



CANADA

Debates of the Senate

2nd SESSION

•

35th PARLIAMENT

•

VOLUME 135

•

NUMBER 14

OFFICIAL REPORT
(HANSARD)

Thursday, May 2, 1996

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THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

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(Daily index of proceedings appears at back of this issue.)

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

Published by the Senate

Available from Canada Communication Group — Publishing, Public Works and
Government Services Canada, Ottawa K1A 0S9, at \$1.75 per copy or \$158 per year.

Also available on the Internet: <http://www.parl.gc.ca>

THE SENATE

Thursday, May 2, 1996

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

Prayers.

RULES OF THE SENATE

INFRINGEMENTS OF RULE 22

The Hon. the Speaker: Honourable senators, before I proceed to call Senators' Statements, I wish to refer all honourable senators to the *Rules of the Senate of Canada*, and in particular to rule 22(4) regarding senators' statements.

It seems to me that senators are developing the practice under "Senators' Statements" of raising points of debate. In a number of cases, senators have run well over the time limit of three minutes set out in rule 22(6). Unfortunately, when an honourable senator goes over the time limit, other honourable senators who wish to participate are unable to do so because there is a 15-minute limit to the period for senators' statements.

I hope that all senators will limit themselves to three minutes, and to making statements rather than points of debate. In that way, more senators can participate. Otherwise, I will have no alternative but to apply the rule.

[Translation]

SENATORS' STATEMENTS

THE SENATE

DELAYED ANSWERS PENDING FROM FIRST SESSION

Hon. Pierre Claude Nolin: Honourable senators, I shall try to stay within the three-minute limit.

What I would like to do in this statement is to refer to an exchange in this house on May 14, 1991, between our colleague, Senator Bosa, and Senator Murray, then leader of the government in this house. The question was as follows:

[English]

Honourable senators, I have a question for the Leader of the Government in the Senate. Prior to prorogation, there were a number of questions put to him of which he took notice, and he promised that he would reply in due course. Are those questions now off the record? Do we have to start all over again?

Senator Murray's response was as follows:

No, honourable senators. While motions and written questions, and so forth, disappear with prorogation, I have taken the position that outstanding oral questions, and indeed one outstanding written question, should be answered.

YOUTH WEEK

Hon. Landon Pearson: Honourable senators, today let us celebrate young people. This week has been proclaimed Youth Week by over 50 youth organizations under the leadership of the Boys and Girls Clubs of Canada, Generation 2000, Leadership Innovations, the Student Commission/Teen Generation Magazine, UNICEF Canada, World University Service of Canada and Youth Action Network. The goal of Youth Week is to motivate and inspire young people between the ages of 10 and 25 — who account for over 6 million across Canada — to contribute to their communities year-round.

Last Monday, I spoke in this chamber for over an hour with 210 high school students from across Canada, brought to Ottawa by the Rotary Club for an adventure in citizenship. They were a lively and alert group. They were delighted to be sitting in your seats and they were full of questions which were both perceptive and respectful; just the kind of young people who fill one with hope.

It is to involve more young people in citizenship adventures that this week has been proclaimed. Young people are an important source of potential in our communities, but this source is often untapped. According to Statistics Canada, only 20 per cent of Canada's youth between the ages of 15 and 24 volunteer in their communities on a regular basis. We should see what we can do to augment that.

In conjunction with Youth Week, the Student Councils for a United Canada, a national youth organization inspired and started by youth and committed to enhancing Canadian spirit among Canadians, is organizing the first annual Youth Canada Day on May 3.

Student Councils for a United Canada is inviting schools across the country to celebrate being Canadian and to show off how much they love this country. Young Canadians will hold school assemblies, write a new anthem, paint their bodies and recreate a giant Canadian flag on their football fields. Student Councils for a United Canada will crown winners for the best documented activities.

Through other events such as the Day of Service, which is today, coordinated in partnership with Youth Service Canada, Youth Week aspires to raise awareness around issues affecting young people, such as unemployment, poverty, job security, education, political participation and environmental protection.

I hope that we will all do whatever we can in our activity with young people to encourage Youth Week and all that goes with it.

THE HONOURABLE WILBERT J. KEON

TRIBUTE

Hon. Gerry St. Germain: Honourable senators, I stand today to pay tribute to our esteemed colleague the Honourable Senator Wilbert Joseph Keon. Ten years ago yesterday, May 1, 1986, Dr. Keon was the first Canadian surgeon to successfully perform an artificial heart transplant using the Jarvik artificial heart as a bridge to a human transplant. I am happy to say that the recipient, Mrs. Noella Leclaire, is very much alive and doing well today.

• (1410)

Dr. Keon is one of the world's leading heart surgeons and researchers in the cardiovascular field. He is the head of the world-renowned Ottawa Heart Institute, which has done in excess of 12,000 procedures since it was established in 1969. Dr. Keon has a long and distinguished list of accomplishments in the field of cardiovascular disease. In recognition of this great work, Dr. Keon has received many awards from the medical community in addition to receiving other prestigious awards such as the Order of Canada and special recognition from Pope John Paul II.

Dr. Keon has also served on many national and international associations in the medical community, including the Canadian Heart Foundation. He is the president of the Canadian Cardiovascular Society at the present time.

Over the years, Dr. Keon has pioneered many important techniques in the treatment of cardiovascular disease. Equally important to his work as a surgeon is his work in the development of health care policy in Canada. Dr. Keon is a well-respected educator who has served as the Chairman of the University of Ottawa Department of Surgery. Hundreds of surgeons have trained under Dr. Keon, and are now bringing his expertise and life-saving abilities to all parts of the world.

Dr. Keon's devotion to his field is without equal. Not only does he give of his superior skills and abilities as a surgeon, but I was also surprised to learn that he is an exceptional fundraiser, and has raised in excess of \$50 million for the Ottawa Heart Institute.

I know and have spoken with many people who are alive today because of Dr. Keon. These people and their families refer to him as a hero. Surely not many Canadians would look to the Senate of Canada with the thought of finding a hero but, fellow senators, in our midst stands a *bona fide* Canadian hero.

Throughout the years, and with great modesty, Dr. Keon has continued his valiant fight against one of the great killers of Canadians: heart disease. Due to his efforts and abilities, thousands of children across Canada will continue to enjoy mothers, fathers, grandmothers and grandfathers who would not have survived otherwise.

Unfortunately, Dr. Keon is not in the chamber today. However, I congratulate him and thank him on behalf of the thousands of Canadians whose lives he has saved. He brings honour to all of us in this place. I am proud to serve beside him in this chamber.

Hon. Senators: Hear, hear!

HUMAN RIGHTS

TIMELY SUBJECT FOR STUDY BY SPECIAL COMMITTEE

Hon. Ron Gitter: Honourable senators, on Monday of this week at the Jewish Centre in Calgary, a package was delivered by a courier addressed to the Jewish National Fund. The package, which was innocently opened by a secretary, contained a pipe bomb that, fortunately, did not explode. Only the detonator went off, slightly injuring the secretary. Had the bomb connected, it is likely that a tragedy of incredible proportions would have occurred, since children were gathered at a daycare facility just a few steps away.

I have reflected on this situation at great length, honourable senators, in a determination to arrive at what message this brings to us. We must not be quick to jump to the conclusion that it was the act of an anti-semitic individual who was desirous of taking his hatred and warped viewpoint to a violent conclusion. Nor should we jump to the conclusion that it was the act of a Middle Eastern terrorist who was endeavouring to exhibit his antagonism toward Israel. It is to be hoped that we will discover the perpetrator and his motives as this investigation continues.

Underlying all this is the simple fact that we must never take our freedoms for granted. We must never lose our vigilance and our commitment for those in our society who are not of the majority but compose the groups in our nation who are of other races, religions, ethnicity, colour and backgrounds. The bomb episode, the bigoted remarks of the Whip of the Reform Party on Tuesday, so eloquently refuted by Senator Oliver yesterday, and the waning commitment in my province in the human rights field, as exhibited by the refusal of the Alberta government to support the Human Rights Commission in that province, are all too frequent reminders of the declining commitment in our nation to the plight of our minorities, and the fact that there are many problems out there that need attention.

It is sad, but true, that in times of difficulty and transition, the patience of the majority is all too often diminished when it comes to the rights and the aspirations of others. This fact is very evident in 1996 when the mood of the nation is seemingly directed by some players to an agenda that is a balance sheet and bottom-line proposal, and which often ignores the importance of government action or, in cases of inaction, the human field of endeavour.

The Gingrich-Reform-Pat-Buchanan type of agendas must be offset by an aggressive counterbalance that recognizes the difficulties our less fortunate citizens face on a daily basis with the tragedy of prejudice and discrimination.

I applaud the Government of Canada for its actions of yesterday in bringing forward the amendments to the Canadian Human Rights Act. This is responsive to the concerns of many of us who see a community of Canadians facing discrimination which, in my view, is based on dogma and ignorance. The unfortunate aspect of the vote in the House yesterday was that 53 elected members refused to step forward to provide leadership and understanding. They saw fit to vote against the legislation.

Honourable senators, this chamber has a noble and a rich tradition of dedication to human rights. This past week has seen both the best and the worst of times in this area. These are difficult and stressful times for Canadians, which often reflects

some of our worst tendencies. I think the time has now come for us to create a committee of the Senate that is focused on human rights in our nation; a committee that can examine many of these issues and provide the leadership, focus and education that is necessary to ensure that all Canadians will be allowed to share in the opportunities and challenges that this great land presents, not only those who happen to have those privileges by birth and circumstances.

Hon. Senators: Hear, hear!

[Translation]

Hon. Marcel Prud'homme: Honourable senators, I wish I had been the one to make Senator Ghitter's statement; I endorse it fully.

[English]

The event mentioned by Senator Ghitter at the beginning of his statement, which took place in Alberta, is a matter which I had intended to raise today. This is a totally unacceptable action in this country. The honourable senator also set out what took place yesterday in the House of Commons in another debate. In accordance with Your Honour's ruling, I will not debate that issue at the moment, since it forms part of legislation which will be presented in the Senate at a later date.

However, I want to be on record as saying that not only is Senator Ghitter right, but that if any sort of fund is to be created to reward anyone for information leading to the arrest of the perpetrator of this offence, I would be honoured to contribute to such a fund. I say that, even though I resent what some people see as a reward being offered for such a reason. However, this will show how serious we are about finding the people responsible for this action.

This is the type of action that cannot take place in my country. This action directly touches one community in Canada. This is not my kind of Canada. In my Canada, everyone is equal. In my Canada, everyone has the right to security under our flag.

I repeat, I would be honoured and delighted to sign the statement made by Senator Ghitter earlier today.

BANKING, TRADE AND COMMERCE

INSTITUTIONAL INVESTORS—POSSIBLE SUBJECT
FOR STUDY BY COMMITTEE

Hon. Donald H. Oliver: Honourable senators, it is nothing new for Canadians, or indeed members of Parliament, to criticize the banking industry. "Bank-bashing" has become so common it is like a new national sport. I believe that Canadians have difficulty accepting large institutions and what those institutions do. Largeness connotes power, and power that is not understood is often frightening. Large targets such as the banks, the CBC or Parliament become easy targets for criticism. The banks, frankly, have had enough bashing for a while.

However, I would like to draw the attention of honourable senators to one new source of power which has remained virtually undiscovered. I refer to the institutional investor. During

the recent public hearings of the Senate Task Force on Corporate Governance, I raised the issue of this newfound power source with many witnesses, quoting from a recent study which states:

Presently, close to 40 per cent of the dollar value of Canadian firms is held by institutional investors, and it has been said that they regularly make multi-million dollar decisions that constrain the decisions of large corporations, and they also affect the retirement security of millions of people.

However, Canadians do not know much about these institutions. Matters such as how well the pension managers do their jobs, who measures that, what interests does the investor promote, and to what extent do they promote their own interests are all mysteries. It is also the case that these institutional investors do not contribute to the venture capital market so as to help the emerging entrepreneur.

• (1420)

As Kevin McKenna, managing director of McKenna Gale Capital Inc. in Toronto, said recently in one of the newspapers:

...many institutional investors withdrew from venture capital in the past because it was labour intensive, without the right returns being there.

The power, influence, and corporate governance of these institutions is presently not being studied. I am happy to see Senator Kirby here today, and I commend to him and his committee this subject as something that might be properly studied by the Senate of Canada.

[Translation]

ROUTINE PROCEEDINGS

COMMITTEE OF SELECTION

FOURTH REPORT PRESENTED AND ADOPTED

Hon. Jacques Hébert, Chairman of the Committee of Selection, presented the following report:

Thursday, May 2, 1996

The Committee of Selection has the honour to present its

FOURTH REPORT

Pursuant to Rule 86(1)(b) of the *Rules of the Senate*, your Committee submits herewith the list of Senators nominated by it to serve on the following committees:

SPECIAL COMMITTEE OF THE SENATE ON THE CAPE BRETON DEVELOPMENT CORPORATION

The Honourable Senators Anderson, Buchanan, DeBané, *Fairbairn (or Graham), Ghitter, Gigantès, Landry, *Lynch-Staunton (or Berntson), MacDonald (Halifax),

[Senator Ghitter]

Macdonald (Cape Breton), MacEachen, Murray, Rompkey and Stanbury.

* Ex Officio members

Respectfully submitted,

JACQUES HÉBERT
Chairman

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

Senator Hébert: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(g), I move that this report be now adopted.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

[*English*]

CODE OF CONDUCT

REPORT OF SPECIAL JOINT COMMITTEE TABLED

Hon. Donald H. Oliver: Honourable senators, pursuant to rule 104(1) of the *Rules of the Senate*, I have the honour to table the first report of the Special Joint Committee on Code of Conduct. This report deals with the expenses incurred by the committee during the First Session of the Thirty-fifth Parliament.

(For text of report, see today's *Journals of the Senate*.)

CONTRAVENTIONS ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Sharon Carstairs, Chairman of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, May 2, 1996

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

FOURTH REPORT

Your Committee, to which was referred Bill C-16, An Act to amend the Contraventions Act and to make consequential amendments to other Acts, has, in obedience to the Order of Reference of Thursday, April 25, 1996, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

SHARON CARSTAIRS
Chair

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

On motion of Senator Losier-Cool, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

ADJOURNMENT

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, 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 next, May 7, 1996, at 2 p.m.

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

Hon. Senators: Agreed.

Motion agreed to.

PRIVATE BILL

NIPISSING AND JAMES BAY RAILWAY COMPANY—
BILL TO DISSOLVE—FIRST READING

Hon. James F. Kelleher presented Bill S-7, to dissolve the Nipissing and James Bay Railway Company.

Bill read first time.

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

On motion of Senator Kelleher, bill placed on the Orders of the Day for second reading on Tuesday, May 7, 1996.

[*Translation*]

NATIONAL UNITY

NOTICE OF MOTION TO APPOINT SPECIAL COMMITTEE

Hon. Gérald-A. Beaudoin: Honourable senators, I give notice that on Tuesday, May 7, 1996, I shall move:

That a special committee of the Senate be appointed to examine and report upon the issue of Canadian unity, specifically recognition of Quebec, the amending formula, and the federal spending power in areas of provincial jurisdiction;

That the committee be composed of twelve senators, three of whom shall constitute a quorum;

That the committee have power to send for persons, papers and records, to examine witnesses, to report from time to time and to print such papers and evidence from day to day as may be ordered by the committee;

That the papers and evidence received and taken by the Special Committee of the Senate on Bill C-110, respecting constitutional amendments, during the First Session of the

Thirty-fifth Parliament be deemed to have been referred to the committee established pursuant to this motion;

That the committee have power to sit during sittings and adjournments of the Senate;

That the committee submit its final report no later than December 15, 1996; and

That, notwithstanding usual practices, if the Senate is not sitting when the final report of the committee is completed, the committee shall deposit its report with the Clerk of the Senate, and said report shall thereupon be deemed to have been tabled in this Chamber.

QUESTION PERIOD

THE SENATE

ANSWERS PENDING FROM FIRST SESSION—RESPONSE REQUESTED

Hon. Pierre Claude Nolin: Honourable senators, I understand that the Leader of the Government is not with us today, so I shall ask my question of Senator Graham. It concerns questions pending since the First Session of this Parliament. For my guidance, may I know whether both the written and the verbal questions will be answered?

If it is not the intent to answer them, we will reintroduce them, which will be a fairly simple procedure. I would like your reply on this.

[*English*]

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I take Senator Nolin's concerns very seriously.

Undue delay in answering questions, whether written or oral, is not without precedent. I recall, as will Senator Murray, the famous Laprade Fund question which was first raised by me in this chamber on February 3, 1987, when members opposite were in government. Subsequently, I raised the matter again three or four times. On September 30, 1988, Senator Murray said something to the effect that the response to my question was still being processed. That was some 20 months after the initial question was asked. Fortunately — or unfortunately, depending on which side of the chamber you happen to be — Parliament was dissolved the next day. We heard no more about the Laprade Fund in that Parliament.

• (1430)

Having said that, I do find it troubling that, in many cases, we do not receive answers from various departments more quickly. It is obvious that more needs to be done to impress upon those responsible that the timeliness of a response can be just as important as the response itself. I am aware of the number of questions that remained unanswered when we prorogued, both questions posed orally in this chamber and written questions

placed on the Order Paper. Perhaps a number of them have been overtaken by events, but undoubtedly others remain very timely and topical.

Those questions, in my opinion, have lapsed. There is no tradition or precedent for resurrecting all the questions en masse. We are still awaiting His Honour the Speaker's ruling on this matter. However, that does not mean that the questions must go unanswered.

For senators who remain interested in having answers to their individual questions which died at the end of the last session, I would suggest that perhaps they can take one of several courses: They can let my office know, or they can let the leader's office know. The questions that were on the Order Paper can easily be reinstated or resurrected at the request of individual senators. I assure you that you will receive the utmost cooperation from this side. We will do everything within our power to have them answered as expeditiously as possible.

Senator Lynch-Staunton: How reassuring. Another promise.

[*Translation*]

ANSWERS PENDING FROM FIRST SESSION—
REQUEST FOR SPEAKER'S RULING

Hon. Pierre Claude Nolin: Your Honour, I do not know if my question is for you or for Senator Graham. Are we indeed to expect a decision by you on this matter?

The Hon. the Speaker: Normally the Speaker does not reply to questions. I am aware that a point of order was raised by Senator Lynch-Staunton in my absence. It is being looked into. I hope to have a reply by the next sitting of the Senate.

[*English*]

ORDERS OF THE DAY

FINANCIAL INSTITUTIONS BILL

THIRD READING

Hon. Michael Kirby moved third reading of Bill C-15, to amend, enact and repeal certain laws relating to financial institutions.

He said: Honourable senators, I rise to make a couple of remarks on third reading of Bill C-15 which, as I indicated yesterday, has been passed unamended by the Standing Senate Committee on Banking, Trade and Commerce. My comments relate to the way in which the bill is structured.

In particular, the committee has concerns about a schedule contained in Bill C-15. This schedule constitutes, in and of itself, a new statute; a statute entitled "An Act respecting the regulation of systems for the clearing and settlement of payment obligations." In other words, Bill C-15 contains, as a schedule or an annex to the bill, a separate bill itself.

Members of the Banking, Trade and Commerce Committee were highly critical of the fact that two distinct bills — namely,

[Senator Beaudoin]

Bill C-15 itself and the schedule as a separate bill — are being produced as a single bill.

The 6th Edition of Beauchesne's, citation 631, states:

At the end of many bills there is found a set of schedules which contain matters of detail dependent on the provisions of the bill. A schedule is part of the bill and is dependent on one or more of the preceding clauses, by means of which the provisions of the schedule are carried into effect.

The point of this particular quotation from Beauchesne's, honourable senators, is that the schedules are to contain "matters of detail," to use the words of Beauchesne. In other words, the purpose of the schedules is to supplement clauses of a bill by way of making them more detailed and explanatory. This is entirely different from the case here, where the schedule is a complete and separate bill by itself.

Parliamentary procedure has developed a process through which bills must pass before they become law. There are different stages, as we all know — first and second reading, consideration in committee, report stage, third reading — each of which has its own purpose. These separate stages must take place on different days unless there is unanimous consent.

This inclusion of a separate and distinct bill as a schedule to another bill distorts the legislative process. Every bill should be handled in the regular procedural way, going through all stages. While a schedule to a bill can be amended, the schedule as a whole is deleted if the authorizing clause is defeated. Thus, in this particular case, an entire statute — namely the schedule that has been attached to Bill C-15 — depends on whether or not a single clause is passed.

Again referring to the 6th Edition of Beauchesne's, this time citation 665:

On the second reading of an amending bill it is the principle of the amending bill, not the principle of the Act, which is the "business under consideration". Debate and proposed amendments must therefore relate exclusively to the principle of the amending bill.

Most of the provisions of Bill C-15, as I indicated yesterday, amend existing statutes relating to financial institutions. This schedule, by including a totally new statute as the schedule, is a departure from the principle that schedules should simply relate to details of the bill, and should not contain entirely new principles in and of their own right. Including such a schedule in this form clearly complicates the second reading debate and makes it unclear whether one is voting on a principle of the bill or of the schedule attached to it, which is, in effect, a completely separate bill.

It was pointed out in committee by the lawyer for the Department of Finance that such schedules have been used in the past to enact new acts. Despite the fact that there is precedent in Canada for doing this, the committee has grave concerns about this practice, and believes that it should be discouraged. It is contrary to both the logic — and indeed the spirit — of the legislative process.

Accordingly, honourable senators, on behalf of the committee, I will be writing to the Minister of Justice to express the

committee's grave concerns about this process and this practice of including, as a schedule to one bill, a completely separate bill.

In writing to the minister, I will, on behalf of the committee, be urging that this practice be discontinued henceforth.

Motion agreed to and bill read third time and passed.

• (1440)

CANADA LABOUR CODE

BILL TO AMEND—THIRD READING—
MOTION IN AMENDMENT—DEBATE ADJOURNED

Hon. B. Alasdair Graham (Deputy Leader of the Government) moved third reading of Bill C-3, to amend the Canada Labour Code (nuclear undertakings) and to make a related amendment to another Act.

Hon. Erminie J. Cohen: Honourable senators, I rise to speak to Bill C-3. This bill provides a mechanism for the application of provincial labour laws to nuclear facilities. At present, nuclear facilities are under federal jurisdiction by virtue of a declaratory provision in the Atomic Energy Control Act. Bill C-3 looks to find a constitutionally viable means of having provincial laws apply to Ontario Hydro's nuclear division as well as to other like facilities in Canada regulated by the Atomic Energy Control Board.

Tuesday last, the Standing Senate Committee on Social Affairs, Science and Technology met on Bill C-3. We heard from five groups of witnesses and received a brief in writing from Saskatchewan. Many of these witnesses travelled many miles to appear before the committee. Unfortunately, the English translation of the text presented by the workers of Hydro-Quebec was not available, and the Saskatchewan brief was not even discussed.

Some senators felt we needed more time to give the bill a thorough study because it is very technical. However, a senator on the government side moved quickly to pass the bill, and it was passed. This took place while witnesses were present in the room. It showed a lack of respect and a lack of serious interest by the committee, and it adds to the public cynicism and criticism of this body.

MOTION IN AMENDMENT

Hon. Erminie J. Cohen: Therefore, I move, seconded by the Honourable Thérèse Lavoie-Roux, the following amendment:

That the bill be not now read the third time but that it be referred back to the Standing Senate Committee on Social Affairs, Science and Technology for further consideration.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion in amendment?

Hon. Philippe Deane Gigantès: Honourable senators, I was present during that committee meeting. The witnesses, in short, were saying or implying that, in the process of delegating certain labour jurisdictions from the federal to the provincial governments, safety in the workplace might be sacrificed. We discussed this possibility. They were worried as well about losing acquired rights. The bill specifically states that they will not, and we said as much. Senators on both sides agreed that it was so.

As for the allegation that a federal minister and a provincial minister, in discussing the delegation of certain labour powers, would be sufficiently irresponsible in the post-Chernobyl era to put in danger the functioning of a nuclear station, that is so patently absurd, and so insulting to provincial ministers and federal ministers of whatever party, that it was not worth considering. Then, of course, we voted to pass the bill.

Senator Lavoie-Roux sees in this a good occasion to take a swipe at the Liberals who voted for the bill, but the grounds on which the witnesses complained were not valid grounds, and members of the committee saw that.

I move the adjournment of the debate.

Senator Cohen: Honourable senators, I do not agree with what the honourable senator said at the beginning of his remarks.

The Hon. the Speaker: Is the honourable senator asking a question?

Senator Forrestall: The question has not been put.

The Hon. the Speaker: Honourable senators, the question has been put, but it is open to debate and open to adjournment. Senator Cohen is free to ask a question, if Senator Gigantès wishes to reply.

Senator Cohen: Senator Gigantès was one of the senators who accused the drafters of the bill of overcomplicating things, and indicated that he wished they would have given it to us in simpler language, because it was difficult to understand. The point I am making is that because it was so difficult, we should have had more time to study the bill. We do not all come from labour backgrounds.

Senator Gigantès: Honourable senators, I have had that complaint about all legislation, starting from the time when I arrived in Canada. When I have problems sleeping, I read the Income Tax Act. It works, just like that! Lawyers of the justice department, under whatever administration, seem capable of writing only gobbledegook, but the clauses in the bill about which the witnesses were complaining were quite clear. Proposed subsection 121.4(5), for example, says that all rights acquired at the time the regulation is proclaimed will remain. There is nothing unclear about that.

As for the delegation, what they were afraid of is that if there were a division as between labour arrangements and safety arrangements, it might endanger the functioning of the nuclear generation plant. Well, there is such division already because some of the workers are provincial and some are federal, and this legislation will end that division and make the operation even safer, if possible. It would be unsafe only if the provincial ministers, including the Quebec minister, and the federal minister were to disregard advice on safety. That was the point. The honourable senator is trying to nit-pick. That is why I have moved the adjournment of the debate.

The Hon. the Speaker: Honourable senators, there is a motion before the Senate for the adjournment of the debate. Questions may be put to the last speaker, if the last speaker is prepared to accept them. Apart from that, I must put the motion.

[Senator Gigantès]

Hon. Mabel M. DeWare: Honourable senators, I want to say to the honourable senator that it is not the content of the bill that we are arguing here; it is the procedure.

The Hon. the Speaker: If the honourable senator has a question, she is entitled to ask it, but other than that, a motion has been put for adjournment of the debate, and I have no alternative but to put the motion.

Senator DeWare: My question to the honourable senator is this: Does he not realize that it was not the content of the bill that is being disputed? The dispute is over the procedure and that some honourable senators felt they needed more time to reflect and perhaps make recommendations to the minister. It was not the content. Does the honourable senator feel that sufficient time was given to us to reflect on the contents of the bill?

Senator Gigantès: Honourable senators, I thought we had discussed this issue. After listening to what was going on around the table at the time and to what the people on the honourable senator's side were saying, I thought that the remarks by senators to the witnesses revealed a consensus on the part of all senators on both sides. The business about reflecting a little longer was a delaying tactic raised by Senator Lavoie-Roux, with no basis in substance, in my view. That is why I voted for the immediate adoption of the bill. If there had been, in my view, a question of substance in what Senator Lavoie-Roux raised, I would have agreed, but I did not, so I voted for the immediate adoption of the bill.

Hon. Thérèse Lavoie-Roux: How can the senator affirm that every one of us was satisfied with the discussion that had been held following the presentation of the witnesses when it did not last for even 20 seconds? The Liberals said, "No, no, it is finished, adopted without amendment." How can he deduce from that that we were all satisfied with the questions that we asked and that we wanted to ask? That was not the case because no one on our side voted along with the government.

Senator Kinsella: That is a good question.

Senator Gigantès: The honourable senator does not often vote for the government. I have moved the adjournment of the debate. I would like that motion to be considered by the house.

The Hon. the Speaker: It was moved by the Honourable Senator Gigantès, seconded by the Honourable Senator Hébert, that further debate on the motion in amendment be adjourned to the next sitting of the Senate. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

On motion of Senator Gigantès, debate adjourned.

• (1450)

CRIMINAL CODE

BILL TO AMEND—SECOND READING

On the Order:

Resuming the debate on the motion of the Honourable Senator Cools, seconded by the Honourable Senator

Sparrow, for the second reading of Bill S-3, to amend the Criminal Code (plea bargaining).—(*Honourable Senator Cools*).

Hon. Anne C. Cools: Honourable senators —

The Hon. the Speaker: Honourable senators, I must inform the Senate that if the Honourable Senator Cools speaks now, her speech will have the effect of closing the debate.

Senator Cools: Honourable senators, I should like to say a few words. First, I want to thank Senator Phillips and Senator Wood for their remarks, and their support and interest in Bill S-3.

Honourable senators, two weeks ago, on April 16, I was visited in my office by the Homolka petition committee in the persons of Gwen Hunter, Rod Elesie, Gordon Domm and Shirley Eden. Last year, during Paul Bernardo's trial, these individuals organized the collection of petitions — well over 320,000 signatures from Ontario — and presented them to the Ontario legislature at Queen's Park. These petitions asked the Government of Ontario to hold a public inquiry into Karla Homolka's plea bargain agreement. These individuals are now gathering new petitions, this time to petition the Senate in support of Bill S-3.

Bill S-3 asks Parliament to conduct a public parliamentary examination of the plea bargaining process and to form a legislative opinion and conclusion on this matter. On April 16, they held a news conference here in Ottawa, primarily to express this support and to respond to former Mr. Justice Patrick Galligan's internal review report of the Homolka plea bargain negotiations. They delivered 8,000 signatures to me that day. These individuals from Southern Ontario are truly dedicated persons who are concerned about this travesty of justice. They are now focusing on the legislative and inquisitorial powers of Parliament, particularly the Senate. I praise these citizens, their commitment, their persistence and their belief in Parliament.

Honourable senators, I shall be very brief, for I am eager to have this matter referred to committee. The facts of this case are well publicized. Karla Homolka, a peculiar kind of female psychopath, has successfully deceived and defeated the system and the Crown and obtained a very light sentence for three most heinous sexual murders. Many legal practitioners assert that a deal is a deal, including Mr. Justice Galligan, who was retained by the Attorney General of Ontario to perform an internal review of the actions of the Attorney General's office in negotiating this plea bargaining agreement.

The Hon. the Speaker: Honourable senators, could we have order, please? If there are conversations, could I ask honourable senators to have them outside the chamber?

Senator Berntson: Agreed.

Senator Cools: He presented his report entitled "Report to the Attorney General of Ontario on Certain Matters Relating to

Karla Homolka" to Attorney General Charles Harnick on March 15, 1996. His report uncomfortably legitimated the ministry officials' actions.

I have read Mr. Galligan's 350-page report. It is an apologia for the plea bargaining negotiations. I found it bewildering and astonishing. In his report, the former judge abandoned legal ground and stepped on to political ground. The Attorney General of Ontario, in relying on it, abandoned political ground and stepped on to legal ground. The former judge concluded that the Homolka plea bargain was, in his words, "driven by sheer necessity." Moreover, the former judge says he would have done the same thing himself. This is an extraordinary confession. It is, however, unfortunately and cynically, predictable.

Interestingly, Mr. Justice Galligan relied extensively on another Ontario report on plea bargain agreements from 1993 called "Report of the Attorney General's Advisory Committee on Charge Screening, Disclosure and Resolution Discussions," chaired by the Honourable G. Arthur Martin. "Resolution discussions" is the government's term for plea bargain agreements. The public's displeasure at the lack of political action by politicians and legislatures to correct this publicly obvious and notorious travesty is great. Honourable senators, the public expects its politicians to take action to correct a terrible wrong.

A few days ago, yet another incident about Homolka was revealed. On April 21, in the *Toronto Sun* article entitled "Homolka letter shows no remorse," Christie Blatchford wrote about a letter to Karla Homolka from her sister Lori Homolka regarding Homolka's application for an escorted temporary absence pass. It seems Karla Homolka is trying to get an escorted temporary absence pass, or ETA, to attend a party in honour of her birthday. Lori addressed her letter with: "Dear Pissy Big Sissy." She signed it off saying, "Your Pissy Little Sissy." This letter stated, among other things, that:

Putting in an application for an ETA is not crazy, Kar,... That's great that no one gets notified — not even the parole board. That's so wicked!

Lori Homolka's letter continued:

People are so stupid, Kar,... Even if they bumped into you, they'd never know it was you, especially since you're supposed to be spending all your time in jail. They would never know. Just like if you came back to St. Cath. That would be the last place people would expect you to be, especially when I tell everyone you'll never, ever come back here. See, that's my plan. People wouldn't know if it was you...

Her English is very bad. The letter continues:

People wouldn't know if it was you if they even had a conversation with you. People really are dumb. It's so easy to con people.

Again, the enormous deceit is made manifest to the public as Homolka prepares her conditional release plans and her departure from prison on parole. Honourable senators, the issue is psychopathy. We must understand that psychopaths are extremely devious, cunning and ingenious. They are frequently more ingenious and resourceful than the court, police, prison and parole authorities. Female psychopaths are especially crafty at avoiding detection and punishment.

Female psychopathy is insufficiently understood, insufficiently studied, and oftentimes forgiven by officials who are reluctant to accept feminine aggression, preferring to cloak raw aggression and predatory activity as feminine victim psychology. Justice Galligan's report mentions the two conditions applied to Homolka's behaviour by the prosecution. The first condition was the battered woman's syndrome; the second was amnesia. Homolka remembered details of what Paul Bernardo did to French and Mahaffy, but had no recollection of her own terrible assault on Jane Doe.

Honourable senators, as a senator, I observe the many dangers that have come upon this country swiftly, especially in the judicial systems and in the administration of justice. The instability, despondency and mistrust of the public is very great. The problems are evident. Yet, as these problems come upon us and upon the country, I am amazed, albeit staggered, at the failure of Parliament, both the Senate and the other place, to react to these problems. No parliamentary opinion is directed against these problems. No parliamentary force is aimed at lifting our efforts to a level capable of meeting these problems.

Honourable senators, unless the Senate resolves to find out the truth, this Senate, and Parliament itself, will have committed an abdication of duty and parliamentary responsibility probably unequalled in the history of parliamentary government.

Honourable senators, I close second reading debate remarks with a reminder that Parliament has paramount authority over the courts. In addition, Parliament has sole and singular jurisdiction over the Criminal Code. This case is a reminder that the practice of leaving matters to the courts is often an inadequate solution to political questions and political problems. This issue of Homolka is a political one; political and parliamentary opinion is needed. A parliamentary solution is vital, and a statutory response is required.

Homolka's plea-bargain agreement does not bind Parliament. This Parliament and the Crown are not bound by iniquity. I look forward to a close study of Bill S-3 in committee. I hope that the witnesses will include Mary Hall, former chief Crown attorney from Scarborough; and Dr. David King, a pathologist involved in the autopsies of all three young girls. In a January 13, 1996 *Toronto Star* article about Mary Hall entitled "Top Scarborough Crown is removed from office," Harold Levy wrote:

After Hall, who controlled more than 25 assistant Crown attorneys, was told to stay out until the investigation was done, there was a widespread speculation that she was being pushed out as revenge for resisting a second deal struck with Karla Homolka.

Crown prosecutor Mary Hall disagreed that a second plea bargain be entered into by the Crown. She urged the prosecution of Homolka. Harold Levy continued:

Hall's bosses were rankled by her resistance to the deal, which gave Homolka immunity in the rape of a woman known as Jane Doe, Crown lawyers and police told *The Star*.

Mary Hall has been removed and dismissed from the Crown office.

- (1500)

Dr. David King's testimony is vital to our committee. He is the Chief of Forensic Pathology at McMaster Hospital in the Hamilton-Wentworth region, which includes St. Catharines, the location of these murders. He was ready to testify that Karla Homolka's testimony was not consistent with pathology reports. A September 5, 1995 *Globe and Mail* article by Kirk Makin entitled "Homolka testimony challenged; Crown ignored opinion girl died from something other than strangling, MD says", quoted Dr. King as saying:

As far as I'm concerned, there is a tremendous inconsistency between the post-mortem records and what she testified to...

and:

I do not think Kristen French died from ligature strangulation and I certainly don't think she died from having an electrical cord tied around her neck for seven minutes.... There's no way. I've been so upset about the whole thing.

Dr. King continued:

I suppose the major problem is she (Ms Homolka) is obviously lying — or appears to be lying — over this extremely important point of who killed Kristen.... It puts her statement in serious doubt.

The prosecution did not call Dr. David King to testify at Paul Bernardo's 1995 trial. Clearly, his testimony would not have been helpful to the prosecution's position on Homolka. The actual killer of the French and Mahaffy girls is still only known to Homolka and Bernardo. The prosecution chose to believe Homolka.

Honourable senators, Canadians are desirous that this plea bargaining process be properly and publicly examined, and with public participation. The public is supportive of a Senate committee's very public and very parliamentary inquiry into these matters. Our Senate committees and the Senate in general has an opportunity to exercise our parliamentary powers to inquire into this matter, and to give these plea bargaining processes the thorough airing and scrutiny they deserve.

I urge senators to support this initiative, and I ask that this bill be referred to committee.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion for second reading of this bill?

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Cools, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

The Senate adjourned until Tuesday, May 7, 1996, at 2 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(2nd Session, 35th Parliament)
Thursday, May 2, 1996

GOVERNMENT BILLS
(HOUSE OF COMMONS)

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-2	An Act to amend the Judges Act	96/03/19	96/03/20	Legal & Constitutional Affairs	96/03/21	none	96/03/26	96/03/28	2/96
C-3	An Act to amend the Canada Labour Code (nuclear undertakings) and to make a related amendment to another Act	96/03/27	96/03/28	Social Affairs, Science & Technology	96/05/01	none			
C-7	An Act to establish the Department of Public Works and Government Services and to amend and repeal certain Acts	96/03/27	96/03/28	National Finance					
C-8	An Act respecting the control of certain drugs, their precursors and other substances and to amend certain other Acts and repeal the Narcotic Control Act in consequence thereof	96/03/19	96/03/21	Legal & Constitutional Affairs					
C-9	An Act respecting the Law Commission of Canada	96/03/28	96/04/23	Legal & Constitutional Affairs					
C-10	An Act to provide borrowing authority for the fiscal year beginning on April 1, 1996	96/03/26	96/03/27	National Finance	96/03/28	none	96/03/28	96/03/28	3/96
C-11	An Act to establish the Department of Human Resources Development and to amend and repeal certain related Acts	96/04/24	96/04/30	Social Affairs, Science & Technology					
C-13	An Act to provide for the establishment and operation of a program to enable certain persons to receive protection in relation to certain inquiries, investigations or prosecutions	96/04/23	96/04/30	Legal & Constitutional Affairs					

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-14	An Act to continue the National Transportation Agency as the Canadian Transportation Agency, to consolidate and revise the National Transportation Act, 1987 and the Railway Act and to amend or repeal other Acts as a consequence	96/03/27	96/03/28	Transport & Communications					
C-15	An Act to amend, enact and repeal certain laws relating to financial institutions	96/04/24	96/04/30	Banking, Trade & Commerce	96/05/01	none	96/05/02		
C-16	An Act to amend the Contraventions Act and to make consequential amendments to other Acts	96/04/23	96/04/25	Legal & Constitutional Affairs	96/05/02	none			
C-18	An Act to establish the Department of Health and to amend and repeal certain Acts	96/04/24	96/04/30	Social Affairs, Science & Technology					
C-21	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1996	96/03/21	96/03/26	--	--	--	96/03/27	96/03/28	4/96
C-22	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1997	96/03/21	96/03/26	--	--	--	96/03/27	96/03/28	5/96
C-28	An Act respecting certain agreements concerning the redevelopment and operation of Terminals 1 and 2 at Lester B. Pearson International Airport	96/04/23							
COMMONS' PUBLIC BILLS									
No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-275	An Act to establish the Canadian Association of Former Parliamentarians	96/04/30							

SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-2	An Act to amend the Canadian Human Rights Act (sexual orientation) (Sen. Kinsella)	96/02/28	96/03/26	Legal & Constitutional Affairs	96/04/23	none	96/04/24		
S-3	An Act to amend the Criminal Code (plea bargaining) (Sen. Cools)	96/02/28	96/05/02	Legal & Constitutional Affairs					
S-4	An Act to amend the Criminal Code (abuse of process) (Sen. Cools)	96/02/28							
S-5	An Act to restrict the manufacture, sale, importation and labelling of tobacco products (Sen. Haidasz, P.C.)	96/03/19	96/03/21	Social Affairs, Science & Technology					
S-6	An Act to amend the Criminal Code (period of ineligibility for parole) (Sen. Cools)	96/03/26							

PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
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