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**Thursday, December 18, 1997**

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THE HONOURABLE GILDAS L. MOLGAT  
SPEAKER

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*Debates*: Victoria Building, Room 407, Tel. 996-0397

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## THE SENATE

Thursday, December 18, 1997

The Senate met at 9:00 a.m., the Speaker in the Chair.  
Prayers.

### BUSINESS OF THE SENATE

**Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition):** Honourable senators, we have before us a motion in amendment on the report dealing with Term 17 to the effect that the report be not now considered and that we move into a Committee of the Whole. I am concerned about the disposition of that motion. The substance of it will have been complied with by what is to follow shortly. I do not know whether I should ask for unanimous consent to have it adopted now, whether it would be more appropriate to do so after the Committee of the Whole, or whether, with unanimous consent, I should simply withdraw the motion.

**The Hon. the Speaker:** It was my understanding that the Senate agreed to proceed directly to Committee of the Whole this morning and that any other proceedings would follow the report of the committee.

Is that agreed, honourable senators?

**Hon. Senators:** Agreed.

### NEWFOUNDLAND

CHANGES TO SCHOOL SYSTEM—  
MOTION TO AMEND TERM 17 OF CONSTITUTION—  
CONSIDERATION IN COMMITTEE OF THE WHOLE

On the Order:

The Senate in Committee of the Whole on the motion of the Honourable Senator Rompkey, P.C., seconded by the Honourable Senator Petten:

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

1. Term 17 of the Terms of Union of Newfoundland with Canada set out in the Schedule to the Newfoundland Act is repealed and the following substituted therefor:

“17. (1) In lieu of section ninety-three of the *Constitution Act, 1867*, this Term shall apply in respect of the Province of Newfoundland.

(2) 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.

(3) Religious observances shall be permitted in a school where requested by parents.”

#### Citation

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

The Senate was accordingly adjourned during pleasure and put into a Committee of the Whole with respect to the resolution to amend Term 17 of the Constitution respecting the school system in the Province of Newfoundland, the Honourable Éymard G. Corbin in the Chair.

**Senator Carstairs:** Honourable senators, I ask that the Most Reverend Anthony Tonnos, Bishop of Hamilton and Chairman for Christian Education, and the Most Reverend Douglas Crosby, Bishop of Labrador City and Newfoundland, be invited to participate in the deliberations of the Committee of the Whole.

**The Chairman:** Is it agreed, honourable senators?

**Hon. Senators:** Agreed.

Pursuant to Order adopted earlier this day, the Most Reverend Anthony Tonnos, Bishop of Hamilton and Chairman for Christian Education, and the Most Reverend Douglas Crosby, Bishop of Labrador City and Newfoundland, were escorted to seats in the Senate chamber.

**The Chairman:** Welcome to the Senate, gentlemen. I would invite you, if you so wish, to make a statement, either one of you or both, and then we will proceed with questions from honourable senators.

Please proceed.

**The Most Reverend Anthony Tonnos, Bishop of Hamilton and Chairman for Christian Education:** As Senator Carstairs has said, I am Anthony Tonnos, the Bishop of Hamilton, Ontario. I come here today to represent the Canadian Conference of Catholic Bishops, for which I head the Commission on Religious Education, Christian Education, and I am also the co-treasurer. With me is Bishop Elect Douglas Crosby, who is the Secretary of the Canadian Conference of Catholic Bishops and is named to become, on January 2, the Bishop of Labrador and Schefferville.

**Hon. Senators:** Hear, hear!

•(0910)

**Bishop Tonnos:** I was making a presentation three weeks ago before the Pope and over 200 Catholic bishops at a synod in Rome. I am not sure if I was more excited and nervous on that day than I am today. However, I am very pleased to be here this morning. I wish to thank the Senate for the opportunity which they have given to the Canadian Conference of Catholic Bishops to make this presentation today.

The topic is one of great importance to us, and indeed of great importance to all Canadians. It revolves around the question of parental rights to choose denominational education for their children. We believe that parents have the primary responsibility for the care, upbringing and education of their children. It is the task of governments to help them to fulfil this vital responsibility. Because of their primary and irreplaceable role, parents have the right to choose the kind of education they want for their children, and to choose a school that corresponds to their own convictions, subject to standards of viability. In our view, public authorities should guarantee this parental right.

The proposal that is before you takes away parental choice because it establishes one public, secular school system which disregards parents' rights to educate their children according to their religious values. Simply put, there would be only one kind of school, and we believe that the government in a province is incompetent to provide a course in religion.

Clause two of the proposed amendment of Term 17 reads as follows:

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.

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 — something which Catholics have enjoyed for 150 years and 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.

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.

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.

Roman Catholics share, with other Christians and members of other world religions, the view that education should have a spiritual element. The Chief Rabbi of Britain has said: "Secularize education and you diminish it. You diminish its power for children. You diminish the dignity of our teachers and you diminish the value of education, as an end in itself."

It is our profound conviction that faith-based institutions in general, and Catholic schools in particular, contribute to and enrich Canadian society. Students develop a sense of meaning, a sense of values, by being assured that love, spirituality, sexuality, and social justice ultimately do matter. Families and society as a whole benefit from these institutions, which mediate moral and spiritual beliefs, together with those attitudes necessary for a continuing sense of community as well as cultural and spiritual identity.

In the proposal before you, it is not only a constitutional right that is at risk but the right of a minority. It is fundamental in any democratic nation that minorities are ensured that their concerns will be heard and their rights respected.

Members of the committee, we ask you to give careful consideration to the concerns of Catholics and members of the Pentecostal Assemblies and Seventh-day Adventists in Newfoundland, and to suggest to the Government of Canada that it evaluate what appears to have been an arbitrary and divisive method of amending a constitutionally guaranteed right.

I wish to appeal to you, as members of the Senate, to offer your support to the continuation of that democratic right which has existed in our country for so many years, from the time of its beginning; from the British North America Act; in our Constitution, in section 93; and in the various terms that brought the provinces into Confederation after the original Confederation. All of these have within them constitutional guarantees of the fundamental rights of parents to choose a religious denominational education for their children, if they will, and when it is viable.

We ask you, as champions of minorities, to protect these rights which we believe are so essential to our country.

I know that the bishops of Newfoundland have made presentations to the joint committee, and we are here today to support them in every way, to add the voices of the bishops of Canada to the appeals which they have already made. It is our hope that you will seriously consider this request which we make in support of the bishops of Newfoundland and of the Catholic parents of Newfoundland, who have strongly indicated their will to have denominational schools in their province.

•(0920)

**Senator Kinsella:** I wish to thank the witnesses for appearing this morning.

My analysis of the proposal is that it should fail. To explain my analysis, I would point to the provision to which you have alluded; namely, the words following the word "education" in the proposed new section 17(2); that is, that the province shall provide for courses in religion.

You have stated your position clearly and I am sure that my colleagues in this chamber will give some attention to it. I am confident that, if this measure passes, the issue will be back before us because it is fraught with error and danger and will not be sustained in the order of time.

As to the first issue, which is whether the Catholic people of Newfoundland and Labrador in any way cede their current right to unidenominational schools, that was the subject of a fair amount of consideration and testimony during the hearings held by the joint committee of the House of Commons and the Senate.

To be perfectly clear, perhaps you would restate your position. The bishops of Quebec clearly did not oppose the constitutional change affecting the schools in Quebec. However, the Roman Catholic Archbishop of St. John's, Archbishop MacDonald, testified before the joint committee in a categorical, unequivocal, clear and direct manner that the Roman Catholic class of persons do not cede this right, notwithstanding the results of the referendum.

From the standpoint of the Canadian Conference of Catholic Bishops, would you speak directly to whether the Catholic people cede that right?

**Bishop Tonnos:** The information provided to us from Newfoundland demonstrates a couple of points. You are all familiar with the history of revising the legislation and of the referenda that have taken place. From the second referendum, an argument has been made, to which the senator referred, that a majority of Catholics had voted in favour of this proposal in Newfoundland and Labrador. In fact, this is seriously contested and is even denied by the Catholic bishops of Newfoundland as well as by their Committee for Roman Catholic Education. The majority of Catholics did not vote against denominational schools.

Indeed, as I am sure you are also aware, when a challenge was presented to the court, it was because the parents of 24,000 Catholic students in Newfoundland had indicated that, whenever viable, they wished their children to attend Catholic schools. This might not seem like a huge number to someone from Quebec or Ontario, but it is a significant number in Newfoundland and Labrador. Indeed, it was after the court sided with that appeal made by the Catholics for Catholic schools, that the decision to hold a second referendum was made.

We believe that there is not a Catholic majority which has voted to cede these rights, and we believe very strongly that the way to determine the will of a minority is not to ask the majority. It is not to say to the majority, "What does the minority want?" That is, in fact, what these referenda have done. There is not a Catholic majority in the province of Newfoundland. They are a minority, and their rights have been or are in the process of being, unless this process can be halted, taken away.

The senator made reference to Quebec which I had not mentioned in my statement. There is an essential difference between Quebec and Newfoundland; between Quebec and any other province in this country; certainly between Quebec and the province from which I come, Ontario. That essential difference is that, in Quebec, the Catholics are a majority. They do not share the concern of Newfoundland Catholics of losing their minority rights. I will limit my comments to Newfoundland since that is the issue before us. However, there is no doubt that all in Canada see the loss of the protection in Term 17, or in section 93 in any one province, as a potential danger to the rights of parents in all the provinces of our country.

**Senator Kinsella:** I have been unable to find any other jurisdiction in North America where the government, whether provincial or state, teaches religious education. Are you aware of any state constitution in the United States of America which provides for religious education, or any such provincial provision in Canada?

•(0930)

**Bishop Tonnos:** I am not aware of any state or province that has established a system of religious education. Every province in Canada oversees its education, including the overseeing of religious education courses as such, and there are always guidelines. However, ultimately, these guidelines are very greatly influenced by, and are open to the influence of, the religious denomination which is concerned.

**Senator Carstairs:** I was very pleased, Your Grace, to hear your statement that parents are ultimately responsible for their children's education because I believe, as a parent, that that is in fact the correct situation. You indicated that the Roman Catholics in Newfoundland are a minority, and I think that is correct. However, we have heard from senators from Newfoundland about the structure of Newfoundland and the fact that there are pockets, if you will, of Catholics and Pentecostals throughout the province and that, in some areas, certainly, Roman Catholics are in the majority. Yet, in those areas, they voted in favour of the question put to them by the Government of Newfoundland and Labrador. Can you explain that?

**Bishop Tonnos:** People who are expert in polls and in questions on referenda claim that the question in this latest referendum was posed in such a way that it almost required — in fact, almost demanded — a positive response. The claim is that parents in those areas which you have mentioned, senator, might have been accused of or might have felt that they were being intolerant of others, that they were not allowing for the rights of others if they did otherwise. I am not an expert in these questions. However, I know that suggestion has been proposed and, undoubtedly, in courts of law it will be presented as one of the arguments contesting the results of this referendum.

When the Archbishop of St. John's spoke to the joint committee, he made it very clear with regard to large centres, such as St. John's, where a significant number of Catholics had chosen other than the Catholic school system, that the bishops respected the rights of parents to do specifically that, to send their children to other schools. They were sorry. They felt, perhaps, that they had in some way not lived up to proper expectations, but they were sorry. They acknowledged the right of those people to make those choices and to send their children to the schools of their choice.

**Senator Carstairs:** Your Grace, you made some statements about the inability of a government to provide a course in religion of a non-denominational nature. I suggest to you that that is going on now in the Province of Newfoundland. It has been taught for a number of years in the interdenominational school system in which they have done what is the equivalent of a comparative religion education course.

As a teacher in a Catholic school, I taught such a course in comparative religion because I think it is important in today's society, in particular in Canadian society, for children to understand that there is value in other faiths, that we should have enormous respect for the value of those faiths, and that, in addition, there are common linkages between those faiths.

You spoke of love, spirituality and sexuality. I think you would find those very linkages in all the great religions of the world. I would suggest that even those who do not practise a religion, those who are atheist or agnostic, would promote the same type of values of love, spirituality and sexuality.

Why do you not think that a government could establish such a curriculum?

**Bishop Tonnos:** The religions of the world, if they truly qualify as religions, and certainly the Catholic faith does, teach as part of their very being a tolerance for others, a respect for others, and a co-equality with others. That has always been part of the Catholic faith and of any faith which deserves the title of a religion.

It is one thing to teach a course on comparative religions, as you have said, and it is a good thing. If you go to many Catholic schools in this country, you will find that, at some stage in their educational span, a course in comparative religions has been presented. Usually it is in the senior grades, in the secondary school grades.

Comparative religion, however, is not what I as a Catholic am about. If I were a married person and had a child, I would want that child to have the faith that I believe, the faith that I cherish, the faith that I believe has made me a better person, a better citizen of Canada, a better member of my community and which, hopefully, some day would make me a star citizen in the eternity of heaven. That is what I would want for my child.

If someone is to teach this theoretical child of mine the values of the Catholic faith, then I would want that person to be someone who knows those values, who experiences those values and who lives those values. I would not want that person simply to present to the student in the school some concepts of either comparative religion or of moral values which have been watered down to the lowest common denominator in order to be acceptable to the vast sphere of citizens who comprise this great country in which we live.

If the government is to be true to its nature, if it is to be truly democratic, if it is truly to represent all of its people, then it cannot present a course of religion which would satisfy the Catholic parent with a child in that school.

**Senator Carstairs:** I understand that in the province of Newfoundland there is the opportunity to develop local curriculum. Therefore, it would be possible for a local curriculum, designed by Catholics, to be taught in a school where there were a significant number of Catholic children. Why would this not satisfy the desire for that kind of education for the Catholic child to whom you have made reference?

•(0940)

**Bishop Tonnos:** To the best of my knowledge, senator, I am not fully aware of the answer to that question. However, the indication that I have heard from the bishops in Newfoundland is twofold. First, it has been said that that course could not be specifically a Catholic course under the new term that is proposed. Second, they would have no right to such a course, that this would be something that might or might not be granted by the governing authority of the time.

**Senator Rompkey:** I have just met Bishop Tonnos, but I have known Bishop Crosby for some years, and he and I do not always hold the same positions on public issues. In Labrador, he enjoys a great deal of respect among Catholics and non-Catholics alike, and I am pleased to see him with us today.

On the first point, as to whether the referendum was conducted in an appropriate fashion and whether the vote reflects the will of the people, I would submit that in a province like ours, which is so small and where people talk often, we have what I might describe as an Irish approach to things whereby people discuss things quite openly and quite vigorously among themselves. This has been going on in our province now for about 10 years, and I would submit that people know quite well what the issues are, and I believe that they voted accordingly. I would submit that to suggest otherwise would be to make an unfortunate comment about them.

With regard to courses in religion, I would point out that in addition to courses, there are religious observances. There is provision in this constitutional amendment for religious observances, which means that the observances of one church and other churches could be held at the request of the parents or the people in the community. It is important to note, as Senator Carstairs already has, that in many communities in Newfoundland there is a preponderance of one denomination or another. In many communities there is clearly a majority of Catholics, and I would assume that those parents in those communities would want to have those observances. If they so desired, the law provides that they can.

With regard to courses in religion, it should be pointed out that the testimony we had from the province was that the process for developing curriculum is done by cabinet directive but with consultation with school boards, teachers, and professors at the university. The process of curriculum development is quite wide and inclusive. That is the way that the course would be designed.

With regard to why the course is there, my position is that that is what the people of our province wanted. We have always had religion in schools, and I think it was the desire of the people in the province that there still should be provision for the teaching of religion in Newfoundland schools.

I believe that this Term 17 places much more of the responsibility in the hands of parents and voters, and I make very little distinction between parents and voters. In many cases, they are one and the same. They will now get the right to vote for school boards, and they will now have the right to the kind of instruction that they want in schools for their children. If it is not there, then they can ask for it. It seems to me that parents in my province will have more rights and more responsibilities under this new Term 17 than they did before.

I am not sure there are questions there, but I certainly would like to hear your response.

**Bishop Tonnos:** Thank you for your comments, senator. Certainly, I respect them.

I would point out that, in the previous referendum, the party line was that wherever a group of parents request denominational schools and they were viable, they would have denominational schools. When 24,000 students had their parents ask for Catholic schools, the province seemed to change its tune and called a new referendum rather than grant the requests of those 24,000 parent-voters, whom the senator respects, and whom I certainly also respect.

The question is not what the government is now saying, such as, "We will now let you observe Christmas if you want to." The question is whether or not I have the right to observe Christmas in the school which I attend as a Catholic student in a province.

**Senator Cools:** I welcome the bishops here. I believe that this chamber is graced by their presence. I thank them for attending, and I would encourage them to come to Parliament more often.

The presence of the bishops before us is indeed historical. I have discussed this particular matter with Bishop Tonnos. In 1894, on the Manitoba schools question, the Roman Catholic bishops petitioned the Senate, and I believe the lead petitioner was His Eminence Cardinal Taschereau, Archbishop of Quebec. Senator Mackenzie Bowell advanced the petition on the floor of this chamber on May 9, 1894.

The Term 17 resolution itself says "...the Legislature... shall provide for courses in religion that are not specific to a religious denomination." My understanding is that religion must include dogma. If a legislature provided for courses in religion, they would not be courses in religion but, perhaps, courses in history or sociology, or something else. They cannot be courses in religion.

The preamble to the Constitution Act, 1982, states clearly that "Canada is founded upon principles that recognize the supremacy of God and the rule of law." Have Your Graces' constitutional lawyers considered the impact of this constitutional change on this proposed — because it has not yet passed — constitutional amendment to Term 17 on the preamble to the Constitution of Canada? I assure Your Graces that the same people who are driving the agenda to take away these minority rights are also driving the agenda to take that "God" preamble out of the Constitution Act, 1982.

**Bishop Tonnos:** Thank you, senator. Certainly, your statement in regard to religious education courses is exactly precise.

•(0950)

If a "religious" education course is to be that, it must be specifically according to the denomination which is teaching that particular religious course. In other words, to try to teach Roman Catholicism by explaining the tenets of Hinduism or any of the other world religions is simply not applicable, not correct, and not effective.

As to your second question, this is an issue of fundamental rights, rights to education. I am not a constitutional lawyer by any means, but I believe this is a real question which lawyers are examining.

**Senator Andreychuk:** Your Grace, there are two points by which I am guided. One is that minority rights are not absolute. They can in fact be infringed if it is in the best interests of the majority from time to time. The second is that we must, in a democratic society, respect minorities to the greatest extent possible.

With that preamble, I want to ask, after the first resolution failed, did the Government of Newfoundland approach you and the other religious leaders to see if there was another way to accomplish the government objective? Their stated objective was quality of education.

Do you believe they made an honest effort or any effort to accomplish their goals within the education system without tampering with minority rights, your rights?

**Bishop Tonnos:** In my opinion, the only time that the rights of a minority can be removed is when those rights are criminal, detrimental, or harmful to the commonweal of the country. This is certainly not the case here. Just the opposite, I believe, would be true.

In regard to the consultations which went on between the Government of Newfoundland and the Catholic church in Newfoundland, I can only say that this question has extended over a long period of time. The bishops of Newfoundland have stated in writing that they believe the consultations relating to certain points were not sincere at times. I am not qualified to comment beyond that. I was not personally engaged in that, but I have seen that statement in writing.

**Senator Pearson:** Welcome to our Senate chamber. Currently, as you know, Canadians are seriously questioning the roles of both church and state in all kinds of schools. The sad history of residential schools for aboriginal children and the even sadder legacy of the abuses that took place there have opened up a whole area of concern and responsibility for all of us.

As a practising Anglican, I am humbled. I have to take exception, I am sorry to say, to the suggestion that any church has the sole prerogative to impart spiritual values to children, and to the implication that love, spirituality, compassion and social justice can only be taught effectively in denominational schools. I agree with Senator Carstairs and with you — since I believe you said this at the beginning of your remarks — that the primary responsibility for sharing personal values rests with the family. Research has demonstrated that is where most children acquire their deepest source of understanding. However, school is where children are introduced to the wider world.

Do you or do you not believe that children have the same rights to freedom of religion and freedom to seek knowledge as

other human beings under the covenants on human rights and within the convention on the rights of the child, which convention the Vatican was one of the first to ratify?

**Bishop Tonnos:** I agree with you that the primary right to educate a child rests with the parent. There is no question about that. The fact is that, in this country, parents have granted to the state the task of educating their children. When they do that, they do not say to the state: You take my child and make that child whatever you want it to be. They do, however, say: You take my child and form that child while that child is within your educational system according to the principles, the beliefs, and the standards of morality that I hold — not that the state holds, but that I hold.

That is what I believe. I do not believe that any Charter of Rights claims that a child at the age of six has the right to determine its own future.

**Senator Bryden:** Does it have the right not to be indoctrinated?

**Bishop Tonnos:** Shall I answer? Whom am I to address?

**The Chairman:** I did not recognize anyone else. Senator Pearson, have you completed your questions?

**Senator Pearson:** Yes.

**Senator Doody:** I would like to return to the referendum itself, particularly with reference to Senator Carstairs' question in which she alluded to the particular demography or geography of Newfoundland and the distribution of its people and its communities.

Do you support a single school system where all children, regardless of their religious affiliation, attend the same schools where opportunities for religious education and observances are provided?

Currently, in the Province of Newfoundland, fully 73.2 per cent of all students attend a single community school. The integrated and non-affiliated population, at 55.03 per cent, attend a single community school. Of Roman Catholic students, 15 per cent attend a single community school. Of the population attending a single community school, 3.2 per cent are Pentecostal students.

It seems to me that all of these people, almost three quarters of the population of Newfoundland, would interpret that question as asking them to endorse a situation which they currently enjoy. How can they say no?

Would you not agree there is some justice in what I have just said?

**Bishop Tonnos:** Certainly, I would agree, senator, there is.



**Senator Doody:** Each Newfoundlander who voted was asked to either endorse or reject the situation that they now enjoy, having built it up over the past 150 years. They have cherished and nourished and paid for that system over the past 150 years. Why should they reject that? I cannot think of any reason. Thank you.

**Bishop Tonnos:** Thank you, senator. Your statement is valid and correct. I think, too, that, on the other side of the coin, those who do choose denominational schools and have had that right in Newfoundland for 150 years should be able to continue that as well.

•(1000)

**Senator Beaudoin:** Welcome, Your Grace. You said that Quebec is the only province where Catholics constitute a strong majority. I am glad that you put your finger on that fact because obviously it is the case. This being the case, the other provinces always base their theses on minority rights. In my view, that is true, but there are denominational rights as well.

I have no problem with rights for minorities, and denominational rights for minorities. My question relates to the distinction between minority rights and denominational structures in law. Must minority rights be protected necessarily by denominational structures instead of fundamental rights?

**Bishop Tonnos:** Perhaps there is a slight difference in our opinions here. I consider that the right to educate a child is also a fundamental right. The right to choose an education for that child that reflects a denominational content is also a right of the parent.

**Senator Beaudoin:** What is left to the state? Obviously, a modern state has the right to legislate in the field of education. I respect the thesis that states, yes, subject to the freedom of religion, the parent has the right to say, "Yes, we should have a teaching." I agree with that. However, this does not mean that the state does not have the power to organize the system of education, to teach history, to teach morality and all those other beautiful subjects. Where does it end?

The wording is possibly not as good as it could be in paragraph 2 of the resolution. Perhaps there is another way to say that the state may intervene, the state may promote, or the state should do something in respect of each denominational doctrine. At a certain moment, there is a distinction between rights and denominational structures.

We have had that debate for a long time in Quebec. People say they have the right to go to a Catholic school or a Protestant school, but it does not mean that the school boards must be Catholic and Protestant. There is a distinction.

**Bishop Tonnos:** I believe — and certainly the country of Canada believes, with you, that the regulation of education is up to the state. From the beginning of our country, education has been something that the province had the right to regulate. However, at the same time that this right was given to regulate education, the right of parents to denominational education was also granted. I do not claim for one minute as a leader in the Roman Catholic faith — nor would the leader of any other denominational faith claim, either — that I have the right to

regulate education in the City of Hamilton. I do believe that parents have the right, given to them by the law of this land, to say that they wish their children to receive the doctrinal tenets, the creed of that particular denomination.

[Translation]

**Senator Hervieux-Payette:** On October 7, I wrote to all the Catholic bishops in Canada in order to share my concern that they seemed not to be supporting the parents of Quebec with respect to the amendment to section 93, and that Catholic parents in Quebec felt abandoned by their church.

Today, you come from the province of Ontario to support the province of Newfoundland. You tell us you support the Catholic parents' challenge to the amendment of Term 17. Are you going to support the Quebec coalition of Catholic parents in their challenge concerning the rights that have been taken away from them?

[English]

**Bishop Tonnos:** The situation in Quebec, we believe, differs from the situation in Newfoundland because of the Catholic majority in Quebec. The bishops of Newfoundland have asked the Canadian Conference of Catholic Bishops for their support in this matter because they feel that they run the danger of losing the right to denominational schools in Newfoundland.

The bishops of Quebec do not feel that they are in that same dangerous position, and they have not appealed to us for our assistance in regard to this matter. The bishops of Quebec feel that the Catholic majority of parents in the province will be able to have denominational instruction in their schools, and I cannot contradict that position of the Quebec bishops.

[Translation]

**Senator Hervieux-Payette:** You have just been to the synod in Rome, which was attended by all of the North American bishops. We are familiar with the American system, which has always had non-denominational schools, and where there is less teaching — less than here at any rate — of the values of tolerance, compassion and sharing than we have received under a denominational system. Do you feel that the constitutional protection for religious instruction in Canada has been a key element in the development of a harmonious Canadian society?

[English]

•(1010)

**Bishop Tonnos:** I believe, senator, that the separate school system at no time teaches anything which is divisive for Canadian society. They are misunderstood by some, but I believe that our teachings are the teachings of our founder, Jesus Christ, who taught us that eventually we will be judged on how we treat our brother or sister; on the compassion which we show to our sister or to our brother; and on the assistance which we give to those sisters or brothers who are in need. I do not see that any of these teachings or any of the other teachings of the Roman Catholic Church could be divisive or detrimental to our common society.

**Senator Fairbairn:** I thank you both for being here today. I have one comment in addition to the questioning from Senator Carstairs. This involves an important issue.

It was our understanding at the joint committee — and I have confirmed it this morning — that in the case of a community with an overwhelming majority of a single denomination, it will be possible for that denominational instruction not by constitutional right, but by the viability, the credibility and the common sense of parental demand. I wanted to make that point.

Bishop Crosby, it has been indicated that, by the time this resolution passes, all denominations may have been asked already to participate in developing the curriculum course. If the resolution is approved, will the Roman Catholic denomination also take part in the formulation of that curriculum course?

**Bishop Tonnos:** I have already stated that such a course, because of its inclusive, total, complete, non-denominational aspect, would not be satisfactory to the Roman Catholic denomination or to some of the others who have expressed their will to the joint committee.

I cannot answer for the bishops of Newfoundland. They have always maintained that they recognize the need for improvement and reform in the educational system of the province and are anxious to participate in that improvement and reform. I would hope that that would continue to be their policy, but I know that they are adamantly opposed to these proposals.

**Senator Robichaud (L'Acadie-Acadia):** Assuming that this resolution is adopted as is, what will be the difference between the educational system in Newfoundland and Labrador with that, for example, of Prince Edward Island, Nova Scotia, New Brunswick, or Ontario?

**Bishop Tonnos:** The difference will be a total demise of the denominational school. Catholic schools, as such, will simply no longer exist. In the other provinces, except New Brunswick, they do.

**Senator Robichaud (L'Acadie-Acadia):** In other words, residents, for example, of New Brunswick, Nova Scotia, Prince Edward Island, will enjoy more rights than they will in Newfoundland?

**Bishop Tonnos:** They will certainly be able to enjoy the benefits of those rights but they will not be able to do so in Newfoundland, that is right.

**Senator Robichaud (L'Acadie-Acadia):** That is serious business.

**Senator Cools:** I am glad you noticed.

**Senator Stewart:** My question seeks clarification. I am trying to discover the real basis of your objection to the proposed resolution.

In answering Senator Carstairs, Your Grace, you said that a parent has a fundamental right to have his or her child — and

here, we are assuming that they are in agreement, which is not always the case in the modern world — educated in a school in which the parent's denominational faith is imparted.

In the pluralistic society in which we now live, to realize this principle would seem to require many different denominational schools. Do you expect the taxpayer to finance all these schools? Is that the basis of your argument against the resolution?

In answering another question which was put forward by Senator Doody, you argued that this resolution attacks rights that Catholics have enjoyed in Newfoundland for approximately 150 years. My question is: Are you opposing the resolution on the basis of the principle that I summarized first, or are you basing it on the historic right?

**Bishop Tonnos:** In regard to the first summary that you gave us, I also stated exactly what you recounted. I added to that “where it was viable to have a school of that denomination.”

**Senator Stewart:** So that it is not a fundamental right, it is a conditional right.

**Bishop Tonnos:** The right is conditional, yes, but the argumentation is not based on history, it is based on a right. It is based on the right which has existed historically for that length of time.

**Senator Stewart:** I want to discover what kind of right we are talking about here. There are certain rights which philosophers tell us are based on eternal principles. I thought that that was the kind of right to which you were referring when you talked about the parent having a fundamental right. I now discover in your reply that that is not a fundamental right and that it must take into consideration the realities of this fallen world.

The other kind of right is a historic right. Those familiar with the common law know all about historic rights. You seem to want to have both worlds. You want to base it on an eternal principle, modified by the fall. At the same time, you are relying upon historic rights which have existed in Newfoundland for a long period of time. I think you weaken your case when you try to ride both horses.

•(1020)

**Bishop Tonnos:** I believe that a historical right can exist for 150 years because it is, and was, essentially a fundamental right. I am not saying, though, that my fundamental right absolutely must be exercised in every instance. If one Catholic child exists in a community of 10,000, it is not reasonable that that right be exercised in that community.

**Senator Perrault:** Your Grace, there are a number of minorities in this multi-racial and multi-cultural nation whose rights need protection and whose religious beliefs should be respected. I believe, along with most Canadians, that imposition of majority privilege is not democracy; that democracy is the imposition of majority rights only if minority rights are protected.

How are the basic rights of those small groups of people, many of them newcomers to Canada, who hold various religious beliefs, to be protected, given budget constraints, et cetera? For example, a large minority in Canada practise Judaism. How are the rights of the young people of that faith protected in the present school system in Newfoundland?

Are you arguing for the status quo, or do you see some improvements that can be made within the existing structures?

**Bishop Tonnos:** I think there is room for improvement in the existing structures. I believe that members of the Jewish faith, to whom you have referred, also have the right to have religious instruction in their faith.

**Senator Perrault:** Is there any accommodation made now for young Jewish people in Newfoundland? I am from the other bookend of Canada, British Columbia, so I require some edification on this.

**Bishop Tonnos:** I am sorry, senator, I cannot answer that. I am not aware of the situation in Newfoundland in regard to Judaism. However, I point out again, with respect, that we are here specifically to discuss this question in regard to the rights of Catholics and those who choose denominational education.

**Senator Perrault:** I appreciate the arguments you have been advancing, but it is a changing Canada. An arrangement that was made at the time of Confederation may not be totally appropriate in 1997.

**The Chairman:** Honourable senators, the committee must move on to hear other witnesses, who have been patiently waiting.

On your behalf, may I thank His Grace, the Most Reverend Anthony Tonnos, and His Grace, the Most Reverend Douglas Crosby, for lending themselves this morning to this democratic exercise.

Thank you very much.

**Hon. Senators:** Hear, hear!

**Senator Carstairs:** Honourable senators, I would ask that Oonagh O'Dea and Brenda Bryant of Education First be invited to appear before the Committee of the Whole.

Pursuant to Order adopted this day, Ms Oonagh O'Dea and Ms Brenda Bryant were escorted to seats in the Senate chamber.

**The Chairman:** I wish to welcome you to this Committee of the Whole of the Senate. If you wish to begin by making a statement, I invite you to do so now.

**Ms Oonagh O'Dea, Education First:** We are pleased to be here today to speak on the issue of educational reform in Newfoundland. We represent a group of non-political, multi-faith citizens. Politics is not our issue; religion is not our issue; our issue is obtaining the best education for all our children in

Newfoundland. We believe that this type of education can only come in a single school system attended by all children. In this day and age, economic realities do not allow us to have two or more publicly funded religious school systems in our communities. With this in mind, we actively campaigned in the Avalon East area during the referendum for support for a "yes" vote.

We are parents who want to be able to provide basic services to schools, such as plumbing. Last night's St. John's newspaper carried an article about the air quality in our schools. A recent report on this matter identified that 50 schools in the province were tested; all 50 of them had air quality problems. The *Telegram* article talked about black mildew and mould growth in two of the schools in St. John's. There are fungus problems at others. At three schools in Avalon East, the carbon dioxide levels are three times the recommended limits. This past summer, several schools had to have roof trusses repaired, and in one good and long-established school in St. John's, the top floor is not safe to enter.

We want to optimize the educational opportunities and program offerings for the students. When we have two high schools in an area where one can be used, we short-change the students. There are not sufficient personnel or resources to provide these students with a range of high school credits.

Many of our students do their senior high school credits through distance education, or they leave their families to live in another community where the courses they need are available. I am speaking of 14- and 15-year-olds. We recognize that some of this may continue under a reformed system, but we believe we can minimize the occurrence of it.

We are parents who want to reduce the amount of time our students spend on buses, if indeed they must spend any time at all. Recently, I heard of a 12-year-old grade seven student who lives in Paradise, which is not very far from St. John's, who attended primary school within walking distance of her home. She now leaves her house at 7:30 a.m. She buses past a school which offers kindergarten to grade 8, which is 10 minutes from her home by bus, another kindergarten to grade 8 school which is another 20 minutes away by bus, and a grades 7 to 9 school, before she arrives at her school one hour later. That process is reversed in the afternoon. In order for her to receive five hours of instruction, this young student must spend nine hours away from home. I do not spend that much time away from home on a workday. She must also forgo all after-school activities unless she can get a ride home afterward.

•(1030)

This scenario is repeated throughout the province. Ten buses go to the junior high school which two of my children attend, and that school has only 500 children. It sits right in the middle of the capital city of St. John's. Those 10 buses are not used for any of the city children, who get either private or public transportation. Instead, they are used to transport children past other schools of the other denominations.

Now a number of groups and individuals indicated to the joint committee that they had a problem with the 73-per-cent result in our democratic process. Comments have been made, such as: It does not reflect the Roman Catholic vote; it takes away minority rights by a majority; the voters did not understand the question; the government only funded the "yes" side; and the government cannot develop a religious education course.

The Roman Catholics in our province represent 37 per cent of the population. We are the largest single denominational group. I say "we," because Brenda and I have both been raised and educated in the Catholic faith. Our children are Roman Catholic. One of Brenda's children attends a Roman Catholic school; my three are in the integrated system.

I am not a statistician, but out of 48 provincial electoral districts, 28 have Roman Catholics as the largest group; four have Pentecostals as the largest group. In 14 of those districts, if you add the Roman Catholics and the Pentecostals together, they represent over 50 per cent of that district's population, and only one district in 48 voted "no."

Did the voters understand the question? Well, the question was quite plain and simple. There was ample discussion on both sides of the question through the various media. I am insulted to have anyone assume that we and my fellow Newfoundlanders did not understand the question. Yes, we knew what we were voting about, and we voted 73 per cent "yes." We voted 73 per cent to end the confusion.

The government did not fund any group that campaigned either for or against the referendum. We asked for funding, and they turned us down. We ran our entire campaign with volunteers and privately donated funds of less than \$20,000, in a district where there were 15 provincial ridings. The "no" side, I might add, had two paid employees whose salary and offices, I understand, were paid for from the public purse.

The government is responsible for the development of all curriculum used within the school, except for religious education. In developing these courses, they use curriculum specialists and other professional people. The religious course would follow the same pattern. Indeed, the various religious groups have been asked to provide their input. I should state that there is an Atlantic Canada framework for graduated learning in schools, and it is used right across the four Atlantic provinces. Spiritual and moral development deals with religion in that area.

Through their vote, the people of the province supported the retention of religious education within the curriculum and the opportunity for religious observances. Newfoundlanders have indicated that they want to include religious education as a curriculum course. The option is there for children to opt out.

Honourable senators, it is time to remove churches from the control of the schools and place the guidance of the schools in the hands of the parents. We have strived over the last few years to develop school councils with representation from parents, teachers, students and the community. These councils are

legislated bodies. As parents, we should have a say in the running of our schools, not the churches. Elected members to council and boards should be based on their ability and what they will bring to their system, not on religious beliefs.

Lost in the argument and really central to this whole issue has to be the rights of the child. As parents, our only concern is for our children. This is not about power or authority, but about being able to give our children the best quality education that our province can afford. This is about reaping the maximum benefit from our financial resources while minimizing the stress on the child. We want to ensure that our students successfully compete with students in other provinces and other countries. Education is essential to our students' future success and ultimately our province's success.

When we were in Ottawa in November at the joint committee, we were asked about the importance of timing. Our kindergarten students registered in November for the 1998 school year. They have been registered for their neighbourhood school, but if they are Catholic, they have to present a baptismal certificate. If they are not Catholic and they go to the Catholic school, in some cases they are put on a waiting list.

The applications are out now for junior high students. In January, we will begin registering our senior high students. No one knows where they will go next year. This will be the second year in a row of mayhem and confusion. Timing is crucial.

In the middle of the referendum, I had a call from a very upset mother of two children who were in grade 3 and grade 8. She had moved to Newfoundland from another province. I believe it was one of the other Atlantic provinces. In checking out our schools, she decided that she wanted to live in an area where there was both an elementary school and a high school. She did not know that certain schools would not accept her children because they were not of the faith.

She rented a place during the summer, and over the summer, she had her children meet the neighbourhood children. She had checked with the school board and had been advised to contact the school the week before it opened to register her children. No one would be at the school before then.

A week before school opened, she went down to the Catholic elementary school and registered her grade 3 child. One of the staff showed the two girls where they could meet at the end of the school day in order for the older child to take the little sister home. She and the girls were really happy. It was a good, positive experience.

Then she went over the hill to the Catholic high school, and she was informed that since her child was not a Roman Catholic, she could not go to that high school. Her older child would have to take public transport every day across town to the nearest integrated high school and, of course, return the same way. By the time that child had travelled by bus back to pick up her little sister, supervision at the elementary school would have been long over. All she wanted was neighbourhood schools.

I find it very hard to believe that the rest of this country would have a problem with the people of our province asking to integrate rather than to segregate the children in our schools.

Can the religions continue to flourish outside the school system? If the religion is serving its purpose, if the religion is active in the community, it will remain strong through its churches and its people. Integration of many faiths teaches children to accept and respect others regardless of race and religion. Children who have been educated in a non-segregated environment do not consider one religion or one race superior to another; nor do they judge anyone on the basis of their religion or their race. Integration of religions does not lower Christian values and the morals of our students, but rather can strengthen and reinforce what we have taught them in the home and in the church.

If a society is tolerant of all religions and encourages its people to respect each other, then all religions are free to flourish.

•(1040)

In a country which is considered to be a leader in social tolerance, segregation in schools on race or religion should not be acceptable. The people of Newfoundland have indicated overwhelmingly that they wish to integrate all children and request that you recommend the amendment to Term 17 as put forward by our government.

Please respect our democratic process and allow our children to live and learn together.

**Ms Brenda Bryant, Education First:** I should like to clear up a couple of issues that were mentioned earlier. One is the registration process that took place in Newfoundland last February.

The process was seriously flawed. The questions that were not asked were: Would you like for your child to attend the same school that your child is attending now? Do you want your child to attend your school if it is a neighbourhood school or if it remains a unidenominational school?

I was one of the 24,000 people that registered my child for an unidenominational Roman Catholic school because I live directly across the street from my church and school. My seven-year-old daughter attends that school. At the time, we were trying to find out what we could do to keep our children in the school that they were currently attending. Everyone wanted the same thing, namely, to have their child remain where they were.

After listening to several speakers and the director of education, it became apparent to all the parents who attended that meeting — and most of us were Roman Catholics because it was a Roman Catholic school — that by indicating that we would like to keep our child in an unidenominational Roman Catholic school, we were guaranteed to win whether the school was interdenominational or Roman Catholic. I would win twice because, if the school was designated as the unidenominational

Roman Catholic school, then my child was registered for that school; and, if the school was designated as an interdenominational school, I also won, because the school was in my neighbourhood and my child could still go to the school directly across the street from my home.

I have not heard that scenario repeated too many times but, from the conversation that circulated at the end of that meeting and the one that has since been related to me, that is one of the reasons people voted for the unidenominational Roman Catholic school. It was necessarily to keep it a unidenominational Roman Catholic school, but to keep their children where they were.

We could not get a commitment from the DEC that, even if the school was designated unidenominational Roman Catholic — and I am registered in the database of that school and at the school board; my name is at the bottom of the form — and I registered my child for an interdenominational school, I was not guaranteed that my child would not be asked to leave. If the Roman Catholic council decided that it needed her seat, I could be asked to remove my child. Most of us were not willing to take that chance.

Another thing I should like to clear up is the neighbourhood-school issue. Currently, my children play with children in our neighbourhood. We have a fine neighbourhood. It is growing constantly. My children have gone swimming with these children all summer, they have played tennis together, and done all sorts of things together. In September, however, my children must go to one school while their friends go to a school that is not in the immediate area. What do I tell my children? What do I tell my daughter when she realizes that her friends cannot go to the school she is attending?

People want their children to attend the same neighbourhood school. They do not want the inconvenience of re-routing children from one end of town to the other. Let them go and play and pray together. Let them learn together.

I should like to propose that you pass this Term 17 as it is, as it has been presented to you by the Government of Newfoundland and Labrador, so that we can get on with education reform, we can make the best of our school system, and we can ensure that our children have the best possible education they can obtain in the Province of Newfoundland and Labrador.

**The Chairman:** Thank you for your presentations, Ms O'Dea and Ms Bryant. We will now proceed with questions.

**Senator Grafstein:** Thank you for your presentations here today. This is a complex issue for those of us who do not have first-hand knowledge of the educational system in Newfoundland.

I come from the province of Ontario. Notwithstanding that, we are obliged, under the Constitution, to deal with matters outside our province in an area that is of particular interest to people in a particular province.

The constitutional formula is a bilateral one between the federal Parliament and the province to deal with this matter because it pertains to education. Let me ruminate for a moment and tell you of the difficulties I have, and then ask you a very narrow question.

I do not believe that we have the luxury or the authority to deal with a conflict between church and parents in a particular province. Although it would be an interesting question for us and many senators would like to deliberate on that, I do not think we are armed or able or have the authority to deal with that. I do not think we have the authority to deal with the conflict over the public purse for education in a particular province — how that narrow or slender public purse should be divided.

As much as I would like it, I do not think we really have the right to give an opinion about rights or so-called “rights,” because this denominational question is not about rights but about preferential privileges to certain parents who can choose the teachers and the denominational education for their children, regardless of other denominations.

I should like to believe that we have the right to determine the rights of the child to receive the best education, regardless of the denomination or the slender public purse. On my reading of the Constitution, that is an important question for us. While it may be persuasive to us and it may motivate us and make us passionate, that is not the question for us.

We are gathered here today in quite an extraordinary session of the Senate, namely, Committee of the Whole, to deal with this question. You are both parents of the Roman Catholic persuasion. Today, we heard from the archbishops who presented another problem.

My understanding of the organization of the Roman Catholic Church is that an archbishop in Ontario has no authority whatsoever with respect to the education within an archdiocese in your province. However, that is another question, and I will not get into theology.

My question is this: Having listened to your evidence carefully, are you both satisfied a majority of Roman Catholic parents or Roman Catholic voters support the dilution of the constitutional privileges under this resolution? Are you satisfied that there is a majority of Roman Catholic parents or Roman Catholic voters — it can be both — who are supporting the Newfoundland resolution?

**Ms O’Dea:** Yes. I am quite satisfied that is the case. This was heavily debated throughout the month of hearings. As I said, we are a multi-faith group. We had people from all the religions, including the Roman Catholic religion. A number of people called us, including people from across the province, people from Roman Catholic schools, and parents from those schools. The implication, as expressed by the voters of the province was that they definitely wanted to get on with the issue, and the only way to do it was to remove the church from control.

We have tried to work with the compromise situation that arose from the last amendment. I must say that it is total confusion in our province. We have a school board in St. John’s East where the board is split. There is a greater percentage of Roman Catholics than those of the other religions.

•(1050)

They cannot make any decisions on the educational issues. They are fighting the whole time. We have staff at that board office who do not even talk to each other because they are of different religions. People are fed up. They want to get on with it. They feel their home and their church can provide the guidance that is needed in their faith, that they do not need the faith indoctrination in the school, and that the school provides them with morals and values that are required to live in society.

**Ms Bryant:** I, too, would agree with that. I am more than confident that the majority of Roman Catholics did vote “yes” in the last referendum. I get my information from walking through the Catholic school, talking to parents there, talking with teachers, and also at my church. People have come to me and commended me and said, “It’s about time we move ahead. Let’s get on with it. Let’s get our schools in order and provide the best possible education we can.”

**Senator Rompkey:** I thank both our witnesses for attending and being so explicit and clear on their position.

I wish to give you the opportunity to elaborate on two points. The first is quality education and how the passage of this amendment to Term 17 would advance that, and, more important, it will give you an opportunity to also to talk about the situation you have just described. It is important for all senators to understand that there has been virtual chaos in the education system in our province for at least two years. That disorganization must be resolved if students are to have a quality education.

The most important point on which I wish to give you time to elaborate is the question of timing.

**Ms O’Dea:** The question of timing is definitely important. As I said, we have children who are registering now. Come January or February, decisions must be made by the boards on closure. We had situations last year where schools were closed and had to reopen. It cost \$500,000 to reopen one high school that was closed on the recommendation of board staff. Because of the religious issue, it was reopened. If we delay this for any more months, we will be into the next school year before we can start to move on changes to the system. That means a third year of confusion because the closures will not be able to take place until the following year in order to make the best use of the funding under the amalgamation of schools.

I was told the other day that in the Avalon East area we could lose 40 teachers this year, and we cannot afford to do that unless we can bring the schools together.

**Senator Taylor:** The theme running behind your presentation is quality education, as the previous senator mentioned. In your presentation you mentioned that if you have a monolithic system, somehow or other it will be more efficient, the money will flow, and students will have better schools. We in the west have the opposite experience. We have a pluralistic school system and, although they all get government money and are competing with each other, parents have more choice. It seems to be more reasonable. In other words, the tax load does not seem to be as heavy. Can you put yourself into this mindset? If someone were able to convince you that the multiple system would spend the money more efficiently than the government — after all, the government does run the post office and they would now run your schools — if indeed financing is one of the basics behind the change — and if you could be shown that a multiple school system is more economically efficient, would you then have a different idea?

**Ms O'Dea:** We have 87 schools in the Avalon East area. One school has seven students in the classroom in late French immersion. Those students could have been accommodated in the other schools that offered late French immersion but are not because of religion. Those seven students take up a teaching unit. Our teaching units are based on one teacher for 14.5 students. Our classes are generally running from 24 to 30. We may have up to 40 students in a classroom. Those children could have been accommodated across the way. That teaching unit has gone out of a school that needs it.

We have schools in St. John's that should not be kept open. Of our board's operational cost, anywhere from 40 per cent to 60 per cent of the budget is being used for maintenance and less than 10 per cent is being used for instructional budget. If we can close down some of these schools, bring our kids together and give our senior high students a broader range of courses because more of them are together, and if we can put that extra money that has been running these schools and providing for administration into the learning and instructional material, then we benefit the students. We do not benefit whoever owns the buildings. We do not maintain leaky buildings that are 150 years old. That is where all our money is going right now.

**Senator Taylor:** I have been involved in education for some years, and the control of the voter and the control of the parents are two different things, especially in this day and age where the nuclear family is down to 1.82 or 1.83 people. There are more voters than there are parents, and many voters are convinced that the schools are wasting money. It is difficult to get money for your school system when you must go to a government and compete with roads, highways, et cetera. Has the thought occurred to you that perhaps parent-controlled school boards would be a much more effective way of getting money to educate your children than asking your MLA who is more worried about the vote than the total number of parents?

**Ms O'Dea:** This is what we are looking for. We are not looking for church-appointed or elected members to sit on a board. We are looking for parents to sit on the boards. We have 10 school boards, and they would be elected by the populace that

lives in the various areas. They would elect those people to sit on the board and to run those schools.

The money to run those school boards is designated by government on a per-pupil basis. In turn, the schools get a proportion of the money. Right now, less than 50 per cent of the money designated goes to the school boards and less than 50 per cent to the school itself. That school is then governed — I cannot say “run,” but “governed” — by school councils composed of elected teachers, elected parents, elected students in senior high, and two community representatives. A particular school might say, “We would like a member of the church next door to us to sit on the council,” or, “We would like a business person to sit on our committee.”

We govern the schools. Both Ms Bryant and I have been heavily involved in our schools through home and school associations and now our councils. We as parents are saying, “Allow us to have some say in the running of the schools. The principal can come to us and we can work together on resolving issues.” We can go after the school boards to say we need more student assistance or more learning materials, but they can only give us what is available through their budgets.

**Senator Taylor:** It would appear that the problem is one of governance and the parents not being able to run the school. The churches are not listening to the parents. Is that right?

**Ms O'Dea:** Yes.

**The Chairman:** I remind honourable senators that we are not engaged in an open-ended process. I would invite all honourable senators to be as precise and to the point as possible in putting their questions, and I also invite the witnesses to do the same with their responses.

**Senator Beaudoin:** I understand that you have come to the conclusion that the Catholics, by a majority, are in favour of the resolution. In what way have you come to that conclusion? It is sometimes difficult to know on which side a portion of the population has voted. I would like to know a little more about it.

**Ms O'Dea:** As I said, I am not a statistician. However, I have drawn up some brief statistics showing that in 27 of the 28 Roman Catholic districts, greater than 50 per cent voted “yes.” In 20 of those 28 districts, greater than 50 per cent of the voters turned out. In some districts that are heavily Catholic, there was one “no” vote for every two Catholics. For every 100 Catholics, there were less than 50 “no” votes. The numbers were greater in other areas.

These basic statistics, together with the voter turn-out, gave us the impression that the Roman Catholics wanted to change the system.

**Ms Bryant:** We heard earlier about certain areas that are already amalgamated into one school system. There was no incentive for them to vote “no.” In our area of St. John's East and St. John's West, we do have unidenominational school systems. We had a 73 to 78 per cent voter turn-out. These areas are very heavily populated by Roman Catholics.

That point should be noted: In areas where the two-tier system is already in place, there was a large voter turn-out and they voted "yes."

**Senator Beaudoin:** You said 28 districts. That is out of how many?

**Ms O'Dea:** That is out of 48.

**Senator Butts:** I want less to ask a question than to make a couple of statements that are on my mind.

Coming as I do from the neighbouring province of Nova Scotia, I have a little difficulty in relating the cause and the effect in many of your examples. I come from a province that does not have this kind of strict denominational system with which you are trying to do away, yet we do have all kinds of schools that are in a terrible state. They have leaking roofs and asbestos, and anything else you want to mention.

We also have many students who travel long distances on buses every day. I think that is because we, at one stage, decided that we needed very large schools instead of small schools, or because people chose to go to a specific school. However, those things do not relate to the set-up of the system.

Second, I am sorry that you downplay your system. I have taught in a university which gets a lot of Newfoundland students. I want to assure you that they are as well or better prepared than many other students we have.

**Senator Stewart:** We were told earlier today that the rights which now exist relative to the school system in Newfoundland and Labrador are not absolute; consequently, we must look at the views of people who want to change the existing constitutional rights. I am interested in the wishes of the people of Newfoundland. We have heard a good deal about the process of the plebiscite. We know the outcome pretty well.

I want to focus on a matter which I raised the other day when Senator Doody was speaking: that is, the vote in the House of Assembly. I assume that members of the House of Assembly are fairly attentive to the wishes of their electors. I asked Senator Doody and I ask you: How do you explain the vote in the House of Assembly? Were some of those who voted in favour of the proposed resolution oblivious to what they were voting for? Did they disregard the views of their electors? Do you have any explanation of why the vote was unanimous in favour of the change, other than that the members of the House of Assembly believed that the proposed change was desirable?

**Ms O'Dea:** Senator, first and foremost, if 47 of the 48 districts voted "yes" in the referendum, I would have hoped that the MHAs voted in the house as their constituents had voted. There was only one district that voted "no" and they had about a 46 per cent "yes" vote. Even their member opted to vote "yes." They certainly were reflecting the views of their constituents. We were very pleased to see that they had done so. How they may have voted privately, we do not know. They were elected by their constituents and they voted as their constituents directed them to do.

**Senator Stewart:** You are saying that, in your opinion, the members of the House of Assembly believed that the result of the referendum genuinely reflected the views of the constituents?

**Ms O'Dea:** Yes.

**Senator Fairbairn:** Thank you for returning. In your testimony today, and indeed before the joint committee, you have said very forcefully that you believe the strength of your religious beliefs and the obvious strength of the church represented by the individuals who preceded you today is strong and sufficient to fulfil the responsibilities of religious education for the children of your province.

I think we all realize one of the dilemmas in Newfoundland has been the very strong and fundamental traditions and history of religious involvement in society generally in that province, but also in the school system.

It was suggested to us by the Minister of Education that religious instruction and religious observances were essential to this resolution in order to reflect the history and the traditions of the province.

•(1110)

On the other hand, we heard from some who felt that the parts in the resolution that refer to the curriculum and religious observances should be removed from the resolution and left strictly to be dealt with by the education system itself.

What is your view as to the validity or the importance of including those particular clauses in a constitutional amendment?

**Ms Bryant:** That is very important at this time. The people of Newfoundland and Labrador voted "yes." They knew the question. They knew what the proposed Term 17 would be. They wanted enshrined in the Constitution that there will be religious instruction and religious observances in our schools. We have a very rich religious background in our province. We definitely want religion in our schools. We also want it in our churches and we want that enshrined in the Constitution. Any change to that would mean total chaos to the people of Newfoundland and Labrador. Their trust in the democratic process would be, if not destroyed, not far from it. We want it passed the way it was presented to our people, the way it was when we voted, 74 per cent in favour of "yes," on September 2.

**Senator Petten:** I will direct this question to Ms O'Dea. Did I not hear you say in no uncertain terms that we Newfoundlanders understood the question? It is my understanding that everybody agreed that the question was clear and fair.

**Ms O'Dea:** Yes, senator, everyone did feel that the question was clear and simple, and there was ample discussion on it.

**Senator Bryden:** My question is to clear up a remark made at the end of the question of the last witnesses, and there was no time for clarification.



A false impression was left, I believe, that, if this amendment passes, Newfoundland will have fewer rights in relation to the school system and religious denominations than the provinces of New Brunswick, Nova Scotia and Prince Edward Island. I want to make it clear — and I think I am right — that somebody just got the answer backward. The fact is there are no denominational rights for schools in New Brunswick, Nova Scotia or Prince Edward Island. If this passes, there will be the constitutional right for religious instruction and religious observances in Newfoundland, neither of which exist in the Constitution for the other three provinces.

I put that as a question because I think it is important to get on the record that the answer was flipped on its head — accidentally, I think.

**Ms O'Dea:** You are absolutely right. Religious education and the opportunity for religious observances will be protected. I should point out that there is nothing prohibiting the establishment of private schools. We have, in fact, two religious private schools that are not publicly funded now. The Baptists and the Seventh-day Adventists both run their own schools. There is nothing stopping the Roman Catholics or the Pentecostals from running a school in the province. It just does not come out of the public purse.

**Senator Perrault:** I have listened with great interest to the testimony today. Across Canada we hear expressions of deep concern about our education system. We hear there is a crisis in education. In the province of British Columbia, a number of parents are outraged and have established a traditional education system, the traditional school. They believe that young people are not receiving training in the way in which they would like that training to proceed.

We have thousands of people who are coming to British Columbia and not sending their young people to public schools. They are sending them to Roman Catholic schools or to Trinity Western University in the Fraser Valley.

The opponents of the changes proposed believe that their right to inculcate their young people with the teachings of a certain religion or philosophy would be compromised. I take it that is really the situation, from the testimony that you have given.

How do you answer this? How do you propose that these traditional rights be protected in some form? Would you provide some release time during the day for young people to learn about the Pentecostal faith or the Roman Catholic faith or Judaism? Would time be set aside towards the end of the day? Would the right exist that this could even be done?

I believe that the demise in Canada of the Sunday school and the catechism class, the lack of moral training, has been catastrophic. How much moral training is given to young people by their parents? Parents have a prior right, but are they exercising that right today to train their children in certain religious beliefs? Do you have any hard evidence of that? We have a troubled society, as far as education is concerned.

**Ms O'Dea:** Parents have the right and the moral responsibility to educate their children in the moral values that we in society want and expect them to have.

**Senator Perrault:** Do you think they are doing it?

**Ms O'Dea:** Are they doing it? I hope so. I would like to think I am. I have raised three kids who are good. I think Brenda has raised two children who are good.

Parents have a responsibility, if they want religious indoctrination, to bring their children to the churches. You mentioned the demise of Sunday school. Sunday schools go on in some of the churches. I know from talking to parents that the Anglican Church has Sunday school classes on Saturday or Sunday mornings. Some of the Catholic churches have them. In other parishes, parents expect the school to teach the Sunday school classes, the catechism classes, and the confirmation classes. That should not be done with money from the public purse. That should take place in the church.

You teach certain values at home, you teach certain values through your church, and you teach certain values through the school. From that mix, we can raise children who are good citizens of this country and who learn to respect each other.

**Senator Perrault:** Let us say that a certain area is very largely Pentecostal. Is the best that the young people of that area can expect a course in comparative religion delivered by someone who may not have any religious interests whatsoever but holds some teaching degree? Are we to say that the process of inculcating young people with the views of religion must not be done by somebody who is a member of the Pentecostal Church, for example?

**Ms O'Dea:** I talked about the learning outcomes, and these are for all four Atlantic provinces. Under the topic of spiritual and moral development, they suggest that the graduates must demonstrate understanding and appreciation for the place of belief systems in shaping the development of moral values and ethical conduct. They give about eight different examples, one of which is that they must demonstrate a commitment to peace, social justice and respect for the sacredness and dignity of human life. What they want for the children out of these outcomes — and this is what the religious education courses and the family life courses teach — are the morals and values that they should get from their schools in order to survive and live appropriately in society.

The church backs it up with its religious indoctrination in its own beliefs. The home backs it up with providing the children with what we as parents believe should be our social values.

•(1120)

The onus should not on the teacher alone to teach all the beliefs and values we want our children to have. There are three bodies involved. We believe that the church should have them outside of school, and that school time should be used for teaching these values in addition to the other educational outcomes we want them to have.

**Senator Doody:** I wish to welcome the witnesses.

Much has been made of the assumption that many people did not understand the referendum question. I have never supported that view. I think that the people in Newfoundland understood the question exactly and that is why they voted "yes." The question was:

Do you support a single school system where all children regardless of their religious affiliation attend the same schools where opportunities for religious education and observances are provided?

That is precisely the system in place in Newfoundland right now. They can attend schools where religious observations and religious education are provided.

My problem is not with the question but with the proposed new term. In my opinion, the proposed new term is quite different. It 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.

That is not the same as the system we now have and therein lies my problem. I believe that what the people voted for and what they are getting are different. Could either of the witnesses respond?

**Ms Bryant:** We had both the question and the proposed new Term 17 before we went to the polls on September 2. Their meaning was debated repeatedly. I fully believe that the question represents what was contained in Term 17 and that people are getting exactly what they voted for.

**Senator Doody:** I agree completely that the question was amply debated. There was plenty of time and plenty of notice, and people had ample opportunity to debate it. However, the actual proposed new term was released literally the day before the advance poll and one week before voting day.

I do not think there was time enough for the nuance of the difference to be understood in many parts of the province. I may be wrong on that. All Newfoundlanders may be completely conversant with the difference between the proposed new term and the question. If so, I apologize, but at this time I have not been convinced that that is the case.

**Ms O'Dea:** Senator Doody, when I read the proposed new term I was even more pleased than I thought I would be, because suddenly I, as a parent, could request that there be a religious observance in the school, and the person who would decide whether that was appropriate would be the principal, not a board.

**Senator Doody:** There is a fundamental difference in principle on this. I am far closer to the stand of the bishops on this than to yours. However, I thank you for your comments.

**The Chairman:** Honourable senators, on your behalf, I would thank these witnesses for appearing this morning and extend to both of them and to all Newfoundlanders the season's greetings.

**Senator Carstairs:** I ask that the Honourable Stéphane Dion, Minister of Intergovernmental Affairs, be invited to make representations before the Committee of the Whole.

**The Chairman:** Is it agreed, honourable senators?

**Hon. Senators:** Agreed.

Pursuant to rule 21 of the *Rules of the Senate*, the Honourable Stéphane Dion, Minister of Intergovernmental Affairs, was escorted to a seat in the Senate Chamber.

**Senator Carstairs:** Honourable senators, we have been joined by the Honourable Stéphane Dion, Minister of Intergovernmental Affairs. With him today are Dahlia Stein, Senior Policy Advisor and Special Assistant, and Yves de Montigny from the Privy Council Office.

[Translation]

**The Chairman:** Mr. Minister, welcome once more to the Senate. I invite you to make a statement, if you so wish.

**Mr. Stéphane Dion, President of the Queen's Privy Council for Canada and Minister of Intergovernmental Affairs:** Honourable senators, it is my pleasure to speak to the Senate on the proposal to amend Term 17 of the Terms of Union of Newfoundland with Canada.

I would like to take this opportunity to thank the many senators who worked tirelessly on this issue both here in this House and on the special joint committee.

Through your hard work, Parliament is able to help Newfoundland and Labrador restructure its education system to give the children of the province access to the best possible education.

The amendment proposed is supported by the people of Newfoundland and Labrador and is an appropriate way to meet the challenges and adapt to the circumstances inherent in a reform of the province's exclusively denominational system of education.

The senators are perfectly aware of the sustained efforts of the Government of Newfoundland and Labrador to reform this denominational system. As you know, the difficulties the Government of Newfoundland faced in its efforts to use legislation to implement the previously amended Term 17 led it to conclude that the compromise inherent in the amended Term 17 could not be applied.

Accordingly, Premier Tobin decided to go back to the people for a mandate to amend Term 17 once again. In the September 2 referendum, the amendment proposal received the support of an impressive 73 per cent of the population. And on September 5, the Newfoundland legislature unanimously approved the proposal.

On December 5, a special joint committee recommended that the amendment be passed, which was done in the House of Commons in a free vote on December 9. The resolution passed 211 to 53 with the support of each party.

The senators must now independently assess the relevance and merits of the proposed amendment. It will give the Newfoundland legislature the power to administer and fully integrate the schools of the province. This measure will surely improve students' educational opportunities, since all resources in the field of education will be accessible, offering all children the best instruction within the circumstances of their own community.

Children will no longer need to be bussed to school, as they did in the exclusively denominational system, an arrangement that was a source of both significant cost and stress. Schools will no longer be permitted to hire and release teachers according to their religious beliefs.

•(1130)

The amendment will, however, reform and improve education while not forbidding religious instruction or observations, a significant and historical element in the province's school system. It is also important to point out that the amendment will not force children to take religious instruction or participate in religious observances if their parents are opposed.

Honourable senators are, of course, already aware of the government's support of this amendment. For the most part, I will limit my comments today to the key concerns raised during the Senate debates, namely whether the amended Term 17 will be compatible with the Canadian Charter of Rights and Freedoms and with the International Covenant on Civil and Political Rights, and whether the proposed constitutional amendment, which does not affect a fundamental right, has the appropriate support from minorities.

[English]

The first point is the compliance with the Canadian Charter and the international covenant.

During the Senate debate and during the committee's hearings, the amendment's provisions for religion courses and observances raised concerns. Some senators had questions about the proposed Term's compatibility with the Canadian Charter of Rights and Freedoms. They suggested that the proposed Term 17, because it permits religious observances in a school, may contravene the

Charter's freedom of religion and equality rights guaranteed in sections 2(a) and 15.

This argument is based on Ontario Court of Appeal decisions ruling that observances such as the Lord's Prayer and nativity scenes cannot be held in public schools, even if provisions are made for opting out. It has been argued that these Charter concerns would also apply to provisions for religion courses set out in subsection (2) of the proposed Term 17 which require the Newfoundland legislature to provide for courses in religion that are not specific to a religious denomination.

As I indicated to the committee and to the House, the government does not share this view. First, it would be incorrect to conclude that Ontario Court of Appeal rulings, which have not been tested in the Supreme Court of Canada, would necessarily apply to the implementation and operation of the proposed Term 17. Legislative jurisdiction for education in Ontario is set out in section 93 of the Constitution Act, 1867, which, unlike the proposed Term, does not make explicit provisions for religion courses and religious observances in public schools. Second, if enacted, Term 17 will become part of the Constitution of Canada. Thus, it will be shielded by the well-established principle that one part of the Constitution — let us say the Charter — cannot be used to invalidate or repeal another part of the Constitution. As a result, the provisions in subsection (2) and subsection (3) will enjoy a measure of Charter immunity.

The principle that one part of the Constitution cannot invalidate another is grounded in Supreme Court case law and was clearly stated in connection with educational rights in the 1987 reference case on the amendment to Ontario's Education Act. On that occasion, the Supreme Court explicitly stated that:

The role of the Charter is not envisaged in our jurisprudence as providing for the automatic repeal of any provisions of the Constitution of Canada, which includes all of the documents enumerated in section 52 of the Constitution Act, 1982.

Section 52 establishes that Term 17, as part of the Newfoundland Act, and any amendments to it are part of the Constitution of Canada.

With respect to section 93, the court said that:

This legislative power in the province is not subject to regulation by other parts of the Constitution in any way which would be tantamount to its repeal.

This principle, which was reiterated in the *Adler* decision last year, would apply with equal force to the proposed Term 17.

Some have suggested that, because this amendment of Term 17 would take effect after the enactment of Constitution Act, 1982, of which the Charter is a part, then it would be subject to the Charter, even though the original Term 17, which predated the Constitution Act, 1982, was not. This argument is not supported by the plain language of the Constitution.

Section 52, which determines what comprises the Constitution, makes no distinction between whether a part of the Constitution has been enacted before or after 1982. Indeed, subsection 52(2)(c) clearly specifies that any amendment to an act which is itself part of the Constitution is also part of the Constitution. Once something is included, it is as legitimate a part of the Constitution as any other, regardless of when it was adopted.

The issue of the proposed Term's compatibility with rights set out in the International Covenant on Civil and Political Rights was discussed during the Senate debate and during the committee's public hearings. In particular, some have cited potential regulations of the right to freedom of religion under article 18 of the International Covenant on Civil and Political Rights. Let me deal with this issue now.

The fourth paragraph of article 18 deals with education. It speaks to the liberty of parents and it states:

...to ensure the religious and moral education of their children in conformity with their own convictions.

This liberty has never been interpreted in a manner that would imply that the state is requested to fund denominational schools.

In addition, the covenant's protection of freedom of religion does not prohibit states from offering non-mandatory religion courses. The United Nations Human Rights Committee, which is responsible for administering the covenant, has published a general comment on article 18. It says that article 18 permits religious instruction — even instruction that is specific to one denomination — in public schools. However, provision must be made for non-discriminatory exemptions or alternatives where requested by parents.

I know that the proposed Term 17 specifies that the government:

...shall provide for courses in religion that are not specific to a religious denomination.

However, nowhere in the proposed Term 17 does it say that children must attend them.

The Government of Newfoundland has indicated on several occasions that children will not be required to take religion courses or to participate in religious observances if their parents object. Therefore, I conclude and maintain that the term is in compliance with the covenant.

The Canadian Conference of Catholic Bishops has said that the proposed amendment to Term 17, which will establish an exclusively "public" education system, violates parents' rights to educate their children in accordance with their own beliefs. The CCCB contends that parents have a "primordial and inalienable" right and duty to educate their children with the corresponding fundamental right to choose a school, where viable, that reflects their own convictions. They cite article 26.3 of the Universal Declaration of Human Rights as the basis for this right.

The first two paragraphs of article 26 of the Universal Declaration of Human Rights discuss the right to access to education and the right to:

...the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms.

The third paragraph of article 26 states that:

Parents have a prior right to choose the kind of education that shall be given to their children.

However, once again, parents' rights to "choose the kind of education" children receive does not imply that there is a corresponding obligation on the part of the state to fund that choice. Indeed, guarantees to freedom of religion and education set out in various international covenants have never been interpreted in a way that would imply or suggest that the state is required to fund denominational schools. This about the Charter.

•(1140)

The second issue I wish to deal with is the consent of the affected minorities. The Canadian Constitution is the fundamental law of the country. As such, any amendment to the Constitution should be undertaken with great care. We must be more prudent when we amend the Constitution to revise or remove rights than we are when we add rights. Change affecting a minority deserves even greater prudence.

In interpreting whether there is sufficient support to move ahead with this amendment of Term 17, we are proceeding on the principle that the level of support required for a significant alteration of entrenched rights or freedoms is directly related to the nature of the right or freedom in question. No majority, on its own, in a referendum can justify the abolition of fundamental rights.

It is critical in this assessment to consider what rights are actually being affected. Let us be clear: In the case of Term 17 we are not talking about the freedom of religion or freedom of speech which are fundamental freedoms explicitly protected as such in the Canadian Charter and many other international covenants.

What we are facing in this case is not a fundamental right. We are talking about an entitlement resulting from a uniquely Canadian political agreement dating back to the time of Newfoundland's union with Canada.

There are many different rights and freedoms. The issue of what is and is not a "fundamental" right has been studied by courts and international organizations and some general consensus has emerged. This consensus is reflected in international documents such as the Universal Declaration of Human Rights, adopted by the United Nations, the European Covenant of Human Rights, and equivalent measures adopted by various regional organizations such as the Organization of American States and the Organization of African States.

Section 2 of the Canadian Charter identifies what Canada's recognizes as "fundamental freedoms" as follows:

- (a) freedom of conscience and religion;
- (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;
- (c) freedom of peaceful assembly; and
- (d) freedom of association.

While there are different categories of fundamental rights, even in the Canadian Charter, public funding of denominational education is nowhere to be found in any scholarly analysis of the definition of "fundamental rights." I am not saying that a parent's choice of education for their children is not of fundamental importance for that parent, but it is not a fundamental right as recognized by law in Canada or throughout the world. As lawmakers yourselves, surely, honourable senators, you know the difference. It is also fundamental to many parents in Newfoundland to have their children attend a good school that is close to their home. What is fundamental to many people is not necessarily a fundamental right recognized by the Charter and international covenants.

Canada's Supreme Court has ruled on the denominational guarantees in section 93, similar to those of Term 17, concluding in the *Adler v. Ontario* case, 1996 that:

As a child born of historical exigencies, s. 93 does not represent a guarantee of fundamental freedoms... While it may be rooted in notions of tolerance and diversity, the exception in s. 93 is not a blanket affirmation of freedom of religion or freedom of conscience... and should not be construed as a Charter human right or freedom...

All this is not to imply that the denominational rights in section 93 or Term 17 are unimportant. This is by no means true. We must be clear about what is at stake here and we must judge the required level of support in a way that is proportionate to the affected right.

The Government of Canada based its conclusion that support for this amendment does exist on a number of considerations, including the referendum results. Our analysis of the results is not based on improbable statistical assumptions but on what appears to have happened on polling day.

People have referred to many different analyses of the level of support among the affected minorities. Some experts say that 60 per cent of Catholics voted "Yes," others say that between 49.9 and 37.9 per cent of Catholics voted "Yes." There is no way to judge which of these numbers is right or wrong. What we do know is what actually happened.

The results of the referendum indicate that in heavily Roman Catholic areas the proposal was supported by the majority. Analysis also indicates that Catholics constitute nearly

50 per cent of the population in a majority — that is, 25 out of 48 — of the province's electoral districts, and that the proposal carried in all but one.

Assessing the degree of support for the amendment among the small Pentecostal minority was much more difficult. In fact, as I noted during my second committee appearance, even Dr. Melvin Regular, Executive Officer of the Pentecostal Education Committee, readily admitted in his testimony that there is no way of knowing how the members of his community actually voted.

The only thing we can know with any certainty is that, in the four electoral districts with the largest Pentecostal populations, the amendment proposal carried with average majorities of 60 per cent. We know for sure that the referendum did not result in a narrow majority. It was an overwhelming majority of 73 per cent, which provided evidence of minority support.

We also know that the House of Assembly voted unanimously — 100 per cent — to approve the proposed amendment. This included all Catholic and Pentecostal members, as well as the Leader of the Opposition, Mr. Loyola Sullivan; and the NDP leader, Mr. Jack Harris. In the democratic institution that speaks for all Newfoundlanders and Labradorians, there is no division or uncertainty.

In conclusion, as the Government of Canada has argued, it would be difficult to justify a rejection of Newfoundland's proposal, given the obvious merits of the amendment and the strong and widespread support for it.

Because minority rights are involved, we have proceeded with all due caution and consideration. However, at the end of the day, we believe that this is a positive change that is desired by the people of Newfoundland and Labrador and that that desire reflects a reasonable degree of support among the affected religious minorities.

I also wish to emphasize that amending Term 17 for Newfoundland sets no precedent, legal or otherwise, for other provinces. The federal Parliament must take into account the specific context of each case before it. This principle lies at the heart of federalism, which is designed to ensure that policies for each province fit that province's specific needs and realities.

•(1150)

Honourable senators understand that the situation in Newfoundland is not the same as that in other provinces. Any future decisions by Parliament on this matter will be made according to the specific context of the case in question.

I realize that some people have sincere and heartfelt concerns about the future of Newfoundland and Labrador's public education system. In no way do I wish to down play those concerns. However, as I have said many times, I hope that all parties, including the Government of Newfoundland and Labrador and the affected denominations, will proceed in a spirit of cooperation and openness to develop and implement the province's new education system.

To conclude, we believe the evidence in support of the amendment is overwhelming. The amendment's benefits are clear, and even its most ardent critics cannot say that it will harm the fundamental rights of freedom of expression or religion. By passing this amendment, you will allow Newfoundland and Labrador to put this divisive issue to rest and move forward in creating an education system that seeks to guarantee the best possible educational opportunities for the children of Newfoundland.

**The Chairman:** Thank you, Mr. Minister.

**Senator Lynch-Staunton:** Mr. Minister, I was impressed with your learned exposé on the variations between fundamental rights and other rights. To my simple mind, and as Clifford Lincoln said, rights are rights are rights. I cannot in my mind make nuances between one being different from another.

**Some Hon. Senators:** Hear, hear!

**Senator Lynch-Staunton:** What disturbed us in the Quebec discussion, and what disturbs us perhaps more now because there was a referendum, is how difficult it is, even with the figure you have cited regarding the percentage of Catholics who may or may not have voted in favour, to extract from the referendum figures the exact support or non-support given by the affected minorities. I do not think the referendum has helped us that much except to tell us that 73 per cent of all those who voted supported Newfoundland's initiative. However, within that 73 per cent, it is difficult to assess where the affected minorities situated themselves.

If we are required to go through a similar request where rights of minorities are being affected through their removal from the Constitution, should those minorities directly affected be the only ones who should vote in a referendum? They would identify themselves as such so we would know exactly how many Catholics, Seventh-day Adventists, Pentecostals or others within their own communities have indicated support or non-support for a proposition? Rather than have the majority overwhelm the vote and camouflage the intentions of the minorities, why not allow the minorities themselves to indicate their evaluation of the proposal that is being put before them?

**Mr. Dion:** On the first point that rights are rights are rights, you must clarify the balance between different rights. For instance, the people from Education First explained why they have strong concerns. Parents have rights too. We must balance those rights. Some rights are fundamental and cannot be removed. I am not aware of a charter in Canada or elsewhere that does not take into account the fundamental right of freedom of religion. However, the right to have public-funded denominational schools is not a right that exists in all liberal democracies. In fact, in Canada and many provinces, it does not exist. Those provinces are still liberal democracies. If freedom of religion was removed, they would not be any more liberally democratic. The difference is important.

**Senator Lynch-Staunton:** It is still a right. I do not wish to engage in an academic argument with you on the assessment of

rights. I would like to know your ideas on the rights of minorities to express themselves directly without their intentions being obscured by other voters who do not have the same interest in the issue at stake and are not directly affected.

**Mr. Dion:** We agree that there are fundamental rights that cannot be removed from the constitution of a well-established democracy and that the right to denominational schools is not such a right. I think it important that we clarify this point right now. I am happy that you do not contest that.

Since minorities are involved, it is important to be cautious and to look at it, but it is also important to accept the point that democracy is neither the tyranny of the majority nor the tyranny of the minority. If it was the tyranny of the minority, the aristocrats would still be in power. We must take that into account. It is important that everyone have their say about a change like this.

The referendum is a tool that was chosen by the government of Newfoundland, although it is not a requirement in the Constitution. Section 43 of the amending formula does not say it is necessary to have a referendum.

**Senator Lynch-Staunton:** I agree that the tyranny of the majority or the minority is not to be encouraged, but would you agree that the minorities directly affected in cases of having something removed from them should have a direct consultation, separate from a general consultation, so that we know exactly where they stand?

**Mr. Dion:** It is not traditional to ask voters to identify themselves by any collective specificity, and there are good reasons to avoid that. I know that Premier Wells offered in the 1995 referendum that the denominations identify themselves, and they refused.

**Senator Lynch-Staunton:** I will not prolong the discussion. They have identified themselves, and they have come before the committee.

When you came to discuss the Quebec resolution, both before the joint committee and here, you gave great importance to the position of the assembly of Quebec bishops and to the position of the Anglican bishops, which were pretty well the same. Perhaps the position of the Quebec bishops was a little more conditional. However, you certainly stressed the opinions of both and made a point, as you said yourself, of having them write to you. Their letters were dated sometime in November. The impression you left here, certainly with me, is that that should have weighed heavily with us before taking a position on the Quebec resolution.

We received just this morning the Catholic assembly of bishops which includes the Quebec bishops, and they have taken a strong stand against this resolution. My question is: Should we not give the same amount of weight to their position as you asked us to take regarding the Quebec bishops' attitude on the Quebec resolution?

**Mr. Dion:** Senator, I think it important to keep the same principles and to apply them to the specific context of each province. I am ready to apply to Newfoundland the principles I discussed with you in relation to Quebec.

In Quebec, they did not have a referendum. It was important to know if there was support. Therefore, we requested various opinions, and the opinion of the bishops is important. The conclusion was based on a number of considerations specific to the context of that province. Part of the assessments that helped us to say that there is support is the fact that the Catholic bishops do not oppose, and the bishops are not alone. Many associations, Catholic and others, support the change. I had a full list, as you remember. We have also had that debate in Quebec for a long time.

The fact that the bishops were not opposed was important in the Quebec context. The fact that the bishops do oppose is important in the Newfoundland context. If the bishops were in support, I would not be here today. You would have voted on this a long time ago. You have difficulty because the bishops oppose it.

I urge you to take into account the whole context in assessing if there is reasonable support for the change. There is the opinion of the bishops. There is the referendum results. There is the unanimous vote in the House of Assembly of Newfoundland. There is also, as you know, the vote of your colleagues in the House of Commons and the testimony that you have just heard. You must take it all into account. It is specific to Newfoundland.

•(1200)

**Senator Lynch-Staunton:** Yes, it is specific to Newfoundland but the pattern is the same and the question is more or less the same. There seems to be a debate opening up in Ontario now where there is some questioning of the separate school system. I wonder how far we will go.

I will stop here. What you are saying, I think — and I respect your opinion; I always have — is that the referendum results in Newfoundland are more important in our assessment of the acceptance of this resolution than the position of the Canadian Catholic bishops, who appeared before us today, and the Pentecostal leaders, who appeared before the joint committee, whereas, in Quebec, because there was no referendum, the position of the church hierarchy is more significant.

**Mr. Dion:** If the bishops in Newfoundland had been supporting the change, it is very likely that Premier Tobin would not have spent public money for a referendum. It was part of the context where there was a referendum.

**Senator Lynch-Staunton:** That is interesting.

**Mr. Dion:** It is the same in Quebec. If the bishops had been opposed, I do not know what would have happened but the

context would have been different. The vote in the National Assembly of Quebec and in the House of Commons may have been different, too. It is part of what we have to consider. In the Quebec case, I have never said that the bishops' opinion is the sole decisive aspect, and the same goes for the situation in Newfoundland. I think we must take that into account. It is very unlikely that, without the referendum, Premier Tobin would have had the unanimous vote in the House of Assembly of Newfoundland.

**Senator Lynch-Staunton:** It could well be. I thank you, minister, and Mr. Chairman.

**Senator Kirby:** Thank you for coming, minister. I want to follow-up on the two questions which Senator Lynch-Staunton just asked you. I will not try to get into a debate with you between so-called fundamental rights and entitlements. I think the point Senator Lynch-Staunton made at the beginning, however, is, as a politician, worth noting, which is that Canadians believe that if something is in the Constitution, it is a right, not merely an entitlement. I think that is particularly true if you are a member of a minority group.

I read your definition, which you had given in the other place and you gave again today, "an entitlement resulting from an uniquely Canadian political agreement." As the person who negotiated section 35 of the Charter, which is the aboriginal rights section, which I did on behalf of the federal government along with the 28 members of the NDP caucus in the fall of 1980, I can tell you that there is no part of the Constitution which more clearly meets the statement that "it was an entitlement resulting from an uniquely Canadian political agreement" than section 35. The fact of the matter is, minister, that any member of the aboriginal peoples that I have ever talked to would argue they have a right, not merely an entitlement. I think that one of the problems you have in making that distinction is that while you may be correct legally — I am not a lawyer — that is not the public perception.

That leads me, minister, to my question, which is really a follow-up on the point made by Senator Lynch-Staunton. If we are to take away, to use your word, "entitlements" which people regard as rights, what is the test? Your answers seemed to indicate that the test was not a clear test, in the sense that it involved a great number of factors mixed together, and was based on the political judgment of the day. I find myself very much in agreement with Professor Patrick Monahan, whom you know well, and I should like to give you a short quotation from his testimony on the Quebec resolution before the joint committee. He said:

It would be my view that the test that should be applied is: Does the proposed amendment enjoy support of the minority that is affected by the amendment? In effect I would propose that a majority of the minority rule. I would go further to say that the burden of establishing that

approval has been obtained from the minority should rest on those proposing the amendment. In other words, the minority should not have the burden of demonstrating that it does not support the amendment. Rather, those who are proposing the amendment should demonstrate that the minority does support it. It seems to me that Parliament's role here is as a protector of minority rights. Parliament's role is to stand for the minority and to ensure that the minority has approved the amendment or is in favour of the amendment.

Minister, it is on that basis that I voted against Term 17 last time. It is also on that basis, frankly, that I was in favour of the recent amendment proposed by the Province of Quebec.

It does seem to me that if people believe they have rights — or entitlements, as you call them — we are in need of an explicit, objective understanding, not merely the political convenience of the moment, in deciding whether those rights, or entitlements, should be taken away. If our role as parliamentarians is to stand for the minority — which is why they are covered in the Constitution in the first place and not merely left to provincial jurisdiction — in light of the fact that, as you admitted in your opening statement, the level of Pentecostal support is not known — indeed if one looks at circumstantial evidence it seems clear that the Pentecostals are substantially against the amendment — how can one justify changing those rights without knowing explicitly the views of the minority? What is the role of Parliament if it is not, in fact, to protect the minority when they are in danger of being overwhelmed by the majority?

**Mr. Dion:** Again, you single out the fact that I once used the word “entitlements,” though elsewhere I spoke about rights. I do not deny that this is a right that we will change in the Constitution. I maintain this is not a fundamental right.

**Senator Kirby:** I am not disagreeing with you.

**Mr. Dion:** You spoke about section 35, regarding aboriginal rights. In order to amend section 35, you need the 7/50 process. You need to convince seven provinces, the Parliament of Canada and 50 per cent of the population. In that way, the Constitution reflects the fact that section 35 is important. Section 17 can be changed by a bilateral agreement. That already signifies that it does not have the same weight as section 35; we agree.

The second part of your question was with regard to the Pentecostals. We have to take into account the different aspects. It would be easier for us today if we had certainty that there is strong support among the Pentecostal minority. Since they are not easy to identify in the vote, it is quite difficult. Then, however, how the Pentecostal members of the House of Assembly voted becomes important. The fact that the Minister of Education, Roger Grimes, is Pentecostal and strongly supported the change is important information for us, as is the fact that Mr. Graham Flight, representative for the strong Pentecostal riding of Windsor—Springdale, said:

I believe that we now have to move on. The people of Newfoundland have spoke in a very decisive manner to amend the Constitution to accomplish the proposed education reform that this government is proposing and, Mr. Speaker, I respect that decision. I will support the resolution.

That is also an indication that the change will be good for the people of Newfoundland.

**Senator Kirby:** You mentioned as examples the MHAs and the minister who were Pentecostals and who voted to support the amendment. It seems to me you cannot have it both ways, and I go back to the question by Senator Lynch-Staunton. In the absence of explicit evidence of what the minority thinks, it seems to me that we as parliamentarians should be in a position to demand that evidence. What you are saying is that we are restricted to the evidence that we obtained from provincial authorities, and I, for one, do not think that is our role. I think we have every right to demand an explicit understanding of where the minority stood.

In addition, to take three or four examples of the leadership of the Pentecostals, if I may call the MHAs such, and say that their support is a reasonable reflection of where the Pentecostals stand seems to me to be at odds with your response to Senator Lynch-Staunton, which was that in this case one should not accept the position of the bishops, who represent the leadership of the Catholic church. My sense is that what you are doing is accepting very small samples, three or four people, to reflect the group that happens to be in accordance with your view. I understand the need to make political arguments, but it seems to me that if you reject the bishops on the grounds that they are a small group of the leaders, and yet accept three or four people who appear to be the leaders of the Pentecostals, not religious leaders but political leaders, there is an inconsistency in that position.

•(1210)

Minister, please address the question directly. Why do we have to rely on the anecdotal evidence when you, yourself, point out that we do not know exactly where the Pentecostals stand? Why do we not have the right to understand and require as evidence, before we make a decision, knowledge of where the minority stands? Why do we not adopt the position taken by Professor Patrick Monahan, which I have argued in this chamber on at least two other occasions, which is that we need to know where the minority stands?

It is easy to have a vote. After all, the smaller the minority, the more they will be overwhelmed in a referendum. However, what do we do with a minority that is 5 per cent of the population, like francophones in Manitoba? It seems to me that a referendum is the least meaningful measure possible when trying to protect the rights of a minority.



**Mr. Dion:** Had support been 50 per cent plus one, the Prime Minister and I said that we would have had great difficulty in accepting it. However, 72 per cent is a strong indication.

**Senator Kirby:** It is not an indication of the position of the minority, and it is the minority which is at stake.

**Mr. Dion:** As Dr. Regular has indicated, we cannot know for certain. Surely he cannot claim that his people voted against. That is important.

In fact, in four districts with Pentecostal concentration there was support for the "yes" side, and the turnout was quite low. That means that people were not strongly against the proposition. If there is strong opposition, the turnout should be high.

[Translation]

**Senator Rivest:** I was most impressed by the arguments of our colleague, Senator Kirby, and I say this in the spirit of friendship, when he addresses the constitutional rights of the minority and the fact that the majority must not abuse those rights. In Quebec, the National Assembly is well placed to understand Senator Kirby's argument, since the entire country equipped itself with a constitution in 1982 without the consent of the National Assembly. Extreme care must be taken when entering into a debate that is fundamental to the future of a country.

Addressing the minister more directly, you rightly focussed in the Quebec question, and in your relationships with Quebec government authorities, on the importance of consensus. In Quebec you stressed — again rightly — the importance and necessity of reaching a consensus, given the particular characteristics of Quebec, because there is a very significant religious dimension, but also a linguistic one. Your speech and the questions from my honourable colleagues and your responses to them give the impression that, as far as Newfoundland is concerned, there is no longer any question of a consensus but of a majority in the referendum. Within the majority in the referendum, there are various hypotheses about the minority, namely whether the Catholics account for 40 or 60 per cent.

In the same vein, proceeding with the requirements of consensus in the case of Quebec — and there simply does not appear to be such a consensus in Newfoundland and Labrador society, and the church spokespersons have expressed objections — it is my feeling that the Government of Canada, through you, may be speaking out of both sides of its mouth — and I do not mean this in a pejorative sense. You require a very strong consensus for Quebec on the one hand, and on some sort of majority, on the other hand, for making constitutional amendments which affect the rights of minorities and religious communities. Do you get the drift of my question?

**Mr. Dion:** Yes, I understand the meaning of the question very well. Some day, I hope you will explain to me how "speaking out of both sides of its mouth" can be non-pejorative.

**Senator Rivest:** I did not want to ruffle your feathers. Since you do not take it in a pejorative sense, my impression is that you are indeed speaking out of both sides of your mouth.

**Mr. Dion:** I will try to dispel that impression. The Government of Newfoundland has been told very clearly that, if it had ended up with a weak majority on this amendment, the Government of Canada would not have supported it. The last time, the support was 54 per cent, because the amendment was far less stringent. It maintained denominational rights that are not maintained this time.

The amendment is now more stringent, and a stronger majority was required: 73 per cent is a consensus. What is needed is to see whether this consensus also has support among the affected minorities. As for the Catholic minority, it is hard to deny that there is support. The estimates vary, but it is clear that the bishops who have just spoken to you are not speaking for all Catholics. The two speakers who followed them were also Catholics. The referendum results show some support among Catholics. How much support is hard to determine.

In the case of the Pentacostals, who represent only 7 per cent, it is much harder to know. I have been questioned a lot on this. There are, however, many other indications of support within this community, although we have no exact figures. The proof is in the fact that a number of Pentecostal MLAs have supported the amendment. Another member said: "I was opposed, but I changed my mind on the strength of the 73 per cent. I do not want my community to be the only opponent of change." This is another consideration to take into account.

In a society, I would oppose having just the minorities vote. They must recognize the opinion of the majority and vice versa. We must not encourage people to think solely of themselves. This is not how society is built.

Premier Tobin will have to take into account the fact that the representatives of the religious authorities of these two denominations were opposed. He will have to bear that in mind and consider with them how to proceed once the amendment is made. However, to oppose the amendment under the circumstances seems unfair in view of the fairly significant support in the province of Newfoundland and the obvious merits of the amendment. I have no questions on the merit of the amendment. Those who testified before me provided ample proof.

**Senator Rivest:** In legal terms, are you as sure of there being no possibility of challenging the constitutional amendment you are proposing for Newfoundland as you are in constitutional terms?

**Mr. Dion:** Yes. In fact this is not the first time this section of the Constitution has been changed. We have always taken a bilateral approach.

**Senator Lynch-Staunton:** The point of my suggestion that minorities be consulted separately from the majority was not to hold a decisive vote, but to have a better idea of the position of the minorities, in order to permit the majority to make the right decision rather than come to a decision in the uncertainty and ignorance before us today.

**Senator Beaudoin:** This morning, the Archbishop of Hamilton described the situation in Quebec very clearly. He said what I have been saying for a long time, which is that Quebec is completely different since it is the only place where Catholics are in a majority. The situation is probably reversed in all the other provinces.

I concur fully. In the other provinces, the focus is always on minority rights. They seem to forget that denominational rights and not just minority rights are involved. Religion and religious groups are protected.

In this case, we have a hard time knowing how many Catholics and how many Pentecostals voted in favour of this amendment.

If I am given proof of a majority of Catholics and Pentecostals, I have no problem with that. The Archbishop says no, the two people following him say yes. If I understand you correctly, you say yes. Obviously, if what Senator Lynch-Staunton proposes could be done, that would be ideal, but that is not what was done.

How do you reach that conclusion? You tell us the majority voted in favour of the amendment. It is perhaps far easier for the Catholics than for the Pentecostals, but do you have any more arguments supporting your position?

**Mr. Dion:** Senator Beaudoin, returning to the case of Quebec, you will recall that one of the criticisms we had to deal with — as you know, since you were on the committee — was that there had been no referendum in Quebec. It was pointed out that, in the Quebec context, it was not necessary.

In the case of Newfoundland, since the religious authorities were opposed, a referendum seemed worthwhile. We must look at the context. Nothing in the Constitution requires a referendum. Nor does anything forbid it. The context must be taken into consideration. The outcome indicates a very strong consensus of 73 per cent, very likely a majority among Catholics, with uncertainty as far as the Pentecostals are concerned. Support for the proposed amendment was noted among MLAs of the Pentecostal faith, however, as well as among MLAs representing ridings with a high concentration of Pentecostals.

**Senator Beaudoin:** It was clearly indicated, in the case of Quebec, that the vote in the National Assembly was unanimous. To the best of my knowledge, the vote in Newfoundland was also unanimous. The two witnesses who followed the two bishops indicated that there was a Catholic majority in 17 out of 18 districts. Do you have any figures on this?

!House editors use % but Senate editors use per cent

**Mr. Dion:** I can give you, as an example, the results from ridings with a heavy concentration of Catholics: in the

St. George's Bay Region, where 74 per cent of the population is Roman Catholic, the vote was 59 per cent in favour; in the Burin Peninsula, which is 48.5 per cent Catholic, 72 per cent voted yes; and in the Avalon Peninsula, which is 49 per cent Catholic, 72 per cent voted in favour.

Keep in mind that voter turnout was rather low. Those opposed to something are more likely to vote than those who are in favour. This is a well-known phenomenon in electoral sociology. Nonetheless, there were majorities in those ridings with a strong concentration of Catholics.

**Senator Beaudoin:** The Supreme Court clearly stated in *Adler* that these are not fundamental rights. For the purposes of this amendment, the matter is resolved. International conventions must be taken into consideration, and these give parents certain rights. We all agree on that. Parents are entitled to demand religious instruction for their children.

Yet you do not take into consideration that these international conventions include a requirement for public funding. Did I understand your statement correctly?

**Mr. Dion:** I have never seen any of these conventions obliging government to fund denominational public schools. However, I am not aware of any charter that denies the freedom of religion or freedom of worship. There is a distinction between freedom to worship and the right to have denominational schools funded by government.

**Senator Bolduc:** This brings us, Mr. Minister, to our colleague's argument on fundamental versus other types of rights.

[English]

**Senator Beaudoin:** I think it would have been a good thing to have the two questions together because they are so interrelated.

**The Acting Chairman:** I am conscious of the fact that we have quite a list of speakers. However, if this is a supplementary question, then the honourable senator should proceed.

[Translation]

**Senator Bolduc:** You made the distinction between fundamental and other types of rights. The United Nations Covenant on Civil and Political Rights is an instrument implementing the Declaration on Human Rights. So we are not far removed from fundamental rights in implementing things. Article 18 provides that parents have the right to provide their children with a religious and moral education consistent with their beliefs.

Does that entail paying for it? Yes and no. In societies where there is a sort of unanimity, for example, in the province of Quebec, the entire rural part of the province and outside the City of Montreal itself, pretty well everyone is Catholic. When we make a distinction between the right to funding or not, I think we have gone far enough, thank you.

**Mr. Dion:** Senator Bolduc, you are not going to tell me that governments have the obligation to fund denominational public schools. They could fund them as the result of a consensus of public opinion in a society. They could no doubt try to do so. This is not the case, however, in Newfoundland, as we agree, we are not going to reverse the burden of proof.

No charter provides for public funding of denominational schools. There is no example of this in most of the liberal democracies that are committed to the respect of fundamental rights, including the freedom to worship.

In our country, there are no such rights in Nova Scotia, New Brunswick, Prince Edward Island, British Columbia, Manitoba — soon, perhaps, in Newfoundland — and now in Quebec. You will agree with me that they nevertheless constitute very respectable liberal democracies.

**Senator Bolduc:** It depends on the religious makeup of the society.

**Mr. Dion:** I am prepared to add to that something that pertains to Newfoundland alone: There was not even a public education system. The system is controlled by the churches and funded publicly. I know few democracies in the world that work like that.

[English]

**Senator Taylor:** I add my greetings to the honourable minister.

Section 92 of the Constitution deals with exclusive provincial rights. It covers a multitude of areas, including property and civil rights, which is the provision most provinces use to finance education.

My study of the history of the Constitution has shown me that section 93 was put in very deliberately because the Fathers of Confederation did not trust the provinces to run education. It seems that now, some 100 years later, we are trusting the provinces to do just that. I am not sure that is the right attitude to be taking. I think that what our fathers visited on us over 100 years ago is still in place. It is our duty in the federal realm to ensure that no changes are made in education subsequent to entering into the Constitution.

•(1230)

Further to what Senator Lynch-Staunton and Senator Kirby have said, the very fact that this referendum asked for everyone to vote should be proof positive that they intended to rig the figures. Now we can see that there was a majority of a minority. When you set out to call a referendum and ask everyone to vote, you are obviously trying to slant the outcome.

Given that the Fathers of Confederation enacted section 93 to ensure that we would keep this in mind, is it not incumbent on the federal Parliament to see that referenda are run by the federal government? Why would we ask the province to ask Colonel Sanders what he wants to do with the chicken coop? With respect

to Newfoundland and Quebec, why would the federal government not come in to conduct and approve the system used to ascertain the opinion of the affected minority?

Westerners rely on sections 92 and 93. Whenever I ran in an election, I was always in a minority, and it scares the living daylights out of me to think that Ottawa may only listen to the majority voice in a referendum. It will be an awful day when that happens.

**Mr. Dion:** The Government of Quebec and my counterpart Mr. Brassard came forward with the request at the beginning of 1997. He requested this change. My response was that we first have to know if there a consensus, and then the Parliament of Canada must decide what to do. Of course, the Parliament of Canada is also the Parliament of Quebec.

After that, the Premier of Quebec attacked me, saying that I was opposed to Quebec democracy. He said that I was a bad Quebecer because I had told him that it was important for the Parliament of Canada to make up its own mind. Senators, it is important for you to make up your minds. The fact that the legislature in Newfoundland is supporting this resolution is important information for you to consider, but you have to make your own decision.

What you are suggesting is the reverse of what the PQ government was saying. You are saying that we must be very suspicious of provincial governments, as if they are our enemies. I am afraid that is not my understanding of the federation.

**Senator Cools:** Yes, we must be suspicious of them.

**Senator Taylor:** I can be suspicious of my friends.

**Mr. Dion:** In my view, the provincial governments are our constitutional partners. We must take into account their points of view. It is part of the criteria that we must take into account. For instance, I do not accept the idea that section 93 is there because we cannot trust the provinces. Section 93 is there because it was an historical compromise between Catholics and Protestants. That is quite different.

I want to work with the provincial governments. That does not mean that, as a parliamentarian of Canada, I must always be in agreement with them, but I do not have a special suspicion about them.

**Senator Doody:** Mr. Minister, during your very comprehensive presentation, you made a statement that is central to this point, and I would like to go back to it. It revolves around the question of determining the position of affected minorities. You mentioned that then Premier Wells had offered various denominations an opportunity to vote as individual classes of people.

My memory of that situation is somewhat different. When premier Wells phoned me back in 1996 — and I guess he phoned all the Newfoundland representatives — to ask for support for the then proposed amendment to Term 17, I said that I would, only on the condition that he found a way to determine the

position of the affected minorities. He told me that was impossible. He said that there were minorities in Newfoundland. He said that we were all Newfoundlanders, and we would all vote as a group.

Subsequently, I heard the same statement made here during debate. Senator Rompkey made the same statement that the opportunity had been presented to the denominations and they refused. That was quite startling.

I immediately got in touch with the various denominational leaders in Newfoundland, and they said no such offer had been made. They had no documentation. I asked for some, but none was available.

During the current discussion in the joint committee on Term 17, Minister Roger Grimes from Newfoundland made the same statement: that the offer had been made to the denominations and they had refused. Once again I asked them for documentation, because this is vital to the question. If, indeed, the denominations did refuse to be identified, it puts a different spin on the whole situation. He undertook to search out whatever was available and send it up to us.

I have not heard from him since. I expect there is no such documentation because Bishop MacDonald's office and the denominational chairman's secretary gave me the same assurance.

I am asking you, sir, if you can substantiate that statement. It would be much appreciated. It would be a pity to leave it on the record of the *Debates of the Senate* that such an offer was made and was refused. I contend that we can find no such offer, or proof of offer.

**Mr. Dion:** It is our understanding that it has been offered.

**Senator Doody:** It is an understanding, but you have no substantiation.

**Mr. Dion:** I have no reason to doubt what has been said by the provincial government on this specific point.

**Senator Doody:** I just gave you a reason.

**Mr. Dion:** You may agree with me that it is hard in a democracy to vote with self-identity. I am not aware of a vote that has been done that way. I am not saying that we never should consider it, but it appears strange to me. When I go to vote, I do not want to identify myself as a francophone.

**Senator Doody:** I do not understand the concern. I do not see any reason why anyone in Newfoundland who is a practising Pentecostal would not be prepared to tell the world that he is a practising member of the Pentecostal Assemblies.

People around here probably suspect that I am a Roman Catholic, so I would not be letting out any state secret if I told the returning officer that I would like to vote in category A, B or C.

In any event, that is secondary. It is not my responsibility to devise a system. It is simply my responsibility to see that the record of the Senate is as clear as it possibly can be. If that statement is to stand, that the denominations were offered that opportunity and they refused it, then I think it should be shown to be so. If it is not, we should be very careful about how we phrase it.

**Mr. Dion:** I suspect that if one day a government wants to identify minorities when they vote, many minorities will object in this country, and there will be a huge debate.

**Senator Doody:** Mr. Minister, you may be correct on that point. I am not arguing with that. I am arguing with the statement that you made and that I am asking you to substantiate. I guess the answer is that you cannot.

**Senator Kinsella:** Mr. Minister, based on your opening statement, I take it that it is your view or the view of the Government of Canada that article 18 of the International Covenant on Civil and Political Rights will not be violated by this constitutional proposal.

I underscore, however, that it was also the view of the Government of Canada a few years ago that section 12(1)(b) of the Indian Act did not violate the international covenant. However, when I took the *Lovelace* case to the Human Rights Committee of the United Nations, Canada was condemned for violation of that covenant. In the *Lovelace* case, minister, only one government had to respond — the Government of Canada.

Will the Government of Canada be standing with the Government of Newfoundland and Labrador should Canada be subject to or have to respond to a communication — which is the technical term for a complaint — filed against Canada because of this proposed amendment, should it pass?

•(1240)

**Mr. Dion:** I gave the reasons why we think that section 18 does not contradict the amendment that we are considering today. If we must, we will be more than pleased to repeat this argument before the court, because it is our position. We have every confidence that the results will be what we expect. I cannot give you a guarantee on that, however, because we must respect the court's decision. Should we need to go to court — and I hope that will not be the case because I do not think it is necessary — I will repeat the arguments that I have given to you today.

**Senator Kinsella:** There is no court involved in the enforcement mechanism in place on the International Covenant on Civil and Political Rights. There is the Human Rights Committee of the United Nations, which is the body that adjudicates.

We need to know what intergovernmental mechanisms or steps would be taken should Canada need to respond to a communication that is alleging a violation of the covenant in this regard.

**Mr. Dion:** That is a difficult question for me to answer. I do not see any difficulty between section 18 and what we are considering in Newfoundland because there is no obligation to have publicly funded schools according to denomination in the covenant.

**Senator Kinsella:** Minister, perhaps I can put my question this way: Would you explain to the honourable senators present here the mechanism that is followed when a Canadian files a complaint — and that is called a communication — under the optional protocol, and the state party, in this instance Canada, must respond to that communication? Although the communication in this instance would be filed against Canada, as in all instances, it would be as a result of the actions of both the Government of Newfoundland and Labrador, as well as the Government of Canada.

Would you explain to the senators the mechanism or the step-by-step process when a complaint is filed against Canada, under this covenant, as I expect it to be filed, and filed successfully?

**Mr. Dion:** I cannot explain that step-by-step process. Unfortunately, I do not have an answer for every question. I am not sure that this is central to what we are speaking about today, but I will give you the guarantee of the Government of Canada that if it reaches that point, the government will act in an appropriate manner as a state.

**Senator Kinsella:** With respect, minister, in my opinion, it is central to this honourable house because the request that we have is coming from the province of Newfoundland and Labrador. The actions taken by the Senate of Canada will have the effect of a complaint being filed, not against Newfoundland but against Canada. It is Canada that is the high contracting party to the covenant, not the Province of Newfoundland. To use a colloquial expression, it will be the Government of Canada that is left holding the bag.

**Mr. Dion:** I agree that, at the international level, it is Canada which speaks for everything in Canada. Obviously we will consult the Government of Newfoundland in this situation, but the Government of Canada is the government for all Canadians. At the international level, we speak for Canada.

**Senator Gustafson:** I have been surprised by the amount of letters that have crossed my desk from other parts of the country, mainly from the west, where I live. I am sure that you have received a lot of correspondence indicating the concerns of people in other provinces and how this might affect them. At least two other senators have related their experience in Western Canada.

It seems that the experience in the west is quite different from that in Newfoundland. Many denominational schools are opening their doors. In Calgary alone, there have been some 51 new denominational schools over the last few years. There is a different concern there about how this legislation might affect western Canada and the minorities that live there. This is a

serious question in the minds of people out there, and one with some political overtones. Have you looked at that?

**Mr. Dion:** This will be a bilateral amendment. Because we are a federation, what is good for Newfoundland is not necessarily good for Saskatchewan. Please tell the people of Saskatchewan that. It will change nothing in Saskatchewan, but it will be good for your fellow citizens of Newfoundland. That must be very clear. I have said the same thing about Quebec. The amendment for Quebec is not the same as the one for Newfoundland.

Today, Newfoundland does not have the same system as Saskatchewan. They have a system that they no longer want, and a system that you will not find in other provinces. It is a system where you do not have a public system for school boards. It involves the publicly funded, denominational control of schools. I am sure the people of Saskatchewan do not want that for their province. The fact that we are removing it from Newfoundland will change nothing in Saskatchewan.

**Senator Gustafson:** Sometimes we do not learn a great deal from history. Practically all of our universities, if not all of them, had their foundations in some denominational beginning, be it Catholic, Protestant or something else. The further we drifted away from that type of influence in the universities, the more breakdowns we have seen in our society.

I was in New York about three weeks ago. The business community is recommending and supporting religious training in different religions and denominations in the business community, for moral, ethical and other reasons. It seems that we are moving the other way.

**Mr. Dion:** The relationship between the churches and public life has changed since the nineteenth century. What I said about this at the beginning of my remarks is very important. I am not aware of a well-established democracy that does not respect freedom of religion. This is important. The control of publicly funded institutions by churches is not the fundamental right of freedom of religion. That is why, in some democracies, this control does not exist; in other democracies, it exists a bit, or it may be changed. It is a debate of public opinion which we may take into account. For the Government of Canada, freedom of religion is sacred.

**Senator Cools:** I should like to welcome the minister here today.

You seemed to express a little shock at Senator Taylor's suspicion, saying that provincial governments are your constitutional partners and friends, not your enemies. I would have thought that the Senate was your constitutional partner also, yet you frequently state that you want to abolish it.

**Mr. Dion:** Yes, I have said that in the past.

•(1250)

**Senator Cools:** We must be sure whose constitutional partners are the true partners.

**Mr. Dion:** I have great respect for the Constitution of Canada. The Senate of Canada has an important constitutional role. You are fulfilling your duty. I have great respect for all senators. I know many personally, and I have great respect for them.

**Senator Cools:** I understand from that comment that you are rethinking your position on abolishing the Senate, because —

**The Chairman:** Can we get back to the matter at hand?

**Senator Cools:** We certainly can, but the minister gave me an opportunity to say that, and I could not resist.

Part I of the Constitution Act, 1982 in the preamble says:

Whereas Canada is founded upon principles that recognize the supremacy of God and the rule of law:

The resolution before us to amend Term 17 states that:

...the Legislature... shall provide for courses in religion...

What is the impact of this proposed Newfoundland resolution on this preamble of the Charter?

**Mr. Dion:** There is no impact because freedom of religion is a sacred and fundamental right. We are not talking about that today. If the right to have publicly funded, denominational schools controlled by churches was a fundamental right, why does it not exist in other provinces? If it is a fundamental right, please, put it in the Constitution right away and ask that only a majority of 7/50 or a minority of provinces can remove it. That is not now the case. It is found only in Newfoundland, and we have clear evidence that Newfoundlanders want to change it.

**Senator Cools:** Minister, have you ever heard of Paul Marshall? He is at the University of Toronto. He is an established, well-known, internationally acknowledged Canadian authority on the escalating global persecution of Christians. He had this to say:

In its proposal to establish their own dominance in education, the governments of Québec and Newfoundland are departing from the practice of democracies throughout the world. Their model is countries such as China, Iran or Ecuador which demand that one and only one view of education be present in society. Religious education is the seedbed of religious freedom. If this simple freedom is eliminated, and religion classes in Canada reflect the lowest common denominator of a bureaucracy instead of the highest aspirations of the child, we will have turned our backs on the one great hope of the human family.

Mr. Marshall wrote that in his 1997 book entitled *Their Blood Cries Out*.

**Mr. Dion:** No one is stopping religious education. No one will stop any Newfoundlander from teaching his religion to his

children, from going to church, or from having his moral understanding of what is right and wrong. That will exist in Newfoundland as it exists in any other place in Canada. That is sacred.

**Senator Cools:** Mr. Minister, all I can say is that I am still opposed. You have not persuaded me.

**Mr. Dion:** Perhaps next time.

**Senator Di Nino:** Mr. Minister, I heard a colleague say a moment ago, "He is very good." I must agree. You are a great skater. You could certainly win a gold medal in the Olympics.

I come at this issue as an Ontarian. Many of our citizens have looked at the Quebec issue and the Term 17 resolution in Newfoundland and are calling them the beginning of a slippery slope towards the eventual elimination of denominational schools, particularly the separate school system in Ontario. Would you comment on that? Would you inform me and Ontarians how the constitutional guarantees that exist now for Newfoundland, Quebec, and Ontario differ so that the separate school system in Ontario is safe and, in your opinion, would not be affected by this change?

**Mr. Dion:** Senator, it is most important to take into account the specific context of each province. Some said to me when we were discussing the Quebec case, "Well, you have a set of structures in Ontario. Why would you not have both denominational and linguistic school boards in Quebec?" The obvious answer is that the linguistic situation in Toronto is not the same as it is in Montreal. You must take into account the specific context of each province.

When we speak about Newfoundland, it is a system which does not exist in any other province. It is changing.

Ontario went through difficult debates in the 1980s, as you know, and they found systems which work. If one day Queen's Park comes to the Parliament of Canada to ask to remove section 93 the way Quebec did, be sure that we will ask what exactly is happening within Ontario society. Since Catholics are 35 per cent of the population in Ontario, I am sure they will have something to say about it. Each context is proper to each province.

**Senator Di Nino:** You do not believe, then, that the section 93 change in Quebec and the Term 17 change in Newfoundland will fuel those who are preaching the elimination of the separate school system in Ontario?

**Mr. Dion:** I am saying that, if we have clear evidence that Catholics in Ontario are against it, not only the bishops but the population, I do not see how that change could be made.

**Senator Di Nino:** I am not sure I agree with you, but let me go to another point.

Some 48 years ago, the people of Newfoundland voted by a very slim majority to join Canada. One of the conditions attached to this major change to their system was Term 17, which guaranteed the denominational schools as they exist today. That was 48 years ago. Do you not feel that, if this particular provision had been included, perhaps Newfoundland would not be part of Canada today?

**Mr. Dion:** That may also be true for section 93 and the Confederation in 1867. However, societies change. My province of Quebec went through a change a few days ago that would have been impossible even in the 1950s. The population would not have supported such a change. Before 1982, it would not have been possible because the anglophone community of Quebec would not have the protection of linguistic rights under the Charter. You must take into account the evolution of a society. If you do not take that into account, what was decided 40 years ago or a century ago vetoes any change in society today. That is not in the spirit of the Constitution. The Constitution of Canada does not say that Term 17 cannot be removed from the Constitution by a constitutional amendment. It allows us to do it by an amending formula and a bilateral agreement.

**Senator Di Nino:** When something is placed in the Constitution, we use the word "entrenched." The word "entrenched," in my opinion, is a great deal stronger than most other words. Do you not feel that we are betraying the trust that those Newfoundlanders placed in us by a very small majority, many of whom are still alive today, that this particular right would be protected under the Constitution of the country?

**Mr. Dion:** It gave us the obligation to be cautious but not to the point that we could never change the Constitution. That is why it was important to have the different processes that the Government of Newfoundland undertook in order to know the state of opinion in the province about the change. It was important for all of us to discuss the merit of the changes. I hope not many senators will question the merit of the changes. The question is more about minority support.

•(1300)

When Newfoundland joined Canada, the Pentecostals did not have the constitutional right held by other denominations. It was only in 1987 that they received this right. Are you saying that, in 1987, we made a mistake by putting them in the Constitution? This is something you may argue, but you cannot argue that, in 1949, they were part of the pact.

We have to change the Constitution according to the changes in society.

**Senator Di Nino:** Mr. Minister, I thank you for your answers, but I think in this case I cannot agree with you. I feel strongly that the minority of people who still believe that this is important to them would be betrayed by us if we passed this resolution.

**Mr. Dion:** Does that mean, senator, that you would request unanimity, or that even with unanimity, you would not change the Constitution because it was decided at the beginning that it should be like this?

**Senator Di Nino:** I think it is a difficult question, but one of the Senate's reasons for being was to be respectful of and to protect the rights of minorities. We have abdicated that responsibility a number of times, and we may very well be doing that again today.

**Senator Grafstein:** I have a comment on Senator Di Nino's view of the Constitution. I adhere to the living-tree-document view of the Constitution. It keeps moving, it keeps growing, it keeps changing. The roots are the same but it changes in different ways. As Senator Fairbairn pointed out in her speech, that remark was made by Lord Sankey. That is obviously a constitutional concept that the late Bora Laskin enunciated, as well as a view which is held by myself and others. The Constitution does not put us in a strait-jacket. It puts us in a process of change, provided the change is consistent with its rules and fairness.

Minister, thank you for attending and for your thoughtful rendition. We are not dealing with fundamental rights in this instance. Nobody in Canada will be prevented from teaching their children the religion they choose, or taking their children to the chosen churches or having documents or materials of a religious nature. Those are fundamental rights and we are not dealing with fundamental rights.

As senators, we must be sensitive to the differences in the Constitution. I welcomed your reiteration of the proposition that I made on the Quebec school question, because you and I are *ad idem* on that.

What do we have here in Newfoundland? We do not have, as some senators have suggested, a removal of rights at all, but we have a substitution of one form of constitutionally protected provisions for another set of constitutionally protected provisions.

Term 17 does not provide those individual rights in such staunch and absolute terms as senators in this place have suggested, but it does state that the:

Legislature will not have the authority to make laws prejudicially affecting any right or privilege with respect to denominational schools. It goes on to say that their share of public funds for non-denominational teaching will be non-discriminatory.

It is essentially a constitutional undertaking that a legislature, exclusive in its jurisdiction dealing with education questions, has to be fair with respect to access to public funds for education, but, in particular, it has to give some predominance or even exclusivity, if you will, to certain schools of certain denominations.

**Senator Murray:** Excuse me, senator, what are you referring to?

**Senator Grafstein:** I am referring to the existing Term 17.

I will now deal with the proposed change in the current resolutions. The proposed Term 17(2), at the outset, states that Newfoundland has exclusive authority to make laws, but it goes on to state that it will provide for courses in religion that are not specific to a religious denomination.

**Senator Bolduc:** It is including courses in anthropology. That is what that means.

**Senator Grafstein:** Senator Bolduc, you may be right.

Let me move to the next section. I would like Senator Bolduc to look at the proposed Term 17 (3) which states:

Religious observances shall be permitted in a school where requested by parents.

Let us turn to the Oxford dictionary as to what "observances" means. I am reading from the Oxford Concise Dictionary, and you can also turn to the Harrap's dictionary, which is in English or French. It defines "observance" as an act:

the act or process of keeping or performing a law, duty, custom, ritual

or

an act of a religious or ceremonial character; a customary right.

To my mind, if you take the word "observances", contrary to what the archbishop said, this does not prevent a parent or group of parents in a particular school district from demanding from the school system, with public funds, that they teach their children the Roman Catholic catechism, nor does it prevent Pentecostal parents in a particular area where numbers warrant from coming forward and saying, within that public school system that they want, under that provision, to provide religious observances in its narrower or broader context in the school.

Minister, I say that because we have heard from Senator Taylor and others that this is a removal of rights. It is not a removal. It is a change. It is a substitution from one order to another order. Unlike any other province, and contrary to what Senator Di Nino and Senator Kinsella say, it still provides for religious observances, even in the educational sense, within the school if parents request it. I say that because I sometimes do not know if I am in the same room as other senators, having heard some of the questions or comments made by them today.

I should like your comments, minister.

**Mr. Dion:** Senator, in fact, you are right.

**Senator Di Nino:** What a surprise.

**Mr. Dion:** On this specific aspect, Term 17(3) says:

Religious observances shall be permitted in a school where requested by parents.

It is there. It is difficult to say that it is against a fundamental right to have this change. I understand the concerns of many people with this change, but the Government of Newfoundland tried to accommodate, to the greatest extent possible, the religious beliefs of people while changing the school boards.

I have a difficulty sometimes when people advocate unidenominational Catholic and Pentecostal schools while, at the same time, warning that allowing religious observances and non-denominational courses would somehow be dangerous to the Charter principles of equality and freedom of religion.

The current system in Newfoundland is very difficult to adjust in light of the Canadian Charter of Rights and Freedoms.

**Senator Murray:** They are protected.

**Senator Bolduc:** This is the new religion found in the Charter: No religion in school.

**Mr. Dion:** That is not what the courts have said.

**Senator Forrestall:** It sounds like it is what the courts said.

**Senator Grafstein:** It strikes me, minister, that those in the chamber who are concerned with equality and plurality should look at the current Term 17, which is imperfect because it does not provide accessibility to all faiths and all religions of an established nature, as defined by the archbishop. The proposed amendment changes that narrow order for an order that is equal, open and pluralistic. How can senators object to that, and how can you object to that, minister, if you do? Obviously, you do not. I should not lead the witness. I apologize.

**Mr. Dion:** I think the change requested is overdue. It will be good for the children of Newfoundland. It will be compatible with the Charter and with international covenants.

•(1310)

**Senator Rompkey:** I want to continue with the same line of questioning because I think Senator Grafstein has hit on something that is important.

I am surprised that those who take up the cause of minority rights have not taken up the cause of the real minorities in Newfoundland. The real minorities in Newfoundland are those who do not have the privileges extended to the seven Christian denominations. I said a year ago, and I say it again: When I went to school in St. John's, Newfoundland, I went to an Anglican school. It was run by the Anglican church and paid for with taxpayers' dollars. Anglican ministers came in to teach religion. There were Jewish kids in that school. They had no right to schools of their own. They had no rights under the Constitution. They had no rights to religious observances. That is true under the present Term 17 that we are being asked to change.

Under the present Term 17, which we are being asked to change, the real minorities in Newfoundland, including the Jews, the Muslims, the Baptists and those of the Apostolic faith have no rights whatsoever. However, they will have rights under the amended Term 17. Under the new Term 17, any religious observance can be held in the school at the request of the parents. That will be clearly set out in the law.



We are moving to an equality of minorities. What we had before was an inequality. What we had before was seven Christian denominations who had a privilege, which they received in 1949. Let me talk about that a little bit because Senator Taylor talked about Term 17 and section 93. Term 17 was the equivalent of section 93.

Because I do not think people understand, I should like to underline again that we never, ever had a system of public education in Newfoundland. If you read the history of Newfoundland, you will read that during that period in 1949 it was agreed that, because our system was different, six denominations would operate schools. They continued to operate schools. That was set out in the Constitution under Term 17. Term 17, therefore, was our section 93. That is because we never, ever had a system that was like any other system in Canada. It is important to understand that.

**The Chairman:** Senator Rompkey, do you have a question for the minister?

**Senator Rompkey:** We are asking now that we be allowed to have a system that is like those which are in place in other parts of Canada.

**Mr. Dion:** The senator has brought some passion to this debate. Many people today have a lot of trouble because of the existing system. The two people who testified before you described the concrete problems experienced in the daily lives of parents. I am not saying that after this change all those difficulties will disappear. However, they will be less difficult for most people.

In addition, every denomination will keep the right to have private schools.

**Senator Bryden:** Unlike some others, I agree with virtually every position you have taken, Mr. Dion. The reason for that is it is my position that the significant issue here is the best interests of the children of Newfoundland and how they can get the best education.

I also agree with the two witnesses who appeared before us. It is time that senators of this chamber be prepared to consider the interests of a province, a small province like Newfoundland, as the minister has suggested, on the basis of its unique situation as brought before us, instead of muddying the matter up with how this measure will affect Alberta, Saskatchewan, and some future rights of big Ontario, all provinces which can look after themselves.

Little Newfoundland in coming here for our assistance in this constitutional amendment does not have the lever that Quebec had when it came. Quebec had the lever of us having to prove to the people of Quebec that Confederation works. That is not an issue in this case. The issue here is the education system for the people of Newfoundland.

What has been proposed in regard to the consulting of individual minorities is very, very simplistic. Are we to enter into

a situation in this democracy where people of different religions have to record their religion when they record their vote? If 93 per cent of the people of Newfoundland voted to use taxpayers dollars without having it controlled by the churches, and 7 per cent who were Pentecostals voted the other way, then are we not totally isolating a very significant minority? That is not the democracy that I understand we have in Canada. It sounds great to say, "Let us find out what the minority wanted." If it is the wish of some to single out the minority in this situation, I will tell you that there are many who will ask to single out the minority in many other situations.

I am sorry that I do not have a question.

**Mr. Dion:** I have a comment, Mr. Chairman.

Thank you, honourable senators, for giving me the opportunity to explain to you, as best as I could, why this amendment is important for the children of Newfoundland and why there is no incompatibility with this change and the Charter of Rights and Freedoms and international covenants. There is a consensus in Newfoundland society, although I agree that it would be great if we had even more evidence of it. The evidence I have given to you, however, is compelling.

Finally, I hope all of you will have a Merry Christmas with your families, and not in this house.

[*Translation*]

**Senator Graham:** Thank you, Mr. Minister, for contributing so much to our deliberations.

[*English*]

As I indicated yesterday after the appearance of Minister Martin in Committee of the Whole, we in this chamber place a high value on this kind of cooperation and dialogue. You have given generously of your time today. It contributes a great deal to our better understanding of the important issues under review. We look forward to more of the same with you and others of our colleagues when it is necessary and appropriate.

Again, thank you, Minister Dion.

**The Chairman:** Honourable senators, do I have permission to rise and report?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Honourable senators, the sitting of the Senate is resumed.

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REPORT OF COMMITTEE OF THE WHOLE

**The Chairman:** Your Honour, the Committee of the Whole reports that it has concluded its deliberations.

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## SENATOR'S STATEMENTS

### INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

#### ESTABLISHMENT OF FUND FOR HEALING CENTRES—GOVERNMENT POSITION

**Hon. Thelma J. Chalifoux:** Honourable senators, the Minister of Indian Affairs and Northern Development has announced a \$200 million to \$300 million fund for healing centres on First Nations reserves, called by some journalists the "healing fund." I would like to know who will administer this fund. How will it be distributed? These questions must be addressed in consultation with all three of the aboriginal nations. There are three separate, distinct aboriginal nations in Canada that are affirmed and recognized in the Constitution Act, 1982. They are the Inuit, the First Nations and the Métis.

•(1320)

With respect to the healing fund, why are the Métis, the off-reserve First Nations people and aboriginal women left out? Where is our apology? Have our families not suffered along with the people and their families who have chosen to remain on the reserves? I can use my families' experiences as an example of the many, many stories of abuse, and we are the Métis.

Once the treaties were signed, the registered First Nations children were funded in the residential schools. The Métis and the First Nations people who were missed when the registries were taken were not funded. This meant that these children were not treated equally.

My father and my uncle were put into a Blackfoot Indian boys school. The Blackfoot and the Cree were always bitter enemies. Can you imagine two little French Métis boys being placed in this school and the terrible situation that they had to live in? My uncle died a simple man because of the abuse he suffered in that school. My father was a survivor, and he escaped by joining the army in World War I at a very young age.

Many of our First Nations women have left the reserves for many different reasons. The Métis have always been known as the "road allowance Indians" because we had no place to go. We have many aboriginal communities in the mid-Canada corridor that are not on reserve lands.

Honourable senators, how can the Minister of Indian Affairs justify the \$200-million to \$300-million budget for a healing fund for less than 10 per cent of the aboriginal population?

**Senator Kinsella:** Good question.

**Senator Chalifoux:** How can the Minister of Indian Affairs make these decisions with no consultation with the Métis National Council, no consultation with the Native Women of Canada Association, and no consultation with the Congress of Aboriginal Peoples?

The minister has not considered the need for the funding off-reserve of community healing centres. She has not considered the need for healing centres for the children of abused parents. This is not just an issue of abuse in residential schools. This generational tragedy must be addressed.

Indian Affairs will not recognize the Métis nation, even though it has been affirmed and recognized in the Constitution Act, 1982. In my opinion, this is not an issue of what aboriginal nation you are from. It is a situation that has affected all aboriginal nations' children and their children's children.

Honourable senators, I deal on a daily basis with the results of this abuse. The three recognized aboriginal nations need to have input and be able to access this funding to assist in the healing. At this Christmas-time, I can only hope that all levels of government will take into consideration the horrendous statistics of suicide, alcoholism, drug abuse, and the list goes on and on.

It has come to my attention today that the Minister of Indian Affairs is not recognizing or negotiating with the Inuit or the Métis nation in regard to programs, services or funding. The Minister of Indian Affairs and the minister responsible for the Métis nation are not working in good faith to include the Métis nation leaders in the consultations on the Report of the Royal Commission on Aboriginal Peoples nor are they consult with us on issues relating to the two remaining aboriginal nations.

I am requesting from the Senate that this issue be brought forward to the Minister of Indian Affairs, to the minister responsible for the Métis, and to the cabinet by the Leader of the Government in the Senate, and I will be presenting a motion of inquiry on this issue. This is a very serious matter and must be dealt with immediately.

### THE ECONOMY

#### RATIONALE FOR MORE INVESTING ABROAD

**Hon. Philippe Deane Gigantès:** Honourable senators, yesterday, I asked Senators Meighen and Kirby to explain to people like me why we should invest more abroad in view of our shortage of investment for our promising small businesses. That was the simplified version of my question. Today I would like to talk of the context in which I placed my question.

An investment banker I know — yes, I do know one — and another person, a considerable economist, have both been worried by the lack of demand. Supply was okay, the banker and the economist said. We have invested in supply, or production, and reduced its cost by downsizing, keeping employment at a high rate, thereby reducing demand.

This shortfall of demand here and in other developed countries, my economist and banker friends say, has affected the Asian economies formerly called tigers. These former tigers over-invested in the hope of selling more of their products to the older, developed countries. This over-investment in these

so-called tiger countries was harmful because the slower-than-hoped-for growth of demand in our older, developed countries did not buy up their products. We did not buy enough of the Asian tigers' products, so the tigers are in crises. My banker and economist friends say this will affect us.

Honourable senators, what increases demand here — more investment in the small businesses here, which generate the jobs, rather than more over-investment abroad. Who would be investing our money abroad — to a considerable extent, the managers of pension funds and their advisors, people who have “the necessary knowledge,” Senator Meighen has told us.

A giant Ontario pension fund invested massively in a non-existent Indonesian gold mine and lost a packet. They ignored an ancient piece of wisdom, which says that if something sounds too good to be true, it is not true.

Senator Meighen seems to suggest that able capitalists know better than the rest of us. How many billions did the Reichmann investors lose? Why did the Bramalea managers fall on their face, not they personally, but their investors?

Are we talking about what Senator Meighen calls knowledge, or are we talking about capitalist dogma or, in the case of labour unions, socialist dogma? I am a Liberal. I reject all dogma. We are going through a tectonic movement, and our world is changing irresistibly.

[Translation]

**The Hon. the Speaker:** Honourable senators, I must point out to Senator Gigantès that his three minutes are up. Does he have permission to continue?

**Some Hon. Senators:** No.

**The Hon. the Speaker:** I regret, permission is denied.

[English]

## QUEBEC

### FINES LEVIED UNDER SIGN LAW

**Hon. Jerahmiel S. Grafstein:** Honourable senators, as we approach the festive season, yesterday we read in *The Globe and Mail* a report that the zealous Quebec language police were hard at work again. They seem to take a special delight in working hard, especially during holiday seasons.

We read that due to an alleged breach of Quebec's sign laws, they were contemplating imposing a fine of between \$500 and \$1,400 against a Montreal firm called L. Berson & Sons that makes Hebrew gravestones. Apparently the Quebec sign laws require that English or other languages on store signs be two-thirds smaller and the French characters. Mr. Berson, the owner of the gravestone company, would have been thus required to change, by painting over the sign that has hung outside his

family business for over half a century, or face financial penalties. The egregious sign displays his company's name and the word “monument” in both Hebrew and French. The report said that while the French word is much longer, the five Hebrew characters were slightly taller. The company owner claimed that his sign should have been exempted from the sign laws, as are bookstores and video shops which sell books and videos in other languages.

With this festive season, honourable senators, I wondered whether one should laugh or cry when reading such a report. My first thought yesterday was that perhaps this was yet another part of an unhappy, yet age-old, political pattern developing in the province of Quebec. Honourable senators may recall that last spring, during Passover, the language police in Quebec brought charges against a seller of unleavened bread packaged into boxes bearing Hebrew letters.

In the past month, Mr. Parizeau, that ever-so-articulate former premier of Quebec, gave a speech where he repeated the canard that the last referendum was lost in Quebec due to Italians, Greeks and Jews. One wonders whether his comments hit a special political button that drives the language police in Quebec to action.

•(1330)

Honourable senators, as students of history, we might bring to attention of the French language police that the Hebrew language was used 2,000 years ago by Jesus Christ when he and his disciples ate unleavened bread. The Hebrew language is now approximately 4,000 or 5,000 years old and survives in every part of the globe as a living and teaching language.

The survival of the Hebrew language, over the centuries, had less to do with state or political enforcement than the deep desire of those parents of Hebrew persuasion to learn themselves and teach their children in this language, wherever they lived and under whatever circumstances.

Honourable senators, I wonder, yet I have no doubt that the Hebrew language will survive as a living language. History informs me and I remain confident that the Hebrew language will survive when other languages commonly used to today are no longer spoken or even remembered.

This topic was of particular interest to me this week as I commenced the reading of a monumental new biography of that great French thinker of liberalism, Albert Camus. Honourable senators, please read and reread again Camus' classic works, *The Plague* and *The Myth of Sisyphus*. I wonder what Camus would have made of this state of affairs in Quebec.

There is one consolation in this curious affair. Today, we read in the *Gazette* that apparently the minister responsible for the language laws in the Province of Quebec has called off the investigation because of the outrage that came to her attention through the public media. This is, indeed, the festive season and the season of wonderment. I say to her and to all of you: Season's greetings!

[Translation]

**Hon. Jean-Claude Rivest:** Further to the statement by Senator Grafstein, for his information, Mrs. Beaudoin, the Minister of Culture and Communications, has apologized on behalf of the Government of Quebec and has spoken out against this attitude of the Office de la langue française.

[English]

## UNITED NATIONS

### CHILDREN'S EMERGENCY FUND REPORT ON THE STATE OF THE WORLD'S CHILDREN

**Hon. Landon Pearson:** Honourable senators, before we return to our homes to celebrate the coming together of families and friends over the holiday season at gatherings that will usually be accompanied by a wide variety of food and drink, I should like to bring to your attention the release two days ago of UNICEF's annual report on the state of the world's children.

The focus of this year's report is the vast extent of malnutrition throughout the global population, in particular, among women and children. UNICEF calls this situation "the silent emergency" because it is largely invisible. Only a minority of children who are malnourished are hungry because of famines, wars or other catastrophes. On the contrary, three-quarters of children worldwide who die of causes related to malnutrition betray few visible signs of this problem to the casual observer, yet malnutrition contributes to over 6 million child deaths each year; half of all children under five in South Asia are malnourished; and one-third of those in Sub-Saharan Africa. As we know, child malnutrition is not confined to the developing world.

Malnutrition leads to reduced productivity, hampers economic growth, impedes the effectiveness of investments in health and education, and deepens poverty. This situation is largely preventable. We have the science. We have many examples of best practices. What we need is political will.

As we celebrate with our families, let us remember all those other children who do not eat well, and support UNICEF and all the other organizations that are working so hard on their behalf.

## ROUTINE PROCEEDINGS

### LIBRARY OF PARLIAMENT

#### ANNUAL REPORT OF PARLIAMENTARY LIBRARIAN TABLED

**The Hon. the Speaker:** Honourable senators, I have the honour to table the annual report of the Parliamentary Librarian for the fiscal year 1996-97.

## BUSINESS OF THE SENATE

### COMMITTEE OF THE WHOLE AUTHORIZED TO REIMBURSE TRAVEL EXPENSES

**Hon. Sharon Carstairs (Deputy Leader of the Government):** Honourable senators, with leave of the Senate, I move:

That the Clerk of the Senate be authorized to pay the travel expenses of the witnesses who appeared before the Committee of the Whole this morning.

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

**Hon. Senators:** Agreed.

Motion agreed to.

## QUESTION PERIOD

### HUMAN RIGHTS

#### LACK OF EMPLOYMENT EQUITY FOR VISIBLE MINORITIES IN PUBLIC SERVICE—GOVERNMENT POSITION

**Hon. Donald H. Oliver:** Honourable senators, I have a question for the Leader of the Government in the Senate which flows from a senator's statement that I made two days ago on the 1996-97 annual report on employment equity in the public service.

As the Leader of the Government knows, this report highlights the gap between the government's target of 9-per-cent employment for visible minorities. The reports show that it was only 4.7 per cent.

Of all the other three designated groups, women now exceed their target figure by 2.2 per cent; the disabled are only 1.5 per cent from reaching their target; and the aboriginals are only .2 per cent from reaching their target.

Can the honourable minister explain to this chamber why three of the four designated groups have made such substantive progress while employment of visible minorities lags so far behind, having reached only 50 per cent of their target?

**Hon. B. Alasdair Graham (Leader of the Government):** Honourable senators, that is a good question. I wish I had an equally good answer.

I am aware of the report and the concerns expressed by the Honourable Senator Oliver with respect to employment equity. I can only say that the government is very conscious of this matter and will strive to do much better in the future.

LACK OF CENTRAL EMPLOYMENT AGENCY INITIATIVES  
FOR VISIBLE MINORITIES—GOVERNMENT POSITION

**Hon. Donald H. Oliver:** Honourable senators, there were a number of excellent central agency initiatives such as several conferences on providing greater career opportunities for women, a special accommodation project for the disabled, and five discussion forums on aboriginal employment. There does not appear to be anything or any initiative on behalf of visible minorities.

Considering that the government has only achieved 50 per cent of its target for visible minorities, why are visible minorities being left out of these central agency initiatives?

**Hon. B. Alasdair Graham (Leader of the Government):** Honourable senators, I will attempt to determine why that is so and do what I can, in my responsibilities in this chamber and as a member of cabinet, to ensure that efforts are made to improve the situation.

LACK OF VISIBLE MINORITIES EMPLOYED IN SENATE—  
GOVERNMENT POSITION

**Hon. Consiglio Di Nino:** Honourable senators, my question is directed to the Leader of the Government in the Senate.

One of the puzzling questions that has been in my mind since I came here in 1990 is the lack of visible minorities on the payroll of the Senate. It is an issue that I have brought to the attention of the Senate in the past. I still do not think we are doing a good job of ensuring that the participation of all Canadians in this institution is being taken seriously. Does the Leader of the Government in the Senate have any comment to offer?

**Hon. B. Alasdair Graham (Leader of the Government):** Honourable senators, that is another good question. That is the third good question in a row. I realize that I am not doing quite as well with the answers to those questions.

This is a problem. I suggest the Honourable Senator Di Nino, myself and others should bring this matter to the attention of the Standing Committee on Internal Economy, Budgets and Administration and determine whether or not we can do something in that respect in that particular forum.

TREASURY BOARD

ALLEGED ADVERTISING SIGNS IN COREL CENTRE—  
GOVERNMENT POSITION

**Hon. Jean-Maurice Simard:** Honourable senators, I have two easy questions for the Leader of the Government in the Senate.

•(1340)

First, it is reported in *The Ottawa Citizen* this morning, December 18, that the Government of Canada, at a time when

jobs are being threatened in all of Canada, at a time when this federal government is cutting transfers to the provinces in health and education and cutting subsidies to regional development, has announced that it has spent \$200,000 on signs to put inside the Corel Centre in Ottawa. That will make the Corel Centre the only facility to have an inside advertising sign paid for by Canada.

I think it behoves the government leader to explain.

**Hon. B. Alasdair Graham (Leader of the Government):** I wish I could explain. It certainly is news to me. I will be watching for it the next time I get free tickets to a Senators' home game.

ENERGY

SABLE ISLAND GAS PROJECTS—  
RUMOURS OF AGREEMENTS REACHED

**Hon. Jean-Maurice Simard:** Honourable senators, rumours have been circulating for the last 10 days that the federal government has approved, by Order in Council, the decision of the National Energy Board and the joint panel that studied the Sable Island project; however, I have not seen a minister of this government confirming or denying that decision. I will quote the headline of the *Telegraph-Journal* of this morning, "Cabinet okays Pipeline," and the by-line reads, "Maritimes and Northeast Pipeline's Sable Gas Project gets federal goahead, but leaves unanswered demands for another New Brunswick route, equal price."

It is a report by Michael Tutton of the Irving Group. Michael Tutton, the author, cites another representative of the Irving Oil group who states:

That's very good news for Atlantic Canada.

The adviser to Irving Oil Ltd. said that the approval of the Canadian portion of the pipeline is, "history in the making." He went on to say,

It means more energy for our companies and it improves our ability to be competitive in world markets.

Good for Irving. I have defended Irving for the last 25 years. I have stated publicly many times that Irving was a good corporate citizen. However, there are other companies in New Brunswick, Fraser among them in my riding, and many others in Atlantic Canada and northern New Brunswick. What about Fraser? What about the other companies that will have to compete with the Irving Group? The paper mill industry will have to pay 20 per cent more to get a feed for the oil and energy.

I mentioned that I have spoken over the past 10 days to several media in Quebec, New Brunswick, and Nova Scotia. I also read a good Liberal paper. *The Toronto Star* of this morning confirms the government decision, not in section A, not in section B, but in section C, page C-2.

[Translation]

**The Hon. the Speaker:** Honourable Senator Simard, could you put your question?

[English]

**Senator Simard:** Would the Leader of the Government confirm, on behalf of this government of which he is part, the news we now find at the bottom left side of page of C-2 of *The Toronto Star*?

**Hon. B. Alasdair Graham (Leader of the Government):** Honourable senators, I can confirm to my honourable friend that while he may refer to *The Toronto Star* and decry the fact that such an item of importance, particularly to Atlantic Canadians, only found its way on the inside of this well known paper, I can say that *The Financial Post*, which is not generally regarded as a Liberal paper, had the item very prominently displayed with a map of the area. The first sentence reads:

The federal cabinet signed off yesterday on the \$3-billion Sable Island Natural Gas and Pipeline project off Canada's east coast, launching the development of one of the country's largest energy projects.

In answer to the specific question, yes. I have not seen a specific announcement yet, but I can confirm that on December 2 of this year the federal government approved the federal response to the environmental assessment report on the Sable Island gas projects developed by the NEB as the responsible authority for those projects. On December 3, following the release of the federal response, the NEB issued its decision concerning the application for a certificate of public convenience and necessity under the NEB act to construct pipelines and related facilities, which I confirm was approved by the Governor in Council on December 17, 1997, yesterday.

**Senator Simard:** Why did the Government of Canada keep all Canadians in the dark but leaked the decision on a very important dossier to friendly reporters, thereby failing to live up to its duty of announcing that major decision to the press in general, and every Canadian?

**Senator Graham:** Honourable senators, I cannot tell you why an announcement has not been made, nor whether it would be appropriate for the Government of Canada or the arm's length agency — the quasi-judicial board which did the review, the National Energy Board — or the companies involved to make that announcement.

•(1350)

The final decision, as I said, the Order in Council, was signed only yesterday. Whether an announcement should have been made immediately, I do not know. Whether one will be forthcoming, we will wait and see. Investigative reporters have a way of finding these things out, but in terms of hiding anything,

that is not a fact because the final decision was made only yesterday.

## NATIONAL DEFENCE

### AIRLINE CRASH AT FREDERICTON AIRPORT— CAUSE OF ACCIDENT—GOVERNMENT POSITION

**Hon. John G. Bryden:** Honourable senators, I have a question for the Leader of the Government in the Senate. This week, there was a very serious plane crash in Fredericton, New Brunswick. Does the leader have any information as to what caused that crash? Further, could he provide this house with information on what steps are being taken to determine the cause and, if we know it, are there any steps being taken to ensure it does not happen again?

**Hon. B. Alasdair Graham (Leader of the Government):** Honourable senators, I thank Senator Bryden for his question. As he knows, the government's top priority is safety. It is too early to speculate on the probable causes of the accident. A team from the Transportation Safety Board is in Fredericton and has been there since yesterday to investigate the accident. Transport Canada has offered technical assistance to the Transportation Safety Board investigators.

I can say that NAV CANADA operates a 24-hour per day flight service station known as "FSS" at the Fredericton airport. Flight service specialists are responsible for providing airport advisory services, vehicle control, aviation weather services, emergency services, monitoring and controlling the operation of radio aids to navigation.

The Minister of Transport has issued a rather detailed announcement today saying that the team of investigators from Transportation Safety Board is in Fredericton and is investigating the incident. This announcement should be available for all honourable senators.

## HEALTH

### GRIEVANCES FILED BY GOVERNMENT SCIENTISTS— POSSIBLE TRANSFER OF SCIENTISTS—GOVERNMENT POSITION

**Hon. Mira Spivak:** Honourable senators, on December 16, I asked a question in this house about the six scientists at Health Canada who disagreed with the official position of Health Canada that drugs such as rBST are perfectly safe even if people ingest some of the residue. As a result, they had filed three separate grievances asking for an outside investigation into their allegations of harassment and intimidation.

Can the Leader of the Government in the Senate confirm that these researchers are still working for Health Canada's Bureau of Veterinary Drugs? Some information has reached me that, perhaps not as a result of this but coincidentally, those workers have been transferred out of that branch.

Can the Leader of the Government reassure us that such terrible action has not taken place?

**Hon. B. Alasdair Graham (Leader of the Government):** Honourable senators, we have a delayed answer to that question. I am not aware whether whether the workers were transferred. I hesitate to say that I will attempt to find the information and bring it to you as quickly as possible because do I not have the information. I only wish I had it. If I can find the facts before we adjourn today, I will bring them forward.

**Senator Spivak:** Could the Leader of the Government tell me then whether workers involved in a grievance can be transferred when a grievance process is being pursued? What is the policy of the civil administration?

**Senator Graham:** I do not know the policy in that respect, but I will certainly attempt to determine it at the earliest possible moment.

REQUEST FOR FUNDING TO DEVELOP VACCINE FOR  
FLESH-EATING DISEASE—GOVERNMENT POSITION

**Hon. Stanley Haidasz:** Honourable senators, would the Leader of the Government in the Senate investigate and report to the Senate at our next sitting regarding six letters to a former minister of health written by the Chief of Immunology at the Ottawa Civic Hospital, Dr. Maxwell Richter, requesting federal research funds to search for either an anti-serum or a vaccine against necrotizing fasciitis which killed an Ottawa citizen last weekend and which has inflicted several people in the province of Quebec?

**Hon. B. Alasdair Graham (Leader of the Government):** Yes, I will certainly bring that information forward.

### NATIONAL DEFENCE

SEARCH AND RESCUE HELICOPTER REPLACEMENT PROGRAM-  
TIMING OF ANNOUNCEMENT OF AWARDING OF  
CONTRACT—GOVERNMENT POSITION

**Hon. Michael Forrestall:** Honourable senators, I have a comment for the Leader of the Government in the Senate: It is day 75.

**Hon. B. Alasdair Graham (Leader of the Government):** I presume the honourable senator will save the cost of a stamp and hand me the "helicopter Christmas card" that he is holding.

### FISHERIES

BAY OF FUNDY—DESTRUCTION OF INFECTED SALMON ON FISH  
FARMS—ARRANGEMENTS FOR CONTROL OF OUTBREAK—  
GOVERNMENT POSITION

**Hon. Janis Johnson:** Honourable senators, I have a question for the Leader of the Government in the Senate regarding the

tragic emergence on the east coast of the Bay of Fundy of infectious salmon anaemia. Fish growers have had to slaughter over 200,000 fish and eradicate the program. Obviously, they have been in touch with the federal government about assistance for this.

Is the New Brunswick Atlantic salmon industry receiving federal funding to deal with this situation? Is the current outbreak under control? No one is yet sure if eradication will stop the virus which is, I think, affecting other areas of the Atlantic coast as well. However it is not affecting the Pacific coast at this point because the virus does not seem to grow in the warmer waters of the Pacific Ocean.

Of course, this is particularly important at this time of year because of the increased salmon consumption at Christmas. Does the Leader of the Government have any information available at this point? This has just occurred within the last two weeks.

**Hon. B. Alasdair Graham (Leader of the Government):** Honourable senators, that particular question has been raised before. I am seeking an answer and, again, if I have an answer before we adjourn today, I will bring it forward.

### ENERGY

SABLE ISLAND GAS PROJECTS—POSSIBLE EXTENSION INTO  
NEW BRUNSWICK AND QUEBEC—GOVERNMENT POSITION

**Hon. Eymard G. Corbin:** Honourable senators, I would like once more to follow up with the Leader of the Government in the Senate the line of questioning I raised with him in previous days with respect to the extension of the Sable Island gas pipeline into areas of New Brunswick which would, I presume, eventually connect it with the Quebec pipeline.

The current premier of New Brunswick recently made representations in that respect to the federal authorities. Is the leader knowledgeable about such representations?

**Hon. B. Alasdair Graham (Leader of the Government):** Honourable senators, no, I am not, but those representations may very well have been made.

**Senator Corbin:** Would the leader kindly find out for me if that is the case and report back to the Senate?

**Senator Graham:** Yes, I certainly would be very happy to do so.

### DELAYED ANSWER TO ORAL QUESTION

**Hon. Sharon Carstairs (Deputy Leader of the Government):** Honourable senators, I have a response to a question raised in the Senate on December 16, 1997, by the Honourable Senator Mira Spivak regarding the possible approval of controversial veterinary drugs.

## HEALTH

### GRIEVANCES FILED BY GOVERNMENT SCIENTISTS— POSSIBLE APPROVAL OF CONTROVERSIAL VETERINARY DRUGS—GOVERNMENT POSITION

*(Response to question raised by Hon. Mira Spivak on  
December 16, 1997)*

The submission is still under review with respect to its safety to the consumers of milk and dairy products as well as its efficacy and safety in cows.

At the Codex Alimentarius Commission meeting in June, it was decided that the Joint Expert Committee on Food Additives should re-evaluate any and all new scientific information which could affect human health on behalf of the Codex Committee on Veterinary Drug Residues in Foods.

The Department of Health will evaluate all new relevant data including the Codex data and would only issue a Notice of Compliance (NOC) for this veterinary drug once the Department is fully satisfied as to its safety and efficacy.

Until NOC is issued it cannot be sold for use in Canada.

Revenue Canada (Customs and Trade Administration Branch) has notified importers that the importation of rbST is restricted. It has also updated a general border alert for illegal importation of this product.

Individuals found to have imported rbST illegally, can be subject to charges under the authority of the Food and Drugs Act and the Customs Act.

My officials will continue to work with Revenue Canada (Customs and Trade Administration Branch) to monitor and investigate allegations of illegal importation of the drug.

Employees have grievance procedures available to them which the Department has been following. The grievance made by scientists is now under review and will be given full consideration. They will be given the Department's decision just as soon as it is available.

## BUSINESS OF THE SENATE

### PEARSON INTERNATIONAL AIRPORT— ORDER PAPER QUESTION—REQUEST FOR ANSWER

**Hon. John Lynch-Staunton (Leader of the Opposition):** Yesterday, the Leader of the Government announced he had spent a great deal of the preceding day on a hunt for an answer to my written question which has been on the Order Paper since September 30. Yesterday, he assured us that he would, at the earliest opportunity, continue the hunt. Has the hunt been

successful, or should I borrow Senator Forrestall's sign and update it for this particular question?

•(1400)

**Hon. B. Alasdair Graham (Leader of the Government):** If you send me a Christmas card, Senator Lynch-Staunton, I will attempt to include that response by return mail, although not necessarily by helicopter.

I did not get any sleep whatsoever last night. It was a sleepless night. I honestly have been attempting to find that answer and I am very determined to get it. I do not think I can get it before the end of the day, but — and this is not a promise, perhaps a threat — if I get the answer while we are on the break I will personally deliver it to your home.

## ORDERS OF THE DAY

### CANADA PENSION PLAN INVESTMENT BOARD BILL

#### THIRD READING

**Hon. Michael Kirby** moved the third 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. John Lynch-Staunton (Leader of the Opposition):** Is Senator Kirby intending to speak at third reading?

**Senator Kirby:** No.

**Senator Lynch-Staunton:** Then I should like to make a few very brief remarks.

Yesterday, I outlined the steps which we took over a two-month period to get minimum participation in the study of this legislation and how we were rebuffed at each turn. Yesterday, the minister sympathized with our feelings when he said that he looked forward to having the Senate participate in the examination of legislation dealing with social security. He said it on more than one occasion. He also agreed that the government would not sanction or proclaim those clauses in the bill dealing with the Investment Board, that they would be looked at by the Banking Committee. He also agreed that the guidelines affecting the board would be sent in draft form to the committee before going out to the provinces for examination.

He also agreed and urged that when significant legislation of this nature comes before us, the leadership on the other side not act in the same deplorable manner as they did with Bill C-2 but accept, at his urging at least, that the whole Senate participate. I hope we can get confirmation of that approach today, so we will not have to dust off our rule books again and prove our sincerity by having to manipulate the rule book to stall the work of this place.



There has been some criticism of this side for not having made an effort to seek an amendment to reduce the CPP premiums which will go into force once this bill is given Royal Assent. The reason we did not do it is that even if we were able to convince this house that the premiums should be reduced, the net effect would be the loss of the bill because any amendment of this nature does not come into force unless the provinces who are participating in the program up to a certain amount agree to it.

However, although we cannot unilaterally affect the provisions of this bill, we can urge the government again to compensate for the increase in premiums by reducing correspondingly the EI premiums. The EI premiums are not really premiums; they are taxes, and the proof that they are taxes is that they are included in the Consolidated Revenue Fund of the government. They are treated as a tax revenue and the payments under the EI program are treated as a regular expenditure. We acknowledge that there must be an increase in CPP premiums in order that eventually the fund is put on a more solvent basis than it is now. We agree with the thrust and necessity for those increases. However, we are asking the government to offset those by decreasing the payroll taxes which at their present level are creating tremendous surpluses and only helping the government keep the budget closer to a break-even basis.

Those were the two remarks I wanted to make. I want the government leadership in this house to confirm that the Finance Minister's urgings of yesterday will be acted on, and that the government, as soon as possible, preferably in the next budget, will announce that there will be a tax relief to Canadians who, through Bill C-2, will not only be paying higher premiums but will be getting lower benefits.

**Senator Kirby:** Honourable senators, this intervention is in no way a reply to the comments of the Leader of the Opposition. I just thought I should inform the Senate that pursuant to the agreement between both sides, Senator Tkachuk and I agreed yesterday that the Senate Banking Committee will hold two weeks of hearings in February, including one week for hearings in Toronto, Calgary and Vancouver. The two weeks in February will deal with the governance and accountability provisions of Bill C-2. There is then a week of parliamentary recess. In March, when we come back from the recess, we will hold two weeks of hearings on the investment regulations. This arrangement will enable the committee to meet its commitment to the government to report by the end of March, while giving the committee four weeks of hearings, including one week of travel across the country. In light of the fact that this was an agreement achieved by both sides in this chamber, I thought I should put on the record the arrangement reached between Senator Tkachuk and I on implementing the agreement.

**Hon. John G. Bryden:** Honourable senators, I note that the committee will travel to Toronto, Calgary and Vancouver. There is another region in this country that might have something to say. I know our weather in the Maritimes is not quite as good as in Calgary in February, or even Vancouver, although it rains a lot out there, but on something as significant as this legislation, I

think you should consider coming to the poorer region of the country.

**Senator Kirby:** I ought to be clear, honourable senators, that the purpose of these hearings is to deal with technical issues relating to governance, accountability and investment rules. When Senator Tkachuk and I discussed the question — and we had sought the advice of members of our research staff as to where the experts lay on this question — we also discussed, because it was the third part of the agreement, the notion that the Seniors Benefit will obviously involve some travel, and in that case it would be national, covering not only every region of the country but most provinces.

The answer to Senator Bryden's question is that we made a decision that rather than have the experts come to Ottawa, as would typically be the case because this is a very technical subject, it would make sense to go out and try to meet some of those experts where they are in largest numbers. If in fact there are some particular experts on this subject in the Atlantic region, we will be more than delighted to hear them when we have the week's hearings in Ottawa, but the reality is that the experts in what is a highly technical area are in three cities — excluding Montreal, which is not a factor in this issue because Quebec is not involved in the CPP. That is the rationale for the trip.

**Senator Bryden:** If the intention is to talk to experts, I assume these are people who are perfectly capable of paying their own way and coming here. If we are spending public money to run around the country, surely we should do it to talk to ordinary people. Those people who are the fat cats can find their own way here if they want to make a contribution to the committee.

**Hon. Willie Adams:** I have a question for the chairman of the Banking Committee. I have received a few phone calls from the territory from people concerned about Bill C-2. I heard the chairman say the committee would only be travelling to Toronto, Calgary and Vancouver. Since taxes are so high in the territories, I would hope at least the committee could go to Yellowknife to explain this legislation to some of the people there. Yesterday, honourable senators were talking about formulas. I did not hear of any formula for Yukon, the Northwest Territories and Quebec. I was wondering what the formula will be for people living in the territories. It is a very expensive area. The people there who will retire in the future cannot live on those pensions because everything costs twice as much as in the south of Canada. Does the chairman know anything about the formula that will be used for determining the pensions of those people living in the territory?

•(1410)

**Senator Kirby:** Honourable senators, I do not know the specific answer to the question. It sounds to me to be a question that can be considered quite logically when the so-called "Seniors Benefit" is before the Senate which, as I understand it, will be some time in the second quarter of 1998. The question the senator raises can clearly be considered at that time.

**Hon. David Tkachuk:** I wish Senator Bryden had been so anxious to hear from the Canadian people a week ago.

[Translation]

**The Hon. the Speaker:** I am sorry, Senator Simard, but you cannot force anyone to answer your question. This is debate at third reading. You participated in the debate, you asked a question, but I cannot force anyone to answer.

[English]

**Senator Simard:** Your Honour, I rise on a point of order. I do not think I have reached my time limit on third reading. I asked a question. The Senate leader and the Liberals on the other side have refused to answer my question.

In closing, I want to say that I will vote against this bill.

**The Hon. the Speaker:** What is your point of order, Senator Simard?

If no other honourable senators wishes to speak, it was moved by the Honourable Senator Kirby, seconded by the Honourable Senator Petten, that the bill be read the third time now.

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

**Some Hon. Senators:** Agreed.

**Senator Simard:** No.

**Hon. Consiglio Di Nino:** On division.

Motion agreed to and bill read third time and passed, on division.

[Translation]

## ROYAL ASSENT

NOTICE

**The Hon. the Speaker** informed the Senate that the following communication had been received:

RIDEAU HALL

December 18, 1997

Sir,

I have the honour to inform you that the Right Honourable Roméo LeBlanc, Governor General of Canada, will proceed to the Senate Chamber today, the 18th day of December 1997, at 5 p.m., for the purpose of giving Royal Assent to certain bills.

Yours sincerely,

Judith A. LaRocque  
*Secretary to the Governor General*

The Honourable  
The Speaker of the Senate  
Ottawa

**Senator Bryden:** I have one further point. If the committee is going on a junket, should the area of the junket not include all of the country's regions? I believe there are some interesting people in Halifax and St. John's, Newfoundland who can contribute to this matter. If you are planning a junket, you should include all the regions of the country or bring the experts in to testify. They can afford it.

[Translation]

**Hon. Jean-Maurice Simard:** Honourable senators, I fully approve of the suggestion by my colleague from New Brunswick, Senator Bryden. I spoke very briefly when Minister Paul Martin was here yesterday. Among other things, I quoted the Liberal Minister of Finance for New Brunswick, who stated on February 14, 1997, Valentine's Day — perhaps under the heady influence of his own Liberal Party's propaganda as well as that of the federal government — that Bill C-2, on which the provinces and the federal government had been working for a year, was a perfect document. Minister of Finance Paul Martin did not give me adequate responses to my questions. I asked him why he waited until after the June election, if the document on which he had reached agreement with all the provinces was so perfect last February 14. He could have put off the June 2 election, and got the bill passed, if it was all that perfect in his estimation and that of his provincial colleagues. Why, right before Christmas, are we negotiating and making concessions at the expense of Canadians?

I stated, with evidence to back me, that this poorly planned bill will penalize all categories of taxpayers, especially low-income Canadians and the young. Had my party not made arrangements, I doubt that the Leader of the Government in the Senate would impose closure. My question is for the bill's sponsor. Why, on December 18, are we being rushed into approving this bad bill, which will penalize all Canadians?

[English]

**The Hon. the Speaker:** If no other honourable senator —

**Senator Simard:** I asked a question. I deserve an answer.

**Senator Carstairs:** He does not have to answer your question if he does not want to.

**The Hon. the Speaker:** This is debate on third reading and you have participated in the debate. It is not Question Period.

**Senator Simard:** I have been around this place for 30 years. Questions in a debate on a motion for third reading are allowed.

**The Hon. the Speaker:** Yes. However, I cannot force anyone to answer those questions.

**Senator Simard:** If I ask the question of Deputy Leader of the Government, Senator Carstairs, would she respond? Would Senator Kirby respond?

**The Hon. the Speaker:** If no other honourable senator —

**Senator Simard:** No, I am not —

[English]

Honourable senators, in view of the fact that it the Governor General will attend in person, I hope that many senators will be available for the usual opportunity to meet His Excellency after Royal Assent.

•(1420)

### VISITOR IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw to your attention a distinguished visitor in our gallery, the Honourable Ronald Basford who was a minister of the Crown some years ago.

**Hon. Senators:** Hear, hear!

**The Hon. the Speaker:** Welcome to the Senate.

### NEWFOUNDLAND

CHANGES TO SCHOOL SYSTEM—AMENDMENT TO TERM 17  
OF CONSTITUTION—CONSIDERATION OF REPORT OF SPECIAL  
COMMITTEE—MOTION IN AMENDMENT WITHDRAWN—  
REPORT ADOPTED

Leave having been given to proceed to Reports of Committees,  
Order No. 1:

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,

And on the motion in amendment of the Honourable Senator Kinsella, seconded by the Honourable Senator Doyle, that the Report be not now adopted but that it be referred to a Committee of the Whole for study and report.

**Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition):** Honourable senators, pursuant to rule 30, in light of the fact that we sat in Committee of the Whole, which was the substance of my motion, with leave of the Senate, I would seek to withdraw my motion in amendment.

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

**Hon. Senators:** Agreed.

Motion in amendment withdrawn.

**The Hon. the Speaker:** Honourable senators, it was moved by the Honourable Senator Fairbairn, P.C., seconded by the Honourable Senator Hébert, that this report be adopted.

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

**Some Hon. Senators:** On division.

Motion agreed to and report adopted, on division.

CHANGES TO SCHOOL SYSTEM—MOTION TO AMEND TERM 17 OF  
CONSTITUTION ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Rompkey, P.C., seconded by the Honourable Senator Petten:

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

1. Term 17 of the Terms of Union of Newfoundland with Canada set out in the Schedule to the Newfoundland Act is repealed and the following substituted therefor:

“17. (1) In lieu of section ninety-three of the *Constitution Act, 1867*, this Term shall apply in respect of the Province of Newfoundland.

(2) 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.

(3) Religious observances shall be permitted in a school where requested by parents.”

#### Citation

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

**Hon. Lowell Murray:** Honourable senators, a few minutes ago, a telephone call was received in my office, followed by a letter, both from Dr. Melvin M. Regular, executive officer of the Pentecostal denomination of Newfoundland. This memorandum has been sent to the Deputy Leader of the Government. Senator Carstairs, herself, may not have received it yet, but in any case, I think she would not object if I read the brief communication into the record and then made a comment or two. It is addressed to Senator Carstairs from Melvin M. Regular, dated today, and reads as follows:

We have been advised that recent news reports in this Province refer to the appearance before the Senate of representatives of the Canadian Catholic Bishops, and also a Newfoundland group represented by Ms Oonagh O'Dea.

Please note that, if so, we view this development with alarm given that the Pentecostal class has not been invited as a witness despite our written request to you on December 16. As you know, the Pentecostal class of people unmistakably voted against the amendment to Term 17 in the September Referendum. It would be unthinkable if the Senate vote were influenced by Ms O'Dea's appearance, without the benefit of the counter balancing view of Pentecostals whose rights are being extinguished without their consent, if the resolution is passed.

If the above information is correct, we ask that the vote on the Term 17 resolution be delayed until Pentecostal people have also been heard from.

Sincerely,  
Melvin M. Regular, Ph.D.  
Executive Officer

Honourable senators, Senator Carstairs may want to avail herself of the opportunity to speak to this matter. I was not at all involved in the discussions as to who would or would not be invited to appear as witnesses before the Committee of the Whole.

I do know this, however: First, Her Majesty's Loyal Opposition in the Senate, like our Liberal friends when they were on this side of the chamber, insisted on a separate committee process for the Senate on this and other constitutional amendments. We wanted to register and reinforce the fact that the Senate's role in the amending process is a distinct, separate and different process. We successfully insisted that, although our members had joined with the House of Commons in a joint committee, we ought to have separate hearings.

Second, I think it was entirely appropriate under those circumstances that we hear from the minister responsible, Mr. Dion, as we did this morning. He is, after all, the minister who carried the resolution through the House of Commons and in the joint committee. It would have been unthinkable not to have heard from him.

Third, I know that the reason the Senate invited the Canadian Conference of Catholic Bishops is that they had written to us

reporting that their attempt to be heard by the joint committee had not been successful. We on this side believed that they are a sufficiently important group and engaged, obviously, in this subject that they ought to be heard. They were invited, and we heard from Bishop Tonnas and Bishop Crosby this morning.

We also heard from Ms O'Dea and Ms Bryant this morning. These two witnesses had also been heard by the joint committee.

I can say that Mr. Regular was heard by the joint committee, and he is making the case that he ought to have been heard or ought still to be heard by the Senate Committee of the Whole.

I will leave it there for the moment, and Senator Carstairs, whom I presume was responsible, perhaps in consultation with her vis-à-vis on this side, for the invitations, may wish to speak to this matter.

Honourable senators, I confess that when I heard of the results of the Newfoundland referendum last fall, my first reaction was one of relief. Surely, I thought, a 73-per-cent majority in favour of the question would spare federal parliamentarians the difficult task of trying to discern not just whether a consensus existed in Newfoundland, but whether the minority whose rights were affected had agreed to the change. I knew that there had been only a 53-per-cent turnout. I must say that that seemed, if anything, to argue in favour of the government's case.

I tend to agree with Mr. Dion, who said this morning that those opposed to a proposition are more likely to come out to vote than those who are in favour of it. Surely, I thought, widespread, strong opposition to the loss of these rights would have been reflected in a bigger turnout, especially in a province that is as highly politicized as Newfoundland. The turnout at Newfoundland provincial elections is seldom below 70 per cent.

On top of that, honourable senators, some days later there was a unanimous vote of the House of Assembly of Newfoundland, which has been alluded to on several occasions in our discussions. That also is a phenomenon that must weigh very heavily with anyone who respects our parliamentary democratic system, as I do.

•(1430)

Honourable senators, I came to the first session of this new Parliament ready to vote for the resolution and to move on. Why then have I changed my mind? Perhaps I am jaded by our experience with the first round in 1995, the resolution that came here after a 55-per-cent majority vote in a referendum, and the process that followed.

The resolution at that time went through the House of Commons, practically on the nod. It was approved by a vote of 170 to 46, with 35 brave Liberals, who seemed to understand the fundamental issues that were at stake; and 11 others voting against. There had not even been a reference to committee at that time.

Only the Senate seemed to emerge from the process, if I may modestly say so, with any honour. We referred the resolution to the Standing Senate Committee on Legal and Constitutional Affairs, held hearings in Newfoundland — and this is the main point — and the Senate amended the resolution. We amended the resolution in a way that would almost certainly have avoided the grief that Newfoundland has experienced and, if I may say so, the aggravation that the rest of us have endured by the return of this issue to our Parliament.

We amended the resolution by trying to add the formulation “where numbers warrant” to the provision for access to unidenominational schools. This is a good, Canadian formulation. It is to be found in the Canadian Charter of Rights and Freedoms. It is a formulation that has more than proved its worth in the courts of the country when applied to the situation facing education rights of other minorities; that is to say, linguistic minorities across the country.

Our amendment, which would have saved us all this trouble, was rejected by the House of Commons and the Newfoundland government would have none of it. Consequently, seven short months ago, the government ordered proclamation of the amendment and it became the law of the land.

Shortly thereafter, the Government of Newfoundland proceeded to try to implement the new Term 17. Predictably enough, trouble ensued. Litigation ensued in the form of a legal challenge. An injunction was sought and was granted by the courts.

So, here we are again. Another referendum, another resolution. We are being told, once again, that we will create chaos if we do not do their bidding with this resolution. I ask you: Who created chaos, if it was chaos? To me, it is all so unnecessary. You will never convince me that immediately, when the trouble ensued and the injunction was granted, the Government of Newfoundland could not have solved this problem administratively and that they could not have solved this problem among themselves in Newfoundland. This is not Northern Ireland we are talking about here. However, the blood rushed to the provincial government’s head. Another referendum is held, another resolution is sent on and, for the second time in a matter of months, we are asked to amend the Constitution of Canada to solve an education problem in Newfoundland. This does not conform to the counsel of great care and prudence which the minister of inter-governmental affairs so properly urged upon us and on all Canadians in Committee of the Whole this morning.

The resolution that is before us is not a simple and straightforward one, such as the one we voted on earlier this week with regard to Quebec. In Quebec, it was a matter of removing the constitutional guarantees for denominational schools.

What have we here? In committee, Senator Grafstein described the new regime, in all its confusion, for us. There now exists a denominational school system in Newfoundland. Denominational schools would, on the face of it, be in contravention of the Charter, but they are saved by section 29 of

the Charter, which exempted them. Newfoundland is to move to a non-denominational school system, but what a non-denominational school system! We are being asked to constitutionalize generic courses in religion. We are being asked to constitutionalize religious observances in schools at the request of some parents.

Honourable senators, without the exemption of section 29 — which will no longer apply because Newfoundland will have a “non-denominational” school system — there are bound to be challenges to this system as soon as the government and the school boards and the parents start to try to implement it. There are bound to be challenges under the Charter.

Our friend Mr. Dion is very sanguine, as are the legal advisors to the government, that the Charter could not trump another provision of the Constitution. Again, on the face of it — to the extent that there is jurisprudence on the question — the jurisprudence seems, to this layman, to support him. However, other witnesses before the joint committee were not so sanguine. I refer in particular to Professor Bayefski and Professor Schneiderman, who came to us not as advocates for one side or the other but, rather, as legal experts who were not involved in the issue but came to us at the invitation of the committee to testify.

We have had two referenda, two resolutions and two debates. If this goes through, we will have had two amendments to the Constitution. If this goes through, and Professor Bayefski and Professor Schneiderman and others turn out to have been right, Newfoundland will be back again next year with amendment number three. It will become an annual event. Perhaps we should set a time aside, as we do for the Speech from the Throne, to deal with constitutional amendments respecting the Newfoundland school system. They accuse us of possibly creating chaos! I think we are getting into deeper water than we want to or need to here.

I now come to the essential question, namely, one of minority rights and the principle that I articulated, as have others, at the time of the amendment to Term 17 that was before us in 1996. It is that constitutionally protected rights of minorities must not be abrogated without the consent of those minorities.

I could not possibly improve on the interventions that were made by our friends Senator Kirby and Senator Pitfield in the Quebec debate, and again today in Committee of the Whole by Senator Kirby. Nor is it necessary for me to do more than to underline their statements to the effect that we really do need a more credible process for dealing with these matters and for determining what the position of the minorities may be.

The three minorities in question are the Catholic, the Pentecostals and the Seventh-day Adventists. At the joint committee, I heard no one contest the statement — on both sides, they seemed to agree about the turnout of Catholics. In fact, they corrected my earlier impression. They agreed that the turnout of Catholics had been higher than the provincial average. The provincial average was not very high — it was about 53 per cent — but the Catholics turned out in greater numbers, and as many as 61 or 62 per cent of them had voted against the question.

As for the Pentecostals and the Seventh-day Adventists, I heard what the minister said this morning, but —

**The Hon. the Speaker:** Honourable Senator Murray, I hesitate to interrupt you but your 15-minute time period has expired. Are you requesting leave?

**Hon. Senators:** Agreed.

**Senator Murray:** I thank honourable senators. I will not keep you long at all.

•(1440)

We were presented in writing at the joint committee by the Pentecostals with documents about the turnout and about the percentages voting in favour and against. They state, first, that the turnout of Pentecostals was 70.3 per cent of their eligible voters. That would be much higher than the 53-per-cent provincial average. They also state that the Pentecostals had voted, they believe, 82.9 per cent against.

They say that, since the vote was not by denomination and there were no scrutineers, it was necessary to estimate the results. These estimates are based on the Pentecostal Assemblies of Newfoundland's expert knowledge of adherence, attitudes and consultation with pastors and local people in the districts. They put this before us in writing as part of their presentation which they made to the joint committee, and I think it is to be taken with the utmost seriousness. I cannot believe that, if the Pentecostal people had been in favour of, or even very ambivalent about, this, that the Pentecostal pastors and others who came before us would have been quite as firm and tireless in their efforts and in their statements of opposition to the resolution before us.

As for the Catholics, I am in no position to say whether 61 per cent of them voted against it. I look at some of the statements that have been made by Mr. Dion and others, but I also accept fully, because it is obvious on the face of it, the statement by Senator Doody that the question that was put in the referendum describes almost precisely the status quo in many districts of Newfoundland. Senator Doody will be the last to suggest that Newfoundlanders did not know what they were voting for. The question describes almost exactly the status quo and, as he has pointed out to us earlier today, 73 per cent of the students in Newfoundland are in single community schools.

I will not enter into a lengthy discussion about the question of fundamental versus historic rights. I find the doctrine that our friend Mr. Dion enunciated today to be quite dangerous in this country. I just want to say that I agree fully with everything Senator Kirby had to say about it. I have heard that doctrine before, that it is not really a fundamental right, it is a privilege. I have heard that applied to the application of the Official Languages Act to parts of this country. I have heard it applied as an argument against including language rights in the Constitution.

I am concerned that if one were to follow the logical course and reduce to the absurd or to the logical conclusion Mr. Dion's

proposition, those matters that are not "fundamental" should be subject to abrogation by referendum. What then would we say to such a referendum on language rights in New Brunswick, if ever one were held and the Acadians were to lose? What would we say about such a situation in Manitoba? I do not even want to contemplate it. I think that argument, with the greatest of respect, belongs in the university drawing room and not in the real world. Sure, language rights and these other matters are not in the American Bill of Rights and not in the French Bill of Rights and not in Italy's or Germany's, but my answer to that is this is Canada and we do things differently in this country and long may it be so.

**Hon. Senators:** Hear, hear!

**Senator Murray:** Honourable senators, I leave it at that. These are small minorities that we are talking about. The Pentecostals are 6 per cent of the population in Newfoundland. They have 13 or 14 schools. The Seventh-day Adventists, I suspect, are less than 1 per cent of the population. They have only one school.

The smaller the minority, the more they are in need of our protection, and the more, in this country, they have been entitled to it. If I have any doubts, I give the benefit of those doubts to the minority, and I will be voting against this resolution.

**Hon. Sharon Carstairs (Deputy Leader of the Government):** Honourable senators, it is not my intention to speak to the particular resolution but only to answer the question that was put before us by Senator Murray.

The wish to hold a Committee of the Whole, of course, was proposed by Senator Kinsella at the end of his speech on the Newfoundland report. In that report, he made reference to the fact that the Canadian Conference of Catholic Bishops had not been heard. I think it is appropriate to say that they, in fact, had arranged to attend the committee hearing and they cancelled the night before. This apparently had to do with their meetings in Rome and other activities which made it impossible for them to attend. In his reference to the letter of the Canadian Conference of Catholic Bishops, Senator Kinsella went on to note that the bishop plays a lead role in terms of education and indicated that the bishop was the chief teacher.

We on this side wanted to hear from the Canadian Conference of Catholic Bishops, but I for one — and I did so in my first question today — challenged the whole issue of who is in fact the primary teacher of the child; is it the bishop or the parent? I was pleased to hear indeed that the bishops admitted it was the parent, and that is why the parents' group, Education First, was invited to respond to what Senator Kinsella had said originally he thought might be the position of the Canadian Conference of Catholic Bishops.

Pentecostal witnesses, by the way, were heard in committee, both the Pentecostal Parents Action Committee and the Pentecostal Assemblies of Newfoundland and the Pentecostal Education Committee.

**Hon. B. Alasdair Graham (Leader of the Government):** Honourable senators, in rising to support the proposed amendment to Term 17 of the Terms of Union of Newfoundland, I would like to thank the members of the special joint committee, and particularly Senator Fairbairn, who was our co-chair, for their outstanding work. Not only did they provide us with an excellent report, but the hearings provided an important opportunity for many Newfoundlanders and Labradorians on both sides of the issue to come forward and make their views known to members of both houses of Parliament. As well, I want to thank all honourable senators who participated so conscientiously in this very important debate.

The proposed amendment to Term 17 of the Terms of Union of Newfoundland is a highly significant case in the history of this country for many reasons — some constitutional, some political, some religious, some educational.

Let me say at the outset that I fully respect the views that have been expressed by Newfoundlanders, and those of other Canadians outside of Newfoundland and Labrador who have voiced concerns about the implications of these amendments. I have done my own soul searching.

A good place to begin our consideration of the resolution is with the referendum held on September 2, 1997, when 73 per cent of the electorate in Newfoundland and Labrador voted to support this amendment to the Constitution. We have been sent a clear and very strong message. The question now is: What will be our response?

I know some honourable senators disagree with the results of the referendum, but we should be cautious about dismissing, for whatever reason, the democratically expressed wishes of the people of Newfoundland and Labrador.

•(1450)

This is not to say that we are simply a rubber stamp in matters of constitutional amendments, absolutely not. However, for this chamber to circumvent the clearly expressed will of the people of Newfoundland and Labrador would, in my opinion, require some fairly extraordinary circumstances.

Do such circumstances exist? Let me take a moment to review some of the more controversial issues.

It has been suggested that we cannot rely on the results of the referendum vote because the people of Newfoundland and Labrador may have been confused by the question. Honourable senators, let me read to you the question that was put in the referendum. It was:

Do you support a single school system where all children regardless of their religious affiliation attend the same schools where opportunities for religious education and observances are provided?

I find it difficult to imagine a clearer way to put the question to voters. Witnesses who appeared before the committee were very clear in saying that the people knew exactly what the vote was

about. In fact, several witnesses, and even some committee members, took offence at the suggestion that somehow the people of Newfoundland and Labrador did not understand the question.

Canadians take elections and referendum votes seriously. We must take their decision seriously.

Most people would agree that since this referendum received such widespread support among Newfoundlanders, one can conclude that a majority of the groups who held protected rights under Term 17 dating from 1949 voted “yes” in the referendum. There have been suggestions that, perhaps, a majority of Roman Catholics voted against the referendum. However, looking at the voting analyses that have been prepared on a riding-by-riding basis, and comparing them to the religious breakdowns for the ridings, I think one would be hard pressed to contend seriously that a majority of Roman Catholics voted “no.”

Unquestionably, the leadership of the Roman Catholic Church opposes this amendment, as we saw here this morning. I am a practising Roman Catholic. I have the highest regard for our bishops. However, with the greatest respect, I believe that our concerns must rest primarily with the wishes of the people.

Some people contend that the real issue is whether the members of the Pentecostal Assemblies were in favour of giving up their constitutionally protected minority rights. Honourable senators, I do not know how individuals voted. A secret ballot is a fundamental part of our democratic process. However, there are certain things that we do know. The Pentecostal Assemblies represent a very significant group in four ridings constituting from 25 per cent to 34 per cent of the population, depending on the riding. Yet voter turnout in those ridings was only 45 per cent to 56 per cent, and the referendum was approved in those ridings by percentages of 57, 58, 60 and 64. Those are very solid majorities.

There is a suggestion that because of the nature of the Confederation compact, the Pentecostals themselves must agree by a majority vote to change their rights to publicly funded denominational education. Honourable senators, the Pentecostal Assemblies received their constitutional denominational rights in 1987. That was five years after the Constitution Act, 1982 passed. In other words, when they received their rights, they knew what the amending formula was and how Term 17 could be amended. Indeed, they used the section 43 amending formula to obtain their rights. They knew that the amending formula did not refer anywhere to the need to get consent from one or more affected groups. There is no requirement in the amending formula for a referendum, let alone for explicit authorization from one or another group affected by an amendment.

I am concerned, honourable senators, about the implications of imposing such a requirement. The logical conclusion of such an approach would be that every interest group in the land could insist that their consent must be obtained before any changes that might affect them are made to the Constitution. The Constitution says what it says. We cannot abdicate our responsibility by unilaterally amending the amending formula.

How would determining minority support work as a practical matter? It has been suggested that one could register for the vote by religion, for example, by saying, "I want to register as a Pentecostal," at which point the voter is given a ballot. Honourable senators, I must tell you personally that I find the spectre of requiring Canadians to state their religion to qualify to vote on any matter whatsoever very troubling. What of Newfoundlanders who are Muslims, Jewish or Buddhists? What are we saying to them? Would we deny them a vote on the future of the denominational school system because they themselves are not formally part of the system? If we do not deny them a vote, would we give their vote less weight than, for example, the votes of Roman Catholics or Pentecostals?

Honourable senators, that is not the Canadian way. The fact remains that the referendum passed by solid majorities in each of the four districts where there is a substantial Pentecostal population. The fact remains that the members of the Newfoundland and Labrador House of Assembly who represent those districts all voted to support the proposed amendment when the issue came for a vote in the assembly.

•(1500)

Three of those four representatives are themselves Pentecostals including Roger Grimes, the Minister of Education in Newfoundland and Labrador. One of those four representatives, Graham Flight, the member for Windsor—Springdale, which has the largest Pentecostal population, publicly acknowledged voting "no" in the referendum but, in the House of Assembly, he explained why he would now be supporting the amendment. He said:

I believe that we now have to move on. The people of Newfoundland have spoken in a very decisive manner...to amend the Constitution....I respect that decision.

It has been suggested that many Newfoundlanders only voted to join Canada because of a guarantee that their denominational education would be protected. That may very well be true. People do change their minds, especially after the course of 50 years. Senator Petten stood in his place in this chamber the other day and said he was one of those Newfoundlanders who felt strongly on this issue in 1949. He has changed his mind. Senator Petten supports the proposed amendment.

Let us look at the numbers. Fifty-two per cent of Newfoundlanders who voted in 1949 supported joining Confederation. Seventy-three per cent of those who voted in the referendum that we are discussing today supported the proposed amendment. The people of Newfoundland and Labrador have spoken as strongly and as eloquently as they can. They believe it is now time to change their system of education. They want one system where, in Premier Tobin's words:

...everyone goes to the same class, are taught by the same teachers, where everyone rides the same bus...a school system where all of our children learn together.

Honourable senators, these are values that I respect. These are values that I believe Canada stands for as a nation. We are

beginning celebrations of the fiftieth anniversary of the signing of the Universal Declaration of Human Rights. These are the values enshrined in that document, a document born in hope after one of the most horrendous eras of religious discrimination ever seen.

Let me read to you from that declaration. It says education... shall promote understanding, tolerance, and friendship among all nations, racial or religious groups...

That is what the people of Newfoundland and Labrador have voted to support. Let me read to you from a letter to the *St. John's Evening Telegram* a week before the referendum. It was written by a teacher, Elizabeth Noseworthy of Mount Pearl, Newfoundland:

We are living in a multicultural country in an increasingly small world yet we maintain a segregated school system which denies children the educational opportunity to exchange differing ideas and understand the religious beliefs of their own neighbours in Newfoundland. It runs contrary to the values of equality, sharing, empathy, and fellowship, values which are more and more important in a modern global society.

I realize that some Newfoundlanders are worried about what the new system will mean. Change can be frightening, but I do not believe that I would be fulfilling my responsibilities as a member of the Senate were I to stand in the way and block this reform which had been approved in an open, forthright, democratic process by almost three-quarters of the voters of Newfoundland and Labrador.

Much has been said about minority and religious rights, but there are other kinds of rights, some might argue the most important kinds of rights: the rights of our children to the best possible education; the rights of students in a relatively poor province to a system focused on the challenges of a rapidly globalizing world.

I am very conscious of the fact that democracy is a goal, not a starting point. The continuing challenge facing all democracies, old or new, industrializing or industrialized, rich or poor, is to try to build political cultures of equity and fairness and respect for people in a system where everyone, especially our children, have an equal opportunity.

The proposed amendment to Term 17 is about more than just the school system in Newfoundland and Labrador. It is also about the moral ingredients which are the vital cement in the ongoing process of democratization. It is about trust and belief in one another. All are parts of the vital social cement because, without that powerful material, no democratic foundation can withstand the test of time. Without that power social glue, no democracy, no matter what the course of its special development, can come close to the ultimate *raison d'être* of its existence, namely, the building of political cultures, of equity and fairness, political cultures which respect people.



Honourable senators, as someone who has travelled in many parts of the world as part of international delegations monitoring elections in emerging democracies, I have observed, time after time, people approaching the polling station with a common belief, that they could play a part in building a better society for themselves and for their children. On September 2, 1997, the people of Newfoundland and Labrador did that very same thing. Why should their exercise of their fundamental democratic rights be afforded any less respect than we would demand of every other country in the world?

In the face of such an overwhelming vote, how can we, as members of this chamber, tell the people of Newfoundland and Labrador that they are wrong and that we will not respect their decision? I do not believe that we would countenance such an outcome in any other country. How can we accept it in our own?

My perspective is that the people of Newfoundland and Labrador have, in the most basic and democratic way possible, through their exercise of the secret ballot, pronounced on their provincial government's proposal to reform their school system.

•(1510)

Honourable senators, we should respect the decision and pass the proposed amendment to Term 17 as they have overwhelmingly requested us to do.

**Hon. Consiglio Di Nino:** Honourable colleagues, I may differ slightly with the Leader of the Government on the issue of Term 17, but I think he misspoke himself, as I am sure he will agree when I finish explaining how he presented the issue.

When talking about the fiftieth anniversary of the United Nations Declaration on Human Rights, I think he referred to the acts that led to that as an "error." I think he called it a "religious error."

**Some Hon. Senators:** Question!

**The Hon. the Speaker:** Honourable senators, if no other honourable senator wishes to speak, it was moved by the Honourable Senator Rompkey, P.C., seconded by the Honourable Senator Petten:

WHEREAS section 43 of the *Constitution Act*, 1982 provides that an amendment to the Constitution of Canada —

**Senator Carstairs:** Dispense.

**The Hon. the Speaker:** 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 opposed to the motion please say "nay"?

**Some Hon. Senators:** Nay.

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

*And two honourable senators having risen.*

**The Hon. the Speaker:** Please call in the senators.

Honourable senators, I understand there is agreement that the bells will ring for 20 minutes. The vote will be held a 3:35 p.m.

•(1530)

Motion agreed to on the following division:

#### YEAS

#### THE HONOURABLE SENATORS

Adams	Lewis
Bacon	Losier-Cool
Beaudoin	Maheu
Bryden	Mercier
Buchanan	Milne
Butts	Moore
Callbeck	Pearson
Carstairs	Pépin
Cochrane	Perrault
Corbin	Petten
De Bané	Poulin
Fairbairn	Rivest
Ferretti Barth	Robichaud
Gigantès	( <i>L'Acadie-Acadia</i> )
Grafstein	Robichaud
Graham	( <i>Saint-Louis-de-Kent</i> )
Hébert	Rompkey
Hays	Spivak
Johnson	Stanbury
Joyal	Stewart
Kelleher	Stollery
Kelly	Watt
Kolber	Whelan—45
LeBreton	

## NAYS

## THE HONOURABLE SENATORS

Andreychuk	Haidasz
Atkins	Keon
Berntson	Kinsella
Bolduc	Kirby
Cogger	Lavoie-Roux
Cohen	Murray
Cools	Oliver
DeWare	Roberge
Di Nino	Rossiter
Doody	Simard
Forest	Sparrow
Forrestall	Taylor
Gustafson	Tkachuk—26

## ABSTENTIONS

## THE HONOURABLE SENATORS

Chalifoux—1

## EXCISE TAX ACT

## BILL TO AMEND—ORDER STANDS

On the Order:

Second reading of Bill S-10, An Act to amend the Excise Tax Act—(*Honourable Senator Di Nino*).

**Hon. Consiglio Di Nino:** Honourable colleagues, before I ask that item No. 2 under Senate Public Bills on the Order Paper shall stand, I wish to make a brief comment. As you will notice, this is the sixth day that this item has been on the Order Paper. That is not because I and those who support this measure do not think this is an important issue. On the contrary, it is very important. However, because of what has been happening in the Senate for the last few weeks, we have put this aside in order to deal with some of the other important issues before us, which brings me to the real reason for my remarks.

•(1540)

Why is it that every year before the Christmas and the summer recesses the other place dumps bills upon us which they insist on having passed before the recess? This is a total insult to those of

us who want to take a look at each piece of legislation in an honest and thorough manner.

This is something that we should address as an institution, not only for my benefit. I should like to have this item stand until we return after the Christmas break.

Order stands.

## BUSINESS OF THE SENATE

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, I do not know whether or not this is a point of order. My absence here during the vote is because my clock and the clock for the bells did not coincide. When the bells stopped, I rushed down here but it was too late. It was my fault, but I should like to have it recorded that had I been here, I would have voted against the resolution. I do not know whether that vote can be included in the total, but I certainly want it described in Hansard in order to show that I did not deliberately stay away. It is my fault; I did not watch the clock properly.

## ASIA-PACIFIC REGION

## REPORT OF FOREIGN AFFAIRS COMMITTEE ADOPTED

The Senate proceeded to consideration of the fourth report of the Standing Senate Committee on Foreign Affairs (*budget—study on the growing importance of the Asia-Pacific region for Canada*), presented in the Senate on December 17, 1997.

**Hon. John B. Stewart:** Honourable senators, I move the concurrence of the Senate in the fourth report of the Standing Senate Committee on Foreign Affairs.

Motion agreed to and report adopted.

## EUROPEAN MONETARY UNION

## REPORT OF FOREIGN AFFAIRS COMMITTEE ADOPTED

The Senate proceeded to consideration of the fifth report of the Standing Senate Committee on Foreign Affairs (*budget—study on the consequences for Canada of the emerging European Monetary Union*), presented in the Senate on December 17, 1997.

**Hon. John B. Stewart:** Honourable senators, I move the concurrence of the Senate in the Fifth Report of the Standing Senate Committee on Foreign Affairs.

Motion agreed to and report adopted.

## FAMOUS FIVE FOUNDATION

### MOTION TO COMMEMORATE EVENTS BY PERMITTING THE BUILDING OF STATUE ON PARLIAMENT HILL ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Fairbairn, P.C., seconded by the Honourable Senator LeBreton:

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.—(*Honourable Senator Cools*).

**Hon. Jean B. Forest:** Honourable senators, as a woman senator from Alberta, I did not want to let this occasion pass without making a brief statement on the issue at hand. As I was flying in on the red eye Sunday night in order to be here in time for the sitting on Monday, I began to wonder whether it was so wonderful that women were appointed to the Senate. After this week, I guess I am still wondering. I jest, of course. It is a wonderful opportunity.

Since the early days, men from the west have been known for their independent thinking, their free-wheeling style and their macho image. Not so well known, however, have been the qualities of courage, strength and perseverance which have marked the history of the women who settled there.

Alberta's Famous Five have long been an inspiration to me. A year ago last May, while I was waiting to be escorted into the Senate chamber to be sworn in, I had a few moments to meditate upon the lives of those women, Alberta's Famous Five, who are named on the beautiful bronze relief which hangs in the foyer of the Senate chamber. I could not help but think it was thanks to them, their courage and perseverance, plus what many in those days would have termed their absolute audacity, that I, another woman from Alberta, was there on that day to join the Senate. It is thanks to them, too, that Joyce Fairbairn, also from Alberta, was there as the very competent, articulate government leader of the Senate — a woman who, when the occasion calls for it, can be quite as feisty as Emily Murphy was in her day.

In those few moments, I paid a silent tribute of thanksgiving for those five women, and for the fact that they had been there for those of us who would follow them. Those Famous Five banded together and bonded together in a fight for a common cause, where each one of them, were unique individuals who contributed in a differing yet remarkable way to the success of their campaign to better in so many ways the situation of women in their time.

Last week, an Alberta woman made history again when Senator Chalifoux, a woman whose life has also been marked by courage, strength and perseverance, became the first Métis person to sit in the Senate of Canada. Her appointment was also significant in that it marked the first time that Alberta has had an equal number of men and women senators together in the Senate of Canada.

I trust that all of us, men and women, will work together with the courage and perseverance that the Famous Five had to represent our regions, to uphold the rights of minorities, and to serve all Canadians to the best of our ability.

**Hon. Catherine S. Callbeck:** Honourable senators, I should like to take this opportunity to make a few short comments on this motion.

Today, I wish to pay tribute to and support the motion to have a statue of the Famous Five placed on Parliament Hill. These five women were nation builders and leaders who fought to strengthen democracy in Canada. They should be recognized amongst other great leaders of our nation.

The placement of this statue will mark their place on Parliament Hill forever and will serve to create greater awareness by the general public of the story of these five courageous women. Their accomplishments as individuals, and as a group, have profoundly affected the working of Parliament and Canadian democracy.

I thank them for giving me the opportunity to stand here today. I thank those in the other place for passing this motion unanimously and, most sincerely, I thank the Famous Five Foundation, which spearheaded the drive to have the statue placed on Parliament Hill.

**Hon. Mira Spivak:** Honourable senators, I wish to make a brief comment in support of the many people who have spoken so eloquently on this important subject.

Without taking anything away from Alberta, I wish to remind the Senate that Nellie McClung was a Manitoban. She fought for the right to vote for women in Manitoba, which was the first province to accept that right. She has a slogan which I follow faithfully. I recommend it to all of you. Never apologize. Never explain. Just do the thing and let them howl!

**Hon. Sharon Carstairs (Deputy Leader of the Government):** Honourable senators, I, too, should like to rise on this matter. So that we can make these women truly Canadian, it is appropriate for you to know that Emily Murphy was born and raised in Ontario, as was Louise McKinney.

The interesting part about these women is that, in their time and in their place, they emigrated west. Many Canadians were doing exactly the same thing. Emily Murphy actually lived for a very short period of her life in Swan River, Manitoba. There is another Manitoba connection, Senator Spivak.

Senator Di Nino raised the other day the point that perhaps some of these women had views that we would not accept or tolerate today. Regrettably, many of the men who were leading governments in those days shared those views. Certainly, those who supported the eugenics movement were vast and spread from one end of this country to the other. I deeply regret that those views were held but, fortunately, they were held only at a certain period in our history.

Emily Murphy, as many of you know, was not only the first woman magistrate in Canada but the first woman magistrate in the entire British Commonwealth. We have every right to be proud of her for that particular reason.

Nellie McClung, as Senator Spivak indicated, brought the vote to women in the province of Manitoba. It is interesting to note that, in the day of the two great parties, these women came from both. Emily Murphy was a dyed-in-the-wool Tory.

•(1550)

Nellie McClung was equally a dyed-in-the-wool Liberal. Louise McKinney sat as a farm woman representative when she was first elected. Her infamous claim to fame, I might suggest — and Senator Haidasz will enjoy this, as will Senator Keon — was that she was very anti-smoking. She was an ardent member of the temperance movement, as were, by the way, all of these women, but Louise was known and disliked intensely in the Province of Alberta because she would not allow cigarettes to be packed with the packages going over to the doughboys serving in our Armed Forces in Europe. They disliked her intensely, but she was true to the cause. She obviously was a woman ahead of her time who knew that smoking was infinitely bad for the health.

These were special women, but they are representative women. Every woman who sits in this Senate knows that, without that decision in 1929 before the Privy Council, Senator Cairine Wilson would not have been made a senator at that particular point in time. Senator Cools was quite right when she said it was up to the Prime Minister of the day to challenge it and let someone later on go to the courts if they wished to do so. They challenged Emily Murphy in her very first day in court. She just dismissed them and went on with the case. They then challenged another woman in a Calgary court and took the case all the way to the Supreme Court of Alberta, which said she did have a right to sit as a magistrate.

I agree there were many privileges that women had achieved long before this particular case. However, this case made it possible, or made it imperative, I would suggest to you, that the Prime Minister appoint a woman to the Senate. It was, however, only one woman, and I think it took until 1953 before the next woman was appointed.

I feel a particular affiliation with Senator Wilson in that I met her when my father was in the Senate with her. I went to her home. However, she and I also have another connection, which is that she and I represent the only two father-daughter

combinations in the Senate. My daughters say some day there will be a mother-daughter combination in the Senate.

**Hon. Consiglio Di Nino:** Honourable senators, I have a brief intervention for the record. I have not spoken on this issue, so those comments cannot be attributed to me. I should like to suggest, though, that I would support everything that has been said. I think I would have loved all of these women, principally Nellie McClung because her granddaughter Marcie McClung, who is a friend of mine from Toronto, would break my legs if I said otherwise. However, there is one area in which I would disagree with these ladies because I believe that to enjoy a glass of wine is one of the finest enjoyments of life.

**Hon. J. Michael Forrestall:** Honourable senators, I should like to join in this celebration today. It is a celebration of effort and contribution. I would remind the Deputy Leader of the Government in the Senate that, of course, in the matriarchal societies in Eastern Canada, at least we had members of the female gender acting as judges of the courts of the Micmac over 200 years ago.

**Hon. Stanley Haidasz:** Honourable senators, as a father of three daughters and five granddaughters, I congratulate the senators of the opposite sex in this chamber I hope there will be many more in the future. Ontario deserves more female representation in this chamber. There are many highly qualified women candidates for the Senate from Ontario.

I will be retiring from the Senate on March 4, in the new year, so that may give rise to an occasion for the Prime Minister to appoint a female senator from Ontario. Of course, Senator Doyle and Senator Stanbury are following me a few weeks later, making two more vacancies. I congratulate each and every one of you who has spoken on this item. I join you with pride to pay honour and tribute to those five women who did so much for the cause of equality, recognition and the dignity of women in Canada.

**Hon. Gildas L. Molgat:** Honourable senators, it is not normal for the Speaker to participate in a debate, but on this occasion I would like to take advantage of the right that I have to speak, to compliment Senator Fairbairn and all those who have spoken on this very important matter.

I think the Senate has reason to be proud of its participation in this issue, and also in the way the Senate has been in the foreground in recognizing women. Admittedly, we had to wait for the first appointment but, since then, just look at what we have accomplished. The Senate appointed a woman Speaker before the House of Commons did so. The first women pages on Parliament Hill were employed by the Senate. The first woman Leader of the Government was appointed by the Senate before the House of Commons made such an appointment; and the same applies to the first woman Deputy Leader of the Government. We were also first to have a woman whip.

The Senate has every reason to be proud.

As you know, there is a constant call for equality in the house, that there should be an equal number of men and women. That is something we should strive for. I am proud that my province was the first to achieve that equality when Senator Carstairs was named to the Senate. We have three women and three men. This was followed by Prince Edward Island, I believe, when Senator Callbeck was appointed, giving Prince Edward Island two women and two men. Senator Chalifoux has now accomplished that in respect of the Province of Alberta, who now have three women and three men senators. We are moving towards equality.

**Some Hon. Senators:** Hear, hear!

**Senator Molgat:** I forward to the celebration of unveiling the statue in front of the Senate. I hope it will be directly in front, in that small section which is so visible to the public, where people will be able to recognize the importance we place on the role of women.

**Hon. A. Raynell Andreychuk:** Honourable senators, I wish to add my voice to that of the senators who have spoken in support of this resolution and congratulate those who initiated it. I hope my comments when I spoke to the parks issue could be applied to this resolution. I will not take the time to repeat them here.

This is an historic motion, and I am pleased that all senators are in support of this issue. I hope this kind of unanimity around a women's issue can extend to many other issues of equality as we approach the fiftieth anniversary of the human rights declaration.

**Hon. Nicholas W. Taylor:** Honourable senators, as an Alberta senator, I thought there was enough lily gilding going on that I need not say a word, but then I realized that, with seven daughters, I should be on record as having contributed to this debate.

**Senator Carstairs:** Or else not go home.

**Senator Taylor:** As a matter of fact, the Deputy Leader of the Government was a teacher of one of my daughters, and warped her mind so badly that she went into law.

I also want to congratulate Frances Wright and the Wright family, whom I have known for many years, for working so hard towards achieving this goal. It was long overdue and I cannot understand why it had not been recognized before. I understand Frances Wright is in the gallery. Perhaps we could acknowledge her presence.

**Hon. Senators:** Hear, hear!

•(1600)

**Senator Taylor:** Frances epitomizes the drive and energy of these five famous women. The only connection I have to the matter is that I came close to being Nellie McClung's son-in-law at one time.

**Some Hon. Senators:** Oh, oh!

**Senator Taylor:** Maybe I did not get that close; I do not know. However, I think she would be turning in her grave now at the thought of having seven granddaughters. Her daughter was a great tennis player and used to always beat me.

As has been pointed out already, we in Alberta have gender equality when it comes to the Senate. There is no reason why they should stop at that. My daughters figure that they make up seven of the nine, which is a better percentage.

I do not think we can rest on our laurels, thinking that we will be happy at 50/50. We must reconstruct the system. This is just the beachhead. I look forward to one of my daughters replacing me.

Thank you for the opportunity to say something on this matter. The Famous Five were certainly outstanding people. I am working with Senator Andreychuk on her motion regarding the parks, since we are both on the same committee.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to.

## ENERGY

SABLE ISLAND GAS PROJECTS—MOTION TO AUTHORIZE ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES COMMITTEE TO EXAMINE AND REVIEW THE PROCESS—  
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Simard, seconded by the Honourable Senator Kinsella:

That the Senate of Canada urge the Governor in Council not to give final approval to the project submitted by the consortium that proposed the Maritimes and Northeast Pipeline Project until the Government of Canada has fulfilled its obligation to hold full and fair hearings on the proposals submitted by all interested parties, including the TransMaritime Pipeline Proposal, considering the following:

- (a) the natural resources of Canada are the property of all Canadians;
- (b) the needs and interests of Canadians should be considered first and foremost in the exploitation, development and use of Canada's natural resources;

(c) the recommended Maritime and Northeast Pipeline proposal overwhelmingly favours American interests over the interests of Canadians by channelling 83% of the natural gas extracted from the Sable Offshore Energy Project to the United States, while a mere 17% will be allocated to only two Canadian provinces, Nova Scotia and southern New Brunswick;

(d) the TransMaritime pipeline proposal places the interests of Canadians first by allocating 64% of the Sable Offshore natural gas to four Canadian provinces, including 34% to Nova Scotia and New Brunswick, as opposed to a total volume of only 36% to the United States;

(e) the TransMaritime proposal allows the provinces of Ontario and Quebec to benefit from any natural gas from the Sable Offshore Energy Project;

(f) the TransMaritime Pipeline proposal offers support for Canadian industry and security of energy supplies for central Canada, and offers more Canadians a greater supply of natural gas at a lower cost;

(g) the TransMaritime Pipeline proposal generates employment opportunities and provides long-term benefits to disadvantaged northern New Brunswick;

(h) the TransMaritime Pipeline proposal will unite Canada, since it sends a positive message of inclusion, security, opportunity, and sharing within the Confederation, to Canadians in four provinces, including Acadians, Quebecers and francophone Ontarians;

(i) the refusal of the Sable Offshore Energy Project Joint Review Panel and the National Energy Board to hear the proposal submitted by TransMaritime Pipeline may seriously prejudice the rights of Canadians in the development and use of their energy resources and may undermine Canada's sovereignty over these resources;

(j) a significant amount of time will not be saved in the development of one pipeline instead of the other; and

(k) deciding the matter without considering all available options may be more damaging than any relatively minor delay that could result from a thorough and fair review;

That the matter of the process undertaken by the Sable Offshore Energy Project Joint Review Panel and the National Energy Board, in recommending that the Maritimes and Northeast Pipeline project be allowed to proceed, be referred to the Standing Senate Committee on Energy, the Environment and Natural Resources and that the

Committee be authorized to examine and report upon the matter; and

That the Committee present its final report to the Senate no later than February 28, 1998.—(*Honourable Senator Hervieux-Payette, P.C.*)

**Hon. Mabel M. DeWare:** Honourable senators, I feel obliged to speak to this motion in support of Senator Simard.

I realize, however, that it is sort of after the fact, since the National Energy Board announced today that it has accepted Mobil Oil's submission concerning the gas pipeline from Sable Island through Nova Scotia and to the American border.

I must remind honourable senators that in 1982, a delegation from New Brunswick, led by myself as Minister of Advanced Education, visited Quebec because we all thought that the pipeline was coming. There was an agreement among Canada, Quebec, Nova Scotia and New Brunswick. The pipeline was coming and we went to look at the site. As I said, I was a member of the delegation. In fact, I have a picture to prove it. It is a photograph of me sitting inside the pipe because I was amazed by the size of it.

We went as a delegation because it had been requested of us that we start up a training programs to train the people who would be receiving jobs on the pipeline. This was a quite an experience for us.

We also had environmental people going through New Brunswick looking at rivers, streams, farmland and the residential areas through which this pipeline would travel. They were doing an environmental assessment of the route. That was some 16 years ago, when it was almost a *fait accompli* that the pipeline would be going through the northern part of our province.

This fall, the TransMaritime Pipeline Company came before the Atlantic caucus to explain to us where the pipeline would go. They talked to us about the cost of it, and the fact that it would be on the northern route. They told us that there would be spur lines. The spurs must be picked up by another consortium, which is not their problem. Their problem is to put the pipeline through, and the spurs would be constructed by another consortium working with consumers. If there were enough people interested, the spurs would go off to serve them. We were told that, definitely, it would go north to Quebec, and then down into the United States.

We also asked Mobil Oil to come before the Atlantic caucus to explain their position so that we could compare the two. They refused to appear before us. That is understandable, since they already knew, or had been guaranteed, that they had won the bid. Therefore, there was no point in them coming before us.

This project was very important to New Brunswick at the time. It meant thousands of jobs. Here we are today, 15 years later, being deprived by the fact that that pipeline will go north. We understand that there will be no difference in the cost of the pipeline and the price of the gas to the consumer. Therefore, Senator Simard has a point.

Perhaps we should have been on to this matter in October or November when we could have referred it to the Energy Committee. The organizations could have come before the committee, and we would have heard both sides of the story.

I know that cost is important. I realize that the gas is coming from a different direction in that it is coming from Sable Island instead of across the country from Quebec.

Honourable senators, I support Senator Simard's motion. We represent our regions in the Senate, and this is a regional issue.

[*Translation*]

**Hon. Céline Hervieux-Payette:** Honourable senators, since the federal government's final decision has been released today, the first part of the motion put forward by Senator Simard could scarcely be applicable. Since the government has reached this decision, all that is left is the possibility of calling upon the National Energy Board to make it a priority to examine the TransMaritime project, if there still is a Canadian project. The question, honourable senators, is whether Sable Island gas resources are sufficient to service two pipelines.

We are told that the American project has gone through the examination process on both the technical and the environmental levels before the Joint Review Panel and the National Energy Board, the necessary approvals have been given, and the project has met the standard requirements for construction of a pipeline.

I am not denying the competency of the National Energy Board. The question I wish to submit to you, honourable senators, is as follows: How can it be that the official application for a Canadian pipeline project submitted by TransMaritime last August was not subjected to the same examination by the National Energy Board?

This leads me to the second aspect of Senator Simard's motion, to examine the process whereby the National Energy Board initiates its examination of a project.

The National Energy Board tells us it is unable to reach a decision before an official application is received. How is it that the Canadian project did not receive the same treatment from the National Energy Board as the other one did? The consortium of Gaz Métropolitain, TransCanada Pipeline and Consumers Gas invested a considerable amount in this project.

I subscribe to my colleague's proposal for our committee to examine the decision-making process and the board members to come and explain how a project has already been awarded. I refer to a previous decision, my colleague referred to a previous

decision a while ago, and indeed there was a project during the 1980s which had been examined and was on record, so all that was needed was an update of the project rather than starting back at square one. The Canadian route had been studied during the 1980s, when considerable sums had been made available to those undertaking exploratory research.

When we are examining this matter before the Senate today, then, we know one thing: that not everything is known about the reserves there. What we do know at the present time does not lead us to believe that two pipelines can be built. The people from TransMaritime tell us that, as long as the reserves are not proven — using technical methods that are generally acknowledged by the industry, which the number of cubic feet discovered is not — a project cannot go ahead. As long as it is not known whether this pipeline can be supplied from this source, it is hard to conclude that TransMaritime will be capable of carrying out this project.

The competing project, which was awarded — and we are not denying its feasibility — could easily have serviced the American market via the Canadian route. At the present time, we have a line through Portland already servicing New England. The process of examining the American project in the United States is not over, and the earliest date there can be an authorization to go ahead with the American part of the project is theoretically next April, and, if there are no hitches, nothing will happen before next June. We would, therefore, have had plenty of time to examine the alternative to the proposal that was authorized.

Given these considerations, I must say that, following today's Cabinet decision, I wonder if indeed we still have a Canadian project. Of course, I am looking at the statements by the President of TransMaritime, who says he is ready to close up shop in Halifax and to say, "I had no success in convincing the National Energy Board to listen to me, and now only one party has managed to not only get authorization from the NEB, but also to sign contracts with, or reach agreement with, the governments of Nova Scotia and New Brunswick."

In this regard, the American proposal referred to a possible branch line to New Brunswick, with no formal commitment. As a Quebecker, I am particularly disappointed to see the original proposal set aside. It had already been approved but was not carried out for economic reasons. At that point, the American market was not involved to supplement the demand needed for construction of the project worth over \$1 billion. The proposal by the Canadian consortium did not have a chance to be considered on an equal footing.

I would have liked to propose an amendment. Since the final decision was made yesterday, the first paragraph of the motion is no longer relevant. The motion called for the government to consider both projects, but as my colleague has approved one of them, I ask simply that we examine the second element of the resolution, that is, have the Standing Senate Committee on Energy and Natural Resources examine the process followed by the National Energy Board in granting permits and certificates.

**Hon. Jean-Maurice Simard:** It was my impression, rather, during the day, that Senator Hervieux-Payette could move an amendment. I listened to and appreciated her comments. I realize she did not move an amendment. Could she explain?

**Senator Hervieux-Payette:** Yes, this morning, when I talked this question over with my colleague, Senator Simard, I was not aware that cabinet had given final approval yesterday. It was a matter of asking the government simply to await the examination of the second proposal before giving final approval.

Since the facts are different from those on which I based my amendment, I do not see how I could ask cabinet to rescind its decision, since this would result in serious penalties for the government. It is now confirmed. The Leader of the Government in the Senate gave me confirmation that the project had been approved by the government. My assumption made sense this morning. Now that the government has made its final decision, I can only question the review process before the NEB. I cannot question the decision made by the government and Cabinet.

POINT OF ORDER

**Hon. Jean-Maurice Simard:** I hope you will rule my point of order as admissible. A week ago, I agreed to speed up proceedings regarding the legislation that the government wished to pass. I publicly informed the government leader on three occasions that I hoped my motion would be debated and passed before the Christmas recess. I now realize that the deputy leader in the Senate, Senator Carstairs, is moving the adjournment of the debate.

When I gave my word that I would not impede the proceedings, I gave my consent like the other senators. I was sincere and I kept my word. I am very disappointed that we cannot vote on this motion this afternoon, before the Christmas recess, for all the reasons that you know. I am asking Senator Carstairs to give us her reasons.

**The Hon. the Speaker:** I am sorry, but this is not a point of order.

Since the rules of the Senate have not been violated in any way, I cannot recognize your point of order.

**Senator Simard:** Could Senator Carstairs give me an answer? She can make a voluntary statement. This is a case of double-cross on the part of Senator Carstairs.

[English]

•(1620)

**Hon. Sharon Carstairs (Deputy Leader of the Government):** On a point of order, Your Honour, we are all considered to be honourable members in this chamber. To use such terminology does not reflect respect for honourable members. I gave no assurance to Senator Simard. Senator Simard never spoke to me at any point.

**Senator Simard:** You were sitting in your chair.

**Senator Carstairs:** I certainly heard him say during Senators' Statements the other day that he would not be prepared to give leave unless this was brought to a vote. That did not, quite frankly, constitute any form of agreement. He made a statement. I made no reply to that statement.

It is clear we must adjourn this debate today because additional information has come to light today. The project about which Senator Simard has made his comments has issued a press release saying they are withdrawing their application.

**Senator Simard:** I will remember this day, December 18, 1997.

**Hon. Nicholas W. Taylor:** Honourable senators, I do not recall seeing the motion of Senator Simard on the Order Paper until yesterday or the day before. I do not know whether it is a comedy of errors or simple justice or what, but this whole project of Maritime Gas has been plagued by people moving too slowly. The only people who were able to move fast were Mobil Oil, that Wayne Gretzky of the international oil community. They managed to end up with a major share of the gas reserves paid for by the taxpayers of Canada under the National Energy Policy. About \$1.5 million was spent recovering gas on the shelf, Nova Scotia, and adjacent areas. Somehow they have also ended up with the pipeline.

I do not say that with any malice toward Mobil, but this company is not even listed on the Canadian stock exchanges. In all the years I have been here, nearly two generations, they have never seen fit to even allow Canadians to buy shares on the Canadian stock exchange. However, you can buy their shares in the U.S. They have managed to corner most of the reserves which were uncovered by the National Energy Policy and they also own the pipeline.

That is a very unusual situation indeed. It is very rare for we in oil and gas development to see a pipeline being owned by the one of the owners of the gas or the oil. That means other people will not come into that area and explore for gas and oil because they know they have to make arrangements with one of their competitors to transport the oil and gas out of there. We made a horrible error in not making that a common carrier or part of a trunkline system.

We have the pipeline in Nova Scotia and, perhaps a scant kilometre away, Cape Breton across the causeway where the pipeline will be laid. Yet no allowance or request has been made by the government to ensure that a small feeder pipeline goes across to Cape Breton.

While the pipeline matter was being decided, TransCanada, one of the mighty big gas companies of the west, sat there dangling its "bonnet and plume" like the bridegroom who lost his love to Lochinvar. TransCanada finally came down and made submissions. You would have to be very obtuse not to realize there was a competition in progress to bring gas from onshore to Nova Scotia, New Brunswick and up to Montreal.



You must also puzzle about the crack through which it seems that everything has fallen. We have the joint public review panel report into this area. Admittedly, TransCanada and the other competitors come in awfully late. Then the National Energy Board went ahead and made its decision because, within its parameters, it was not allowed to use its imagination. Then our own government — and I must fault it for lack of imagination — in their pell-mell rush to get out of anything to do with business, and particularly the oil and gas business, and in their mortal fear of the NEP, as if they might catch smallpox again, they did not follow through.

Under the NEP we discovered most of the gas and oil reserves off Newfoundland and Nova Scotia. Yet our own governments have been so frightened that they vacated the field. Originally, they hoped for gas reserves which would be majority-owned by Canadians; those reserves are now down to less than 30-per-cent Canadian ownership.

However, I think my honourable colleague is on the right track here in trying to do something. I would like to wrap my mind around this problem. Perhaps I can work with other senators who are interested in this area and we can come up with some ideas.

Another item comes into the picture here, but no one is even talking about it, and that is the Kyoto agreement. We have agreed to cut our carbon emissions. Those carbon emissions could largely be cut by substituting natural gas and compressed natural gas where we now use oil. We have the peculiar habit in Canada of importing a great deal of our crude oil from North Africa to make gasoline in Montreal, while we have shut-in gas reserves in the Maritimes and off Newfoundland for which we, as taxpayers, have already paid.

Really, we must do some pretty intense thinking. If we are supposed to cut the use of oil and gas in Canada to get our carbon emissions down, there is a beautiful source sitting out there. What are we doing? We are selling it to the Yankees so they can cut their emissions. Something has gone wrong here, somewhere.

If the Americans are bringing it in to displace coal and to make electrical energy, why not generate the electrical energy in Nova Scotia, along with the petrochemical energy, and export the energy to them? Quebec exports electrical power all the way down from the hydro projects. No one has considered these issues.

Everyone has been asking only one question. Mobil has asked to build a pipeline, but no one has an overall plan. Senator Simard should be congratulated because he is trying to open up our minds to the whole vista, the whole problem. Include the Kyoto agreement in the analysis. Throw in the fact that northern New Brunswick could use the gas as well as the fact that we are exporting the by-products of the natural gas. Instead of developing a petrochemical industry in Nova Scotia, we are exporting it. Someone must draw this whole picture and do some

sort of economic planning. Senator Simard is on the right track. With that, I would move the adjournment of the debate.

**Hon. Wilfred P. Moore:** Honourable senators, for the record, it should be stated that the terms of the agreement between the province, Mobil Oil and the Sable Offshore Energy Project have been markedly changed for the better for the people of Nova Scotia and, indeed, for the people of Cape Breton. There has been a change in the agreement whereby a pipeline will run from Country Harbour across the Strait of Canso into Cape Breton. That will be built at the expense of Mobil Oil and its partners.

There is also provision for strong encouragement by the province to Mobil and its partners to establish petrochemical facilities in Nova Scotia.

I can assure you that Premier MacLellan and his staff have been working very hard to ensure that the maximum-quality jobs and the value-added opportunities will be available to Nova Scotians.

On motion of Senator Carstairs, debate adjourned.

•(1630)

## AGRICULTURE

### MOTION URGING DEFERRAL OF LICENSING OF RECOMBINANT BOVINE GROWTH HORMONE PENDING STUDY—DEBATE ADJOURNED

**Hon. Eugene Whelan,** pursuant to notice of December 17, 1997, moved:

That the Senate urges the Government to defer licensing the use of Recombinant Bovine Growth Hormone (RBGH) to increase the milk production of the Canadian dairy herd for at least one year, and thereafter until such time as scientific studies have been designed, tested and completed whose conclusions enable the Government to either precisely identify for Canadians the long-term risks to public health or, in the alternative, to publicly assure them that the use of this growth hormone will not affect their individual health.

He said: Honourable senators, this motion has been seconded by Senator Spivak. Some of you may have noticed a headline in the press on December 12 referring to scientists and the pressure to approve drugs. The article I am referring to points out that six scientists went public because they felt so strongly about the use of this growth promoting hormone injected into cows to make them produce more milk. Some of us have objected to this from the very beginning, but I understand that these scientists have moved to another department because they went public. They made objections to their union, in May, and in October they entered an official request to have a hearing within the public service. This has not been granted to them.

Honourable senators, milk is the dietary staple of our most vulnerable citizens — the very young, the pregnant, nursing mothers and the old. Every effort must be made to ensure Canada's milk supply is safe and, in particular, does not contain artificial enhancers that have not been proven to be completely safe over the long term and that could possibly affect the health of coming generations. Remember thalidomide as an example. Another example is the recent blood problem and its yet unknown negative effects, and more recriminations against a government that seems not to care.

There is no need to increase milk production in Canada at this time because we have a well-functioning, supply managed system of dairy producers. We have one of the most superior herds of dairy producing cattle in the world. That was done through good genetic breeding, good nutrition and good management. In other words, we do not really need these hormones, no matter what anyone says.

No one can positively prove that this hormone will not do any harm 10 years or 15 years from now. Some scientists are saying that pasteurization removes any trace of the hormones used to increase milk production. Unfortunately, tests show that this pasteurization is at times far greater than the normal commercial practise. Sometimes it is 100 times more than is used in the normal pasteurization of milk.

In terms of Health Canada's dairy herd, these growth hormones result in increased incidents of mastitis in treated cows and, therefore, increased use of antibiotics and pressure on the milk quality control systems.

The reputation of Canada's purebred dairy cattle is world recognized. Based on this reputation, exports of genetic material have been an important source of income for Canada's dairy farmers. This reputation will be put at risk if the production of our dairy herd becomes dependent on an artificial stimulant whose long-term effects on humans who ingest milk from treated cows is still not known.

Honourable senators, we know that if we inject a steroid into a human athlete, that athlete is banned from participating in that sport. Yet, we are letting people inject hormones into cows when there is no scientific evidence that this is safe. No scientist can say that that practice can be guaranteed safe.

We are asking for a one-year moratorium. When I talked to Senator Spivak about the matter, she indicated that she wants a moratorium forever. Perhaps that is what we should be asking.

In the horse racing industry, if someone injects a horse with a steroid to make it run faster, that individual is banned from horse racing. Yet, we are injecting pure-bred cattle, putting them on the world market, and saying they are high producers. Some people in the Canadian Holstein Association say that is okay. Well, senators, it is not okay. It is not okay for human beings, and it is not okay for the cattle population either.

Honourable senators, I ask you to endorse this motion.

On motion of Senator DeWare, for Senator Spivak, debate adjourned.

## NATIONAL DEFENCE

PURCHASE OF HELICOPTERS—MOTION PROVIDING FOR RECALL OF SENATE IN EVENT OF GOVERNMENT ANNOUNCEMENT—DEBATE ADJOURNED

**Hon. Michel Cogger**, pursuant to notice of December 17, 1997, moved:

That the Speaker use the powers conferred upon him under rule 17 to call a meeting of the Senate at a time earlier than that provided in the motion for adjournment, as soon as possible, under the rules, after a decision has been made and announced regarding the purchase of helicopters by the Canadian Government, should such a decision and announcement be made between December 18, 1997 and February 2, 1998.

He said: Honourable senators, this motion deals with the situation where the government announces a decision to purchase helicopters between today and February 2 when the chamber will meet again. Of course, we have this vacuum. I do not suggest that the government would sneak something through on the unsuspecting Canadian public, but in case they do come up with a decision, I wish to discuss this motion. My motion may be superfluous in that in such a case our Speaker would immediately realize the urgency of the matter, that it is a question of public interest, and subsequently use the powers conferred upon him under rule 17 of the *Rules of the Senate*.

However, in case the Speaker is asleep at the switch or this matter somehow slips his mind, Senator Forrestall and I thought it best to put forth a motion stating that, should a decision on the helicopters be announced, the Speaker should call a meeting of the Senate to debate this matter of interest to Canadians.

After due consideration, Senator Forrestall and I wish to propose the motion in a non-partisan effort to assist the government in its search for continuing transparency and openness. We want to make it possible for the government to have the appropriate forum for a discussion of affairs of interest to the nation while the Houses are adjourned.

•(1640)

Given the adverse publicity that has rained down upon this chamber in the last few months over truancy and dereliction of duty, there is no doubt in my mind that senators on both sides of the chamber will seize upon this motion to indicate clearly to the Canadian public that, when it comes to the affairs of the nation, even though honourable senators are supposed to be on holiday and there is an adjournment, they will not hesitate to fly back from wherever they are, sunny or not, to attend this chamber and discuss affairs of interest to Canadians.

I thank you for your attention and wish you all Merry Christmas. If the helicopters should land upon us, perhaps we will see you sooner than February.

**Hon. J. Michael Forrestall:** Honourable senators, search and rescue in Canada is no laughing matter. There were 6,923 incidents, the vast majority marine, in Canada last year. It is interesting to note that the largest number occurred right in Ontario. We do not have the equipment required to handle that many events of this kind. We do our best, but we do not handle them.

Even though the government may have decided, in its wisdom, that it would be far better off to have the other place and the Senate shut down when it bites the bullet on this decision, later this week, early next week or sometime after January 5 when the tenders run out, there must be a forum to discuss this matter. If we were to start building tomorrow, it would be five years before new helicopters were in place.

Most of you know the importance of this issue. We should have been working the first of this new equipment into our inventory in the next several months, but we will not be doing that.

The Canadian military gave us specifications for the equipment they needed. In their judgment, it was the best we could get. It was not the Cadillac, but it was a good substantial vehicle for two tasks. The first was search and rescue, because that had to be done immediately. The second was ship-borne replacement of the Sea Kings. With one piece of equipment there would be commonality; savings in training, spare parts, overhauls, pilot training, and search and rescue training. One piece of equipment would be interchangeable and interoperable. The equipment the military recommended has a good reputation. It can travel long distances, lift great weights, and hover in the mountains at 15,000 or 18,000 feet on one engine — and that is where people get into trouble. People never get in trouble in Confederation Square or on the front lawn of the Parliament Buildings. They get into trouble in the high Arctic and 400 or 500 kilometres off of Newfoundland. They never get into trouble in convenient places.

We have put this decision off for five years. That is too long. There are questions that must be debated. One of the most prominent is whether we should try to borrow suitable equipment from our allies around the world. Senator Phillips raised that proposition a week or so ago. Something must come into place. We cannot simply say that the equipment will last, that the personnel responsible will make do. They will make do; I know that, but that does not make it right.

I get fed up with the press continually saying that there was a \$500-million penalty for cancellation of the EH-101 contract. Let me tell you the trouble and cost to taxpayers that four years of nonsense has caused. The \$500 million was only the cancellation fee. Up to that point, we had paid half a billion dollars in progress payments. The cost was up to \$980 million — virtually \$1 billion. The costs caused by this delay are well over \$3 billion.

There are more costs to taxpayers from further delay. We now get one hour of service from 45 hours of overhaul and maintenance on our Sea Kings. The cost for overhauling a multi-million dollar aircraft is incredible. In addition to that is the cost of fuel for training.

People's lives are what are fundamentally at stake here. The opportunity to debate this issue has now effectively been removed from us, at least until some time in February. Should a decision be taken, whatever it is, there should be an opportunity for recall, at least of our own chamber, for the purpose of putting on the public record the views of concerned senators and others about the delay.

To that end, I urge you to give the Speaker the authority, which he already has under the rules, to effect recall should that action take place.

**Hon. Sharon Carstairs (Deputy Leader of the Government):** Honourable senators, as Senator Forrestall said at the conclusion of his remarks, the Speaker already has this power. Rule 17 is very specific. It says:

...if the Speaker is satisfied that the public interest does not require the Senate to meet at the time provided in the order of adjournment the Speaker shall...

(a) consult the Leader of the Government in the Senate and the Leader of the Opposition in the Senate, or, in each case, their designate;

(b) determine an appropriate date...

This particular motion is a directive to the Speaker. I do not think that what is suggested in the motion by Senator Cogger was ever the intention of rule 17 and, therefore, I move the adjournment of the debate.

**Senator Cogger:** Honourable senators, this motion was never ruled out of order. I do not know how the Deputy Leader of the Government can declare the motion out of order.

More important, the very nature of the motion —

**Senator Carstairs:** Honourable senators, I have not agreed to take any questions. I have moved the adjournment of the debate.

**Hon. Shirley Maheu:** Senator Cogger, Honourable Senator Carstairs has moved the adjournment of the debate.

•(1650)

**Hon. Eric Arthur Berntson:** That requires unanimous consent.

**Senator Cogger:** A motion for adjournment is incorrect.

**The Hon. the Acting Speaker:** Order, please! A motion to adjourn the debate is not debatable, nor do we vote on it.

**Senator Berntson:** How would we like to vote on it? Do we want a standing vote on it? We will just defer the vote until tomorrow night! Do we want to vote on it at 5:30 p.m. tomorrow?

**The Hon. the Acting Speaker:** Honourable senators, it was moved by the Honourable Senator Carstairs, seconded by the Honourable Senator Robichaud, that further debate be adjourned until the next sitting of the Senate.

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

**Some Hon. Senators:** Yes.

**Some Hon. Senators:** No.

**The Hon. the Acting Speaker:** In my opinion, the “Yeas” have it. The motion is carried.

Motion agreed to.

### NATIONAL FINANCE

#### COMMITTEE AUTHORIZED TO TRAVEL

**Hon. Anne C. Cools, for Hon. Terry Stratton,** pursuant to notice of December 17, 1997, moved:

That the Standing Senate Committee on National Finance have power to adjourn from place to place within Canada for the purpose of its examination and consideration of such bills, and subject-matters of bills, messages, petitions, inquiries, and other matters related to federal estimates.

She said: Honourable senators, I move the adoption of the motion.

**The Hon. the Acting Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to.

### ADJOURNMENT

Leave having been given to Revert to Routine Proceedings:

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I wish to introduce a motion which was deferred from earlier this session.

With leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, February 10, 1998, at 2 p.m.

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

**Hon. Senators:** Agreed.

Motion agreed to.

### THE HONOURABLE WILLIAM J. PETTEN THE HONOURABLE M. LORNE BONNELL

#### TRIBUTES ON RETIREMENT

**Hon. P. Derek Lewis:** Honourable senators, unfortunately, I was in committee on Tuesday past when tributes were paid to our retiring senators, the Honourable Lorne Bonnell and the Honourable William Petten. I should like to say a few words in that respect, if I may.

**Hon. Senators:** Agreed.

**Senator Lewis:** The Honourable William Petten — I call him Bill — and I were both born in Newfoundland. We were educated at the same school, grew up together, and have had many associations over the years ever since. We are long-time friends, as are our families. He was appointed to the Senate in 1968; and I was appointed 10 years later, in 1978.

When I first came here, he was a great tutor to me — not only on procedure but also on the ways of the Senate. He has introduced me to many interesting angles, and shared a few secrets, which I will not go into at this time.

I appreciate being associated with him over these years. He has been a great representative of our province. I thank him and his wife, Bernice, for their association with me over the years.

I would have spoken on this earlier today, if I could have, but I was waiting for him to return to the chamber. When he did return a few minutes ago, I had a feeling it was in anticipation that I might join with other senators in wishing him well in his retirement, and a Merry Christmas!

The Senate adjourned during pleasure.

[*Translation*]

### ROYAL ASSENT

His Excellency the Governor General of Canada having come and being seated at the foot of the Throne.

The Honourable the Speaker commanded the Usher of the Black Rod to proceed to the House of Commons and acquaint that House that:

It is the desire of His Excellency the Governor General that they attend him immediately in the Senate Chamber.

The House of Commons having been summoned, and being come with their Deputy Speaker.

His Excellency the Governor General was pleased to give the Royal Assent to the following bills:

An Act to amend the Criminal Code and the Interpretation Act (powers to arrest and enter dwellings) (Bill C-16, *Chapter 39, 1997*)

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 (Bill C-2, *Chapter 40, 1997*)

The House of Commons withdrew.

His Excellency the Governor General was pleased to retire.

[*English*]

•<sup>(1710)</sup>

The sitting of the Senate was resumed.

**The Hon. the Speaker:** Honourable senators, before I call for the adjournment motion, I should like to take this opportunity to wish all of you a Merry Christmas —

[*Translation*]

— a very happy and healthy New Year.

[*English*]

I should also like to remind all honourable senators and staff that His Excellency the Governor General will be in my chambers, and you are all invited to come and see our old colleague.

[*Translation*]

I would also like to invite the pages to accompany us, as well as the Debates staff and those who work directly with us in this chamber.

[*English*]

**Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition):** Honourable senators, before the motion for adjournment is put by our colleague Senator Petten, on behalf of all members of this side of the chamber, I wish to extend to His Honour, to our Table officers, to our pages, to the security staff, and to all those who support us in so many different ways in this undertaking we call the Senate of Canada, every good wishes for the Christmas season.

[*Translation*]

Best wishes for the New Year.

**Senator Carstairs (Deputy Leader of the Government):** Honourable senators, Merry Christmas to you all.

[*English*]

Merry Christmas to each and every one of you: To you, Your Honour, to all our Table officers, to our reporters who sometimes get very confused because I speak too quickly, to our new Gentleman Usher of the Black Rod, minus the Gentleman, and to our pages who serve us so faithfully, but mostly to my fellow colleagues in this chamber.

**Hon. William J. Petten:** Honourable senators, before I move the adjournment of the Senate, I should like to impose on everyone just for a second or two. I wish you all a Merry Christmas and a happy New Year. It has been great being with all of you all these years. To the staff and my colleagues on both sides, to all of you here in the Senate, God bless you and happy Christmas.

I move that the Senate do now adjourn.

**Hon. Senators:** Hear, hear!

The Senate adjourned until Tuesday, February 10, 1998, at 2 p.m.

**THE SENATE OF CANADA**  
**PROGRESS OF LEGISLATION**  
**(1st Session, 36th Parliament)**  
**Thursday, December 18, 1997**

**GOVERNMENT BILLS**  
**(SENATE)**

<b>No.</b>	<b>Title</b>	<b>1st</b>	<b>2nd</b>	<b>Committee</b>	<b>Report</b>	<b>Amend.</b>	<b>3rd</b>	<b>R.A.</b>	<b>Chap.</b>
S-2	An Act to amend the Canadian Transportation Accident Investigation and Safety Board Act to make a consequential amendment to another Act (Sen. Graham)	97/09/30	97/10/21	Transport and Communications					
S-3	An Act to amend the Pension Benefits Standards Act, 1985 and the Office of the Superintendent of Financial Institutions Act (Sen. Graham)	97/09/30	97/10/21	Banking, Trade and Commerce	97/11/05	7	97/11/20		
S-4	An Act to amend the Canada Shipping Act (maritime liability) (Sen. Graham)	97/10/08	97/10/22	Transport and Communications	97/12/12	3	97/12/16		
S-5	An Act to amend the Canada Evidence Act and the Criminal Code in respect of persons with disabilities, to amend the Canadian Human Rights Act in respect of persons with disabilities and other matters and to make consequential amendments to other Acts (Sen. Graham)	97/10/09	97/10/29	Legal and Constitutional Affairs	97/12/04	1	97/12/11		
S-9	An Act respecting depository bills and depository notes and to amend the Financial Administration Act (Sen. Graham)	97/12/03	97/12/12	Banking, Trade and Commerce					

**GOVERNMENT BILLS**  
**(HOUSE OF COMMONS)**

<b>No.</b>	<b>Title</b>	<b>1st</b>	<b>2nd</b>	<b>Committee</b>	<b>Report</b>	<b>Amend.</b>	<b>3rd</b>	<b>R.A.</b>	<b>Chap.</b>
C-2	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	97/12/04	97/12/16	Committee of the whole 97/12/17	97/12/17	none	97/12/18	97/12/18	40/97
C-5	An Act respecting cooperatives	97/12/09	97/12/16	Banking, Trade and Commerce					
C-7	An Act to establish the Saguenay-St. Lawrence Marine Park and to make a consequential amendment to another Act	97/11/25	97/12/02	Energy, Environment and Natural Resources	97/12/09	none	97/12/10	97/12/10	37/97

C-9	An Act for making the system of Canadian ports competitive, efficient and commercially oriented, providing for the establishing of port authorities and the divesting of certain harbours and ports, for the commercialization of the St. Lawrence Seaway and ferry services and other matters related to maritime trade and transport and amending the Pilotage Act and amending and repealing other Acts as a consequence	92/12/09								
C-10	An Act to implement a convention between Canada and Sweden, a convention between Canada and the Republic of Lithuania, a convention between Canada and Republic of Kazakhstan, a convention between Canada and the Republic of Iceland and a convention between Canada and the Kingdom of Denmark for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and to amend the Canada-Netherlands Income Tax Convention Act, 1986 and the Canada-United States Tax Convention Act, 1984	97/12/02	97/12/08	Banking, Trade and Commerce	97/12/09	none	97/12/10	97/12/10	97/12/10	38/97
C-11	An Act respecting the imposition of duties of customs and other charges, to give effect to the International Convention on the Harmonized Commodity Description and Coding System, to provide relief against the imposition of certain duties of customs or other charges, to provide for other related matters and to amend or repeal certain Acts in consequence thereof.	97/11/19	97/11/27	Banking, Trade and Commerce	97/12/04	none	97/12/08	97/12/08	97/12/08	36/97
C-13	An Act to amend the Parliament of Canada Act	97/10/30	97/11/05	Legal and Constitutional Affairs	97/11/06	none	97/11/18	97/11/27	97/11/27	32/97
C-16	An Act to amend the Criminal Code and the Interpretation Act (powers to arrest and enter dwellings)	97/11/18	97/12/11	Legal and Constitutional Affairs	97/12/16	none	97/12/17	97/12/18	97/12/18	39/97
C-17	An Act to amend the Telecommunications Act and the Teleglobe Canada Reorganization and Divestiture Act	97/12/09								
C-22	An Act to implement the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction	97/11/25	97/11/26	Foreign Affairs	97/11/27	none	97/11/27	97/11/27	97/11/27	33/97
C-23	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1998	97/11/26	97/12/04	--	--	--	97/12/08	97/12/08	97/12/08	35/97
C-24	An Act to provide for the resumption and continuation of postal services	97/12/02	97/12/03	Committee of the whole	97/12/03	none	97/12/03	97/12/03	97/12/03	34/97

**COMMONS PUBLIC BILLS**

<b>No.</b>	<b>Title</b>	<b>1st</b>	<b>2nd</b>	<b>Committee</b>	<b>Report</b>	<b>Amend.</b>	<b>3rd</b>	<b>R.A.</b>	<b>Chap.</b>
C-220	An Act to amend the Criminal Code and the Copyright Act. (profit from authorship respecting a crime) (Sen. Lewis)	97/10/02	97/10/22	Legal and Constitutional Affairs					

**SENATE PUBLIC BILLS**

<b>No.</b>	<b>Title</b>	<b>1st</b>	<b>2nd</b>	<b>Committee</b>	<b>Report</b>	<b>Amend.</b>	<b>3rd</b>	<b>R.A.</b>	<b>Chap.</b>
S-6	An Act to establish a National Historic Park to commemorate the "Persons Case" (Sen. Kenny)	97/11/05	97/11/25	Energy, the Environment and Natural Resources					
S-7	An Act to amend the Criminal Code to prohibit coercion in medical procedures that offend a person's religion or belief that human life is inviolable (Sen. Haidasz, P.C.)	97/11/19	97/12/02	Legal and Constitutional Affairs					
S-8	An Act to amend the Tobacco Act (content regulation) (Sen. Haidasz, P.C.)	97/11/26	97/12/17	Social Affairs, Science & Technology					
S-10	An Act to amend the Excise Tax Act (Sen. Di Nino)	97/12/03							
S-11	An Act to amend the Canadian Human Rights Act in order to add social condition as a prohibited ground of discrimination (Sen. Cohen)	97/12/10							



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