileges, if they believe that those privileges have been violated, and asking for a reference from this chamber to the Rules Committee. I believe that that would be the proper way to proceed.

Senator St. Germain: Honourable senators, I am not speaking specifically about the case of Senator Thompson; I am speaking generally. A committee has taken an action, and my concern is with regard to whether it is a reaction as opposed to an action. I am not certain, and that is why I am seeking clarification. I would not want a vigilante type of mentality to develop anywhere within this institution just because of the actions or inactions of certain individuals. That is my concern, honourable senators. I just want to be certain that we are going in the right direction, and that we are not undermining this institution. That is my main concern.

I believe that we should effect change where change is necessary, but not simply for the sake of change. I believe that we should be proactive rather than reactive. However, having said that, I want to be certain that we are not in any way undermining this institution.

Senator Kenny: Honourable senators, I can only restate the facts with which I am familiar. The Standing Committee on Internal Economy, Budgets and Administration first addressed this issue on August 12. The committee came to a unanimous decision. At that time, the budget of the individual involved was limited. He was not given the authority to proceed as he intended. That information was communicated to him. I was

instructed to meet with him on behalf of the committee. He was also informed that if he felt his privileges were being interfered with, the committee would be pleased to hear from him, and that he would have the opportunity to stand in his place in the house and make that point to everyone in this room.

The ultimate protection that we all have is to stand in our places and tell our colleagues that our privileges have been interfered with, that we do not like what the committee has done, and that we want recourse. I believe that is pretty good protection. I believe that any senator who rose and made that complaint would get a fair hearing.

[*Translation*]

Hon. Roch Bolduc: Before we get to the matter of the status of Senator Thompson, do you not think we should have a ruling on Senator Corbin's remarks?

The rule reads, and I quote:

> The Committee on Internal Economy, Budgets and Administration, composed of fifteen members, four of whom shall constitute a quorum, which is authorized on its own initiative to consider all matters of a financial or administrative nature relating to the internal management of the Senate.

[*English*]

What exactly does "the internal management of the Senate" mean? Is it the body as such, the agency, the corporate body, or the management of each one of us? I am not sure at all.

Would it not be prudent to have the legal counsel of the Senate or the Speaker give us an interpretation of that? Your answer is that the Senate will decide. It seems to me that we must question the administrative nature of the internal management of the Senate. I do not think that goes as far as judging or prejudging or evaluating the performance of each of us here. I am not sure at all of that. I think that we should have an interpretation of that before discussing the report.

Senator Kenny: Honourable senators, I have great respect for Senator Bolduc, and I think he has made a point of considerable interest. These things are not cut and dried. However, some things are very clear. Some things are granted to senators by virtue of the Parliament of Canada Act, and the Committee on Internal Economy steered quite clear of those things. Those things deal with pay, allowances, and the right of a senator to travel here. Those are very clear in the act and the committee was very circumspect in terms of dealing with them.

However, rule 86(1)(*g*) states:

> The Committee on Internal Economy, Budgets and Administration, composed of fifteen members, four of whom shall constitute a quorum, which is authorized on its own initiative to consider all matters of a financial or administrative nature relating to the internal management of the Senate. It is fair to make a case that says, "I will interpret that very narrowly." Perhaps this is a broader interpretation. I think it is accepted that there are two possible interpretations.

•(1820)

Having said that, there was a problem facing the Senate. The Standing Committee on Internal Economy, Budgets and Administration is charged by law with extraordinary powers during a period when Parliament is not sitting, and it took action at that time. This issue has continued on now that Parliament is sitting. Again, if an error was made, there is an opportunity for redress. No one was here on August 12 to stand up and say that there is a problem. The Internal Economy Committee was here, and being charged by the Parliament of Canada Act to handle these matters, it did. It began the process at that time, and this is a continuation and a completion of that process.

The Parliament of Canada Act was amended to provide this authority. Prior to that, intersessional authority consisted of a few senators appointed by the leaders on each side. With the amendment, the Board of Internal Economy of the other place and the committee in this place were empowered by the act to handle these affairs during periods when Parliament is not in session. It started on that basis, and this is a continuation. Therefore, I think all is quite appropriate.

One could perhaps argue that an individual senator should rise and say, "I would like Internal Economy to look into this matter." Frankly, the way I read it, Internal Economy has the authority to start looking into this matter on its own.

[*Translation*]

Senator Bolduc: I am not judging the matter of Senator Thompson or how it was examined. My problem is as follows: Can we do that? If the jurist thinks we can, then fine, you are entitled to do so, and we will look at the report at that point.

[*English*]

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, we are on a point of order. Senator Kenny has not made a speech. Senator Kenny, therefore, cannot answer questions on a point of order. A point of order has been raised about the rules. Senator Kenny is taking one position on the rules, and Senator Corbin has taken a different position on the rules. I think both positions are clearly worthy of note and discussion, but it would be my recommendation that, since His Honour has been asked to rule on Senator Corbin's point of order, His Honour take it under advisement and rule as quickly as possible.

Senator Kenny: Honourable senators, I do not object to that at all. I thought I was simply clarifying my position in response to questions addressed to me. I thought that Senate tradition was such that we could respond if people were not clear on what we were saying. I obviously was not clear because several people had questions.

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, pursuant to rule 18(3) of the *Rules of the Senate*, the Speaker decides when he has heard enough debate on a point of order.

The Hon. the Acting Speaker: Honourable senators, perhaps it was a mistake to allow Senator Bolduc to debate the issue.

His Honour will take this point of order under advisement and will return to the chamber as soon as he is able.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

EIGHTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the eighth report of the Standing Committee on Internal Economy, Budgets and Administration (*budgets of certain committees*), presented in the Senate on December 10, 1997.—(*Honourable Senator Rompkey, P.C.*)

Hon. Bill Rompkey moved the adoption of the report.

Motion agreed to and report adopted.

THE SENATE

CONDUCT OF BUSINESS—INQUIRY

Hon. William M. Kelly rose pursuant to notice of December 9, 1997:

> That he will call the attention of the Senate to the way the Senate conducts its business.

He said: Honourable senators, I should like to make this speech one of these days, but this may not be the best evening. It has been a long day. I need some understanding of how the next couple of days will unfold. Will I get a chance to make this speech before Thursday night? If not, I will make it now.

Hon. Sharon Carstairs (Deputy Leader of the Government): Please proceed.

Senator Kelly: Honourable senators, some of you will remember that on at least two previous occasions I have spoken on the operations of this chamber. Much of what I am about to say will not surprise you.

In the past few weeks, there has been considerable discussion around senators' attendance in this chamber. Somehow a high personal attendance record in this chamber, at least over 60 per cent, has become the sole measure of the extent to which senators meet their obligations. Let us for a moment consider this proposition.

When legislation arrives here from the other place, the first responsibility of each senator is to become informed, first, of the purpose and principle of the bill. Perhaps those who put such stock in personal attendance have lost touch with the advances in telecommunications — faxes, e-mail and the like — but because of these advances, we need not conduct this particular review, the individual review, in the chamber itself. A senator can do this in his or her office and be briefed by the appropriate ministry staff, as we do, at his or her home, cottage, or anywhere where telecommunication connections exist. Where a senator has a position on the bill as far as the principle is concerned, it is important that he or she attend the sitting in order to enter the debate at second reading so that all senators may benefit from the views expressed.

It is important that as many senators as possible be present at the time of the vote on second reading in order to express accurately the consensus of this chamber. Following second reading, the bill is normally routed to the appropriate standing committee of the Senate.

Committee sessions take place outside of this chamber. At these meetings, witnesses are called and examined, and while there is a specific roster of committee members, all senators have the opportunity to raise questions and examine witnesses, but only the specified members, of course, can vote on the final report, which is then presented to the chamber.

Then there is third reading debate and a final vote. Once again, it is very important for as many senators as possible to attend the chamber, but most particularly those who still continue to have questions on the appropriateness of the legislation and those who have amendments to offer that they believe will improve the legislation. Voting on third reading ideally should involve every senator in the chamber, if possible.

It is important to note here that senators do not have to be in the chamber in order to hear the debates. Debates are broadcast to each senator's office, and the senators can hear the full debate without being present in the chamber during the debate.

I wonder, by the way, how many members of the media actually attend the debates in the other place that they report on, rather than simply watching the debates over CPAC?

•(1830)

Honourable senators, part of the Senate ritual is to hold its own Question Period. I have always found this particular exercise somewhat unusual given the nature of this place. I fully understand Question Period in the House of Commons, where ministers are present and can be questioned directly, and where the sessions are televised.

In our system of parliamentary government, the government of the day is chosen from and is accountable to the House of Commons, not the Senate. Governments rise or fall based on the confidence of the House, not the Senate. Question Period in the House is the principal mechanism by which the House holds the government to account and why one former Prime Minister referred to Question Period as "the crucible of parliamentary democracy." Such is not the case in the Senate. By convention, we normally have but one cabinet minister in the Senate. By virtue of the fact that he or she is the Leader of the Government in the Senate, they usually hold no other portfolio.

In recent times, and to my personal regret, Question Period in the Senate above all has emphasized the partisan divisions that exist. For example, it is fun for the government side to rehash all the alleged errors and evils of the Mulroney administration and of Mr. Mulroney himself, while this side tries relentlessly to destroy confidence in the current government. While Hansard faithfully records these exchanges, the sessions are not televised and we seldom, if ever, see the press in the gallery or any media reporting the sessions.

Above all, over the years, a number of truly excellent studies have emerged from the Senate standing and special committees, reports which have led to important legislation or to the amendment of laws to bring them more into line with the needs of an ever-changing society.

Honourable senators, I know that you know all of these things. What troubles me is that, somehow, the media has established attendance in this chamber as the number one measure of the legitimacy of this place and of those who serve in it. I do not think we should accept that standard or succumb to the assumptions that underlie it.

Hon. Senators: Hear, hear!

Senator Kelly: While I do not agree, I do not fault those who espouse this view, provided they reach that decision against a background of thorough understanding of how this place works. Sadly, I see very little evidence that the media is particularly well informed in this regard.

The Senate is truly a chamber of sober second thought. To perform that role properly, this chamber should be above the partisan factions of the day. This chamber is supposed to be above the day's fads and fantasies, and it is supposed to be independent.

The Senate has performed this role admirably over several crucial points in our history. I mention, by way of example, the so-called "Coyne affair"; the work done on the legislation to set up a civilian security intelligence agency, CSIS; the Senate's work on the Telecommunications Act and so on. I harken back to an earlier time when the government of the day, the Trudeau government, used this chamber to study proposed legislation in the first instance, using the expertise that is uniquely and generously found in this chamber.

When the Senate is allowed or encouraged to perform its proper constitutional role, it does so well. In order to perform the role properly, however, senators are or should be chosen from among those who are experienced and have attained a measure of achievement in business, academe, public administration, or one of the professions.

We have many senators here today who were or are leaders in their own professions or industries. I cannot possibly mention them all. Our favourite example is Senator Keon, a prime illustration of someone whose advice on legislation in the health field is unique and of considerable value. We have experts in legal matters, particularly in constitutional law, in Senator Beaudoin and Senator Grafstein. In business, we have Senator Kolber, Senator Eyton, and many others. We have Senator Lavoie-Roux, Senator Milne and Senator Fairbairn. We have Senators Pitfield and Bolduc, whose knowledge of public administration is second to none. We have Privy Councillors, and former premiers and members of Parliament.

These men and women are available to the public policy process because they have been appointed to this chamber. The country benefits from their willingness to spend whatever time they are able to deal with the affairs of this nation.

I venture to say that the experience accumulated in this chamber exceeds that of any task force, commission, or advisory group ever established by a government. It would cost substantially more than the cost of operating this place if this group charged the government for its services and advice at rates available to them in the private sector. I believe it is foolish, therefore, to claim that the first and foremost contribution they can make is simply to attend every session.

My point is that we cannot have it both ways. We cannot expect the type of person who we all want in this chamber to give up their careers in order to sit here whenever we are in session. I am not saying they should not sit here, but I am saying it should not be the prime requirement. The media and others who push attendance as the soul criterion for measuring our performance do not comprehend the Senate's role and, frankly, I suspect they do not approve of an appointed Senate as an institution anyway.

Honourable senators, I very strongly believe that a body such as this can provide a valuable service. However, as most of you who know me are well aware, I believe partisanship has no place in our deliberations. It is my belief that excessive partisanship, which has grown so strong, particularly in the past few years, seriously erodes our effectiveness and has led to much of the cynicism that exists these days as far as the Senate is concerned.

If we simply repeat the partisan debates that have occurred in the other place and, in the words of W.S. Gilbert, simply, "vote at our party's call and never think of thinking for ourselves at all," then we are not performing our constitutional role. Then attendance does become a meaningful criterion to judge our performance, and we have brought on ourselves the current furor over attendance.

Hon. Jerahmiel S. Grafstein: Will the honourable senator allow a question or two?

Senator Kelly: Certainly.

Senator Grafstein: I was privileged to watch Senator Kelly in action as the rapporteur of the economic subcommittee of the OSCE. I also read with great interest his work as chairman of the committee on security issues. I wonder whether he has ever made a calculation of the number of hours he spent outside committee and outside the chamber pursuing those two tasks. In other words, has he estimated the amount of time that a senator would spend as a chairman of a committee or playing a senior role, quite apart from the hours spent in committee and in the chamber to facilitate those public services?

Senator Kelly: It is difficult to be precise. I was re-elected four years in a row to the OSCE. There, the report is presented before parliamentarians from the 54 countries comprising the OSCE, so you must defend your report. The research necessary for each of those years takes about four to six months, although not continuously. Honourable senators must remember that, as representatives of Canada, we were asked to comment on what had happened since the wall came down in Eastern Europe. We were preaching to people who were living in those areas, so it was not something that we could undertake to do lightly. I have no tally of specific hours, but it was an undertaking which took a considerable amount of time.

Senator Grafstein: Since the question of time spent in the chamber arose, I have tried to estimate how much time I spent, as a committee member on the joint Senate committee dealing with the Quebec school question. I am referring to time spent in the committee, time spent preparing speeches to make in this chamber, and time spent listening to speeches. I do not know if this corresponds with the experience of other senators, but I found that, for every hour I spent on that particular committee, I spent at least two to three hours outside that committee and outside the chamber simply reviewing the material.

I use that only as one specific example. Perhaps each senator should determine how much time they actually spent being involved in these particular matters. I can tell you that the old ratio in law is three to one, one hour in court and three hours of preparation. In the Senate, it is at least that.

Hon. John B. Stewart: Honourable senators, I should like to ask Senator Kelly a couple of questions. I agree with the senator that attendance is a superficial test of performance; however, some attendance would appear to be essential. Is there not a point when being here some of the time becomes important, or can a person remain be qualified legitimately as a senator if one has virtually resigned insofar as participation is concerned?

Senator Kelly: Honourable senators, I must preface my remarks by telling senators who may not be aware that Senator Stewart and I usually sit across from each other in committees, and we are usually at loggerheads. He has a nasty habit of overstating what I have said and cornering me, and he has done so once again.

•(1840)

Senator Stewart knows that I do not believe it is appropriate for a senator, no matter how able — even Senator Keon — to never show up in the chamber. Of course, the attendance must be more than just "reasonable." However, to aim for 100-per-cent attendance is not wise, nor is making this the number-one criterion.

Senator Stewart: I compliment myself for having elicited that improvement to the statement of the honourable senator's position.

I have a second question. Since we agree that attendance is of some importance, would the honourable senator agree that the business of this house should be organized so as to take into account the fact that senators from the far east and the far west have a much more difficult time in meeting the attendance requirements than other senators?

Some of my Liberal friends have heard me talk about the "TOM club." The "TOM club" is composed of senators from Toronto, Ottawa and Montreal. It is very easy for "TOMs" to nip in here and then to nip out, particularly those who reside in Ottawa. However, it is an entirely different matter for senators from, let us say, Saint John's, Vancouver or Prince Rupert.

Should the work of the Senate be designed not to be convenient for the "TOM club" but, rather, to accommodate all senators, including those from far away places, such as Prince Rupert and Saint John's?

Senator Kelly: Honourable senators, it is very easy to agree with that statement. However, I would remind the honourable senator that those members of the "TOM Club," to use his phrase, are more apt to be interrupted than a senator from the far east or from the territories. For example, people who know that Senator Grafstein is in Ottawa will call on him because they know that he is 30 minutes away. If he were in Vancouver, they would not do that.

Hon. Colin Kenny: Honourable senators, I have a question for Senator Kelly, if he will entertain it.

Senator Kelly: Senator Kenny has asked if I will respond to a question from him. I will have to hear the question first.

Senator Kenny: Honourable senators, Senator Kelly was the chairman of two special committees on terrorism. Would the honourable senator share with the chamber the nature of the work of that committee and how attendance was recorded in the Senate?

Senator Kelly: The two situations I remember about those committee hearings is that, first, we had great difficulty finding available committee rooms. Therefore, we met on Fridays, Saturdays, some Sundays and Mondays.

Second, we set a rule that we would not simply have witnesses appear before us at their convenience. If possible, we would set out our slate and we would insist on full day meetings. Despite the fact we were advised that it would not work, we found that it worked just fine. We reached out to people we wanted to hear from, and almost without exception they came when asked.

The committee meetings were pretty much outside normal Senate hours, if that is what the honourable senator wanted to know.

Senator Kenny: That was the first half of my question, senator.

The second half had more to do with the example using Senator Grafstein. Since Senator Kelly was the chairman in those instances, I wanted to know how much time he spent doing the work of the committee beyond the hours that we normally sit in this chamber and in committees.

Senator Kelly: The pattern we tried to follow was to summarize each day's work with our advisor. I would work in the evenings. The next day the senators were presented with a proposed analysis of what took place the day before, and we would debate that.

The Hon. the Acting Speaker: If no other senator wishes to speak on this matter, the debate is considered concluded.

FAMOUS FIVE FOUNDATION

MOTION TO COMMEMORATE EVENTS BY PERMITTING THE BUILDING OF STATUE ON PARLIAMENT HILL— DEBATE ADJOURNED

Hon. Joyce Fairbairn, pursuant to notice of December 12, 1997, moved:

> That, in the opinion of this House, the government should consider the request of the Famous Five Foundation to honour the memory of Emily Murphy, Nellie McClung, Irene Parlby, Louise McKinney and Henrietta Muir Edwards, known as the Famous Five, by allowing a statue commemorating them to be placed on Parliament Hill.

She said: Honourable senators, it gives me great pleasure, particularly as an Albertan, to have our colleague from Ontario, the Honourable Senator LeBreton, second this motion.

Honourable senators, in moving this motion I am motivated by a combination of pride, of gratitude and of determination that a pivotal moment in our history be recognized, respected and remembered on Parliament Hill and by all Canadians who come here to visit.

The success of these five Alberta women in the Persons Case of 1929 changed forever the composition of our Senate, and it was truly a daunting achievement. I am very conscious of the privilege I have been given to serve in what I believe to be a institution of fundamental importance to our parliamentary system of governance in Canada.

Approximately 70 years ago, honourable senators, I would not have had such an opportunity. There would have been no seat to rise from. There would have been no motion to move. There would have been no speech to give. I would not have made it through the doors of this chamber because, according to the law of the day, I would not have been recognized as a person with the right to receive the privilege of appointment to the Senate.

In the words of the English common law then in use, "Women are persons in matters of pain and penalties but are not persons in matters of rights and privileges." What hurtful words those are, both then and now. Certainly, in the world of 1997, that is an astounding premise.

However, the history of the previous century was very different in terms of what a woman could do legally in society and, just as important, what would not be tolerated as acceptable by that society itself. Canada, however, in the new century was opening bold frontiers, pushing aside barriers and hallowed conventions of the Victorian era.

The winds of adventure and change blew with particular vigour in Western Canada. The women were dusting off their skirts and successfully challenging the restrictions against their participation in public affairs. They were gathering to seek not just the grand objective of the vote but, for example, simple rights to purchase a homestead or inherit the property of a spouse. They turned isolation and loneliness into the companionship of the Women's Institute, the grain growers' gilds and the United Farm Workers' meetings. The stage was set to move ahead to acquire that right to vote, to hold public office, to fight together for individual justice and equality of opportunity for themselves and for their children.

The right for women to vote federally came in 1918. Agnes McPhail was the first woman elected to the House of Commons in 1921.

I can only imagine how tough that battle against law and entrenched convention was by some of the attitudes earnestly held by my mother who was born in the last century and who died in her 93rd year earlier in this decade. Her father was a frontiersman who travelled the plains. He portaged the Saskatchewan River. He drove a stagecoach between Calgary and Edmonton. He became the sheriff of the County of Lethbridge when Alberta became a province in 1905.

•(1850)

His wife, my grandmother, had played as a child in the stockade at North Battleford, Saskatchewan, where women and children were sheltered during the battles of the Riel rebellion. Thelma Chalifoux and I, and others, as friends and as senators, are pledged to work together to heal the lasting wounds of that rebellion after more than a century of wasted years.

My mother, widowed when I was six, was a wonderful mother and a devoted Canadian. Although she strongly supported me, I must tell you that she was not a crusader. Based on her inherited pioneer conventions, she questioned the propriety of my choice of the then male-dominated field of journalism as a career. Later, she was very skeptical about the degree to which, as a young woman, I would be capable of advising a prime minister. To the end, she continued to hold out the hope that I could also properly manage the responsibilities required of a senator. Nonetheless, she was very proud that I had a chance to give it a try. I mention this only to set a background for the enormous efforts required of the Famous Five to press their case at a time when even some women were doubtful of the value of their goals.

The other day I was asked by a friend, in a moment of gentle humour, why it was that the Famous Five are still continuing to cause a stir? Why not five famous men? Honourable senators, that is a good question and there is a simple answer. Our male compatriots never had to break this fundamental barrier. It did not exist for them. There was no doubt that they were persons in matters of rights and privileges with respect to their own lives and their participation in public responsibilities, including within both Houses of the Parliament of Canada. For a woman, it took a special courage and confidence to rise to this challenge. Each of the Famous Five had both of those qualities in large measure. Let me introduce them to you in this chamber where none of them ever had the privilege of sitting.

The leader was Emily Murphy, born in Ontario, sister to four brothers who chose law careers. She married a clergyman at the age of 19. Following the death of her youngest daughter, she moved to Alberta in 1903. She was a writer and an advocate for the property rights for married women. In 1916, she was appointed as the first woman police magistrate of the Women's Court in Edmonton and, indeed, the first in the British Empire.

Nellie McClung, the author of best-selling novels, was active in both the temperance and the suffragist movements. She was elected to the Alberta legislature from 1921 until 1926 and was the only woman in the Canadian delegation to the League of Nations in Geneva in 1939.

Louise McKinney was the president of the Alberta and Saskatchewan Temperance Union for 20 years. She represented farmers' organizations as a member of the Alberta legislature from 1917 to 1921. She also campaigned for the Dower Act and social welfare measures for immigrants and widows.

Irene Parlby was a member of the Alberta legislature from 1921 to 1935 and Alberta's first woman cabinet minister. She was also the first president of the women's branch of the United Farmers of Alberta and sponsored the Minimum Wage for Women Act in 1925.

Finally, Henrietta Muir Edwards grew up in Montreal and settled later in Alberta. She was the co-founder of the Victorian Order of Nurses. She became an expert and an advocate of laws concerning women and children in Alberta and Canada. She also championed the causes of divorce reform, mothers' allowances and prison reform.

The catalyst which brought these five women together was Murphy's first day on the bench, when her authority to sit as a judge was challenged on the grounds that she was not a person based on English common law. The defence attorney who launched that challenge contended that, if she did not qualify as a person in terms of rights and privileges, then, as the office she held was a privilege, she was appointed illegally and no decision of her court could be binding.

The Supreme Court of Alberta overruled that challenge on grounds of reason and good sense, but, for Murphy, the gauntlet had been dropped. In subsequent years, while women were beginning to win their place into legislatures and finally the House of Commons, all requests by women's groups and individuals to have a woman senator were rebuffed, including petitions promoting Murphy herself. Although the British-North America Act authorized the Governor General to appoint qualified persons to the Senate, women were not deemed to be persons.

Murphy fastened on to a little known right permitting any five Canadian citizens to ask the Supreme Court of Canada for a reinterpretation of the law; in this case, that the word "person" in the BNA Act would include women. She put out a call for help. The five women gathered on her Edmonton veranda and their petition was signed and dispatched to the Supreme Court that same August afternoon in 1927.

Nine months later, the Supreme Court turned them down and, angry but undaunted, the five women gathered their files and their courage and took their appeal to the Judicial Committee of the Privy Council in London, the last court open to them. After only four days of deliberation, the Lord Chancellor of the King's Privy Council announced in the historic decision that the British-North America Act represented in Canada a living tree of growth and expansion. They decided that the word "persons" in section 24 would henceforth include members of both the male and female sexes and that there must be an affirmative response to the question propounded by the Governor General. Women became eligible for summons to and membership in the Senate of Canada.

It was a tremendous day, a day of celebration and the decision led to the appointment in 1930 of Cairine Wilson as the first woman senator in Canada. Not one of the Famous Five ever received the call. Their extraordinary effort was recognized in 1938 with a modest plaque set in the dim foyer of our chamber.

Not until 1979 did an Alberta woman enter this chamber when former prime minister Joe Clark appointed Martha Bielish to the Senate. Mr. Clark also facilitated the creation of the Governor General's Persons Case Awards presented annually to five outstanding Canadian women.

Honourable senators, I received that call to the Senate 13 years ago from Prime Minister Pierre Elliott Trudeau and regarded it as a tremendous honour and, indeed, a privilege. Since that time, I have received encouragement, respect and a tonne of good advice from colleagues on both sides of this chamber. It has offered me a rare chance to participate in the national legislative process, to offer representations from my province of Alberta, and to give a voice to some special minority concerns, such as literacy, which all too often go unheard.

•(1900)

Today, I wish to say that I am very proud to be associated with my 27 women colleagues who work hard in the Senate and who have given focus to very special issues. Each in her own way, with her own background and experience, continues to challenge outdated conventions and restrictions, to uphold the value of our parliamentary system, and to forge new opportunities and demand solutions compatible with the realities of today and tomorrow.

I hope there will be many more of us in this chamber in the future. All of us are strong in our convictions. We are also dedicated to work with all of our colleagues — women and men — because together we all serve a greater cause.

In recent decades, we as women have celebrated a number of so-called firsts. However, honourable senators, I would say that the crusade 70 years ago went to the very heart of our being as individual citizens: the equality of rights and privileges as a person — no hyphens, no special definitions.

I am enormously grateful to the Famous Five Foundation in Alberta and I believe its spokesperson, Frances Wright, is sitting in the gallery. I am also enormously grateful to them for offering the statue of these women to Parliament Hill and for the extraordinary awareness campaign they embarked upon to bring Canadians closer to this important part of their history. The Ottawa chapter of the foundation has exerted a special effort to spread the word in the nation's capital. Senator Kenny's proposal for a public park here in Ottawa has further focused attention on the contribution of these five heroes.

As far as I am concerned, the more opportunities for understanding, the better.

However, honourable senators, a single plaque outside this chamber does little to honour the achievement of Murphy, McClung, McKinney, Parlby and Muir Edwards. I believe their service deserves a special and a lasting tribute. They deserve a home on this hill, beside the Senate, whose doors they caused to open wide for the women of Canada.

I hope that each of you will choose to support this resolution to persuade the government to offer the Famous Five statue that home.

Hon. Senators: Hear, hear!

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, would the honourable senator take a couple of questions?

Senator Fairbairn: Yes.

Senator Kinsella: On Saturday, in *The Ottawa Citizen*, there was an article contained in the "Letters to the Editor" section. The writer commented upon your motion. I wish he had been here to listen to your excellent speech. I believe it was a man who wrote the letter. He was not raising questions about the Persons Case and all that that means for the practice of freedom in Canada, but he did raise some questions about some of the individuals, and he questioned some of their views on certain issues.

I believe one of the persons whose views he was concerned about was Nellie McClung. The letter referred to her position on the matter of eugenetic sterilization and the provincial legislation in the Province of Alberta.

Does the honourable senator have any comments on that?

Senator Fairbairn: Honourable senators, I have not seen the weekend *Ottawa Citizen* because I was in Alberta on the weekend. I should like to see it before I comment on it, Senator Kinsella. Comments have been made in the past, but I am not sure they relate to Nellie McClung. I should like to have a opportunity to look at the letter before I comment on that question.

Senator Kinsella: Senator Fairbairn's motion concludes by seeking approval for a statue commemorating the five individuals to be erected. Is it those five individuals or is it the Persons Case that is the essence of the idea of placing a statue here? Is it these individuals and their careers or is it their achievements for the practice of freedom in Canada that is important?

Senator Fairbairn: Certainly, it is the sum total of what these individuals achieved together in challenging a law that restricted a large number of people in Canada from having the opportunity ever to serve in this place. It is hard to separate the two.

The five of them became a strong entity to fight the Persons Case — and fight it far further and stronger than anyone else in Canada was prepared to do. The result, their success, has, as I said in my remarks, changed the composition of this institution forever. It seems to me that, as a group, they performed an extraordinary service to Canada, permitting each of the chambers of its Parliament to be represented by both men and women.

As this was being discussed in the other place one week ago, someone asked, "Who are these people?" I say that answers our question. We do not know our Canadian history. That this particular part of history is unknown to many — men and women alike — is a tragedy. The essence of what was done is what warrants their presence on Parliament Hill because it is Parliament Hill and this Parliament which they changed.

Hon. Marjory LeBreton: Honourable senators, I rise in support of the motion introduced by my colleague Senator Fairbairn.

The Famous Five — Emily Murphy, Nellie McClung, Irene Parlby, Louise McKinney and Henrietta Muir Edwards — were, as we know, the driving force behind the now famous Persons Case which declared women legally persons on October 18, 1929.

This was a very important date not only because it allowed women to be named to this institution, but also because it laid the groundwork and encouraged women to step forward and fully participate in all aspects of society.

While none of the Famous Five made it to the Senate, that honour going to the Honourable Cairine Wilson who became this country's first woman senator in 1930, they would be pleased to know that women now make up over one-quarter of the representation in the Senate of Canada.

While there are those who would say it could and should be more, we should celebrate the fact that these numbers increased significantly by the 40 women who were summoned to the Senate under Prime Ministers Trudeau, Clark, Mulroney, and Chrétien.

Prime Minister Clark, in fact, as Senator Fairbairn has noted, named the first woman senator from Alberta, Martha Bielish, and established the Persons Award on the fiftieth anniversary of the landmark decision in October, 1979, during his short term as Prime Minister. This celebration, of course, has taken place every year since.

•(1910)

The contribution of these five women is significant. It is fitting that they be commemorated by placing a statue in their honour on Parliament Hill. It has been said that Parliament Hill has been reserved for monarchs and deceased prime ministers. While that has been the practice to this time, many of our institutions and past traditions need some updating and modernizing.

It is interesting to note that both the monarchs honoured by statues on Parliament Hill are women: Victoria, who oversaw our beginnings as a nation; and Queen Elizabeth, who signed the declaration that patriated our Constitution. I am sure they would enjoy the company.

When one considers today's society, we know that we have much to celebrate as women. Consider the role of women in the Second World War, not only on the battlefield but here at home in support of the war effort. People forget that our factories, which turned out aircraft, tanks, and military supplies, had large numbers of women working on the assembly lines. Ever-increasing numbers of women are graduating from our law schools and our schools of medicine. The number of women running small businesses is increasing every day. We have seen a Canadian woman go into space. We have women in the Supreme Court and in every level of courts in the land.

I am particularly proud of the fact that the first woman chief justice of a province was named by the leader of the government with which I was associated, former prime minister Mulroney, and, interestingly, it was in the province of Alberta.

In the Senate are women like myself who worked in the political backrooms for decades. There are women in this chamber who sought elected office in their own provinces or in the House of Commons. Many women have come to this place as outstanding servants of their communities. Senator Chalifoux, the most recently summoned woman to the Senate, is an excellent example of that. There is no place in society from which women are excluded. We even have a women's hockey team, and women's hockey is now a recognized Olympic sport. We are persons in every sense of the word.

In closing, I acknowledge that some may question these five women and their strongly held political views of the time, but we must note the importance of their contribution which culminated in the decision of the Judicial Committee of the British Privy Council on October 18, 1929: Their Lordships came to the conclusion that the word "persons" in section 24 of the British North America Act includes both the male and female sex.

That is the achievement we would be marking by honouring them with a statue on Parliament Hill. I hope this statue will serve as a beacon for women who are following in their footsteps and in our footsteps.

Hon. Colin Kenny: Honourable senators, I should like to support this motion but am not adequately prepared to do so today. Therefore, I move the adjournment of the debate.

On motion of Senator Kenny, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

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