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Wednesday, May 29, 1996

—

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

CONTENTS

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THE SENATE

Wednesday, May 29, 1996

The Senate met at 1:30 p.m., the Speaker in the Chair.

• (1340)

Prayers.

[Translation]

ROYAL ASSENT

NOTICE

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

RIDEAU HALL

May 29, 1996

Mr. Speaker,

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 29th day of May 1996, at 3:30 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

[English]

DISTINGUISHED VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I should like to draw your attention to a visitor in our gallery; the former senator, the Honourable Joseph Guay from St. Boniface.

Welcome again to the Senate, Senator Guay.

Hon. Senators: Hear, hear!

SENATOR'S STATEMENT

CANADA-CHINA RELATIONS

HUMAN RIGHTS IN CHINA AND TIBET

Hon. Consiglio Di Nino: Honourable senators, on May 14, 1996, Senator Austin gave a spirited speech in support of China and, in particular, encouraging the United States administration to renew China's most favoured nation status, which it has since done.

I, too, support trade with China, but for different reasons. First, I do not believe the world's major trading nations would unanimously isolate China, and therefore practicality forces Canada to also prostitute itself on the economic altar. Second, isolating China would likely result in an escalation of human rights abuses and the atrocities which are daily committed against its non-conforming citizens, as well as citizens of countries occupied by the Chinese armed forces, such as Tibet.

Now that China has been admitted to the world trading club, its emergence as a member of the international trading community must be accompanied by an acceptance of international standards of behaviour, including respect for fundamental human rights. China must be reminded of these obligations and responsibilities which form an integral part of the world trading community.

Honourable senators, yesterday, here on Parliament Hill, a Tibetan monk, the Venerable Palden Gyatso, spoke candidly and graphically about his three decades of imprisonment by China's peoples liberation army. The atrocities inflicted on him and his fellow Tibetans are truly unspeakable. The three decades of torture to which he was subjected were punishment for his refusal to abandon his commitment to a free Tibet and his religious beliefs. He is a lucky one, as he is one of only two symbolic prisoners freed by China's dictators to appease the tremendous international pressure put on them, primarily through Amnesty International. Venerable Palden Gyatso assured those of us who were there — and this has been confirmed in reports by Amnesty International and Asia Watch — that the situation in Tibet and China is no better. In fact, he believes that it is actually worse. The Chinese authorities continue to ignore world opinion and flaunt their disregard for even the most fundamental rights and freedoms which we take for granted.

I acknowledge and accept that the world will trade with China, but I cannot accept Canada's weak and ineffective criticism of the Chinese administration's disregard for the principles of the United Nations declarations on human rights and its barbaric behaviour. Canada must raise its voice in protest and in support of the millions who are forbidden from speaking on their own behalf.

ROUTINE PROCEEDINGS

BUSINESS OF THE SENATE

ADJOURNMENT

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, there has been discussion among the leadership on both sides. Given the special observances of today, and the heavy nature of the legislative agenda before us, I move:

That, with leave of the Senate and notwithstanding rule 58(1)(h), when the Senate adjourns today, it do stand adjourned until tomorrow, Thursday May 30, 1996 at 9 a.m.

The Hon. the Speaker: Is leave granted?

An Hon. Senator: Explain.

Senator Graham: Honourable senators, I would be happy to explain. As you know, we have the time allocation debate today, which, indeed, may pass when it comes to a vote. Two and one-half hours are allotted for that particular debate. Following that debate and if that vote carries, there is a maximum of six hours of debate on the main motion. We also have several other items and bills which we expect to be debated.

After a fulsome discussion with the Deputy Leader of the Opposition, it was determined that it might be wise, if we receive unanimous consent, to assemble at nine o'clock tomorrow morning instead of at two o'clock tomorrow afternoon.

Hon. Orville H. Phillips: What has happened to the view of Liberal senators with regard to setting the meeting time to 9:00 a.m. for closure? I have been around here for a short term, I admit, but what has happened that government senators now believe in closure? I remember when the Liberal senators insisted on unlimited debate, and it did not matter whether you danced in the corridors here. I can recall the Governor General, then Senator Roméo LeBlanc, dancing in the halls. When I look around, I see others who danced the halls and blew whistles.

What has happened? Before I agree to this motion, would the Deputy Leader of the Government explain to me the change in attitude?

Senator Doody: Saint Paul could not explain this one. It is on the road to Damascus that it happened.

Senator Graham: The points raised by Senator Phillips would probably be more properly raised during the time allocation debate. What I am attempting to do is —

Senator Doody: You may not get the debate!

Senator Graham: That is right. At the present time, Senator Phillips, I am attempting to accommodate all honourable senators and to be as accommodating as I possibly can with respect to all of the time schedules.

Senator Doody: And those of a few honourable senators on the government side.

Senator Phillips: I have a further question, honourable senators. How many Liberals have indicated that they cannot be here if we follow the normal meeting schedule? Are you losing four? Are you losing 10 or 15?

Senator Perrault: Guess.

Senator Graham: Honourable senators, if this —

Senator Doody: It is a good job, Alasdair. Do not knock it.

Senator Graham: Would you like to have it back?

Senator Phillips: You are getting paid to do it, so you can damn well answer.

Senator Graham: Honourable senators, as you know, we can continue debate today. As a matter of fact, we could continue debate —

Senator Doody: *Ad nauseam.*

Senator Graham: — well into the evening until tomorrow morning.

Senator Phillips: Like the GST bill, Bill C-22 and others.

Senator Graham: Honourable senators, if we do not pass this motion, we automatically sit tomorrow afternoon at 2:00 p.m., and if we do not have an adjournment motion tomorrow afternoon, we automatically sit Friday at 9:00 a.m. I am trying to anticipate the schedules of all honourable senators and be as accommodating as I can. The Deputy Leader of the Opposition and I have these kinds of discussions so that we can make it as pleasant as possible for every senator in this place, and, at the same time, so that we can get the business done.

Senator Phillips: Honourable senators, as a former whip in this chamber —

Senator Kinsella: And a good one.

Senator Phillips: Thank you. I wish you had told me that at that time.

Senator Doody: What a distorted memory.

Senator Phillips: As whip, I could not accept the idea that the chamber must sit at times convenient to the travel arrangements of senators. It was my view, prior to becoming Whip and going back to 1963, that the Senate must sit when we have legislation, and we then deal with that legislation. There is now this new idea abroad that we will sit at times convenient to airline schedules. Apparently, legislation is not important; it is the schedules of the airlines that are important.

• (1350)

I would hate to see my honourable friend go back to Cape Breton and explain that problem, especially since he has enough problems in Cape Breton to explain.

Senator Graham: Honourable senators, I said nothing about airline schedules.

Senator Doody: Perhaps you should have.

Senator Graham: I had in mind the sleeping patterns, the rest patterns and the necessity of all honourable senators for rest. That is why I thought you might prefer to sit tomorrow morning at 9:00 a.m. instead of being here at midnight tonight.

Senator Doody: Question!

The Hon. the Speaker: Honourable senators, it was moved by the Honourable Senator Graham, second by the Honourable Senator Perrault:

That, with leave of the Senate and notwithstanding rule 58(1)(h), when the Senate adjourns today it do stand adjourned until tomorrow, Thursday, May 30, 1996 at 9:00 a.m.

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

Hon. Senators: Agreed.

Motion agreed to.

DISTINGUISHED VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, before we proceed to any further items of business, I wish like to draw your attention to the distinguished visitors who are presently in the gallery. Attending our session today are the Honourable Renaude Lapointe, former Speaker of the Senate, as well as the Honourable Senators Heath Macquarrie and Robert Muir.

Welcome once again to the Senate.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

COMMITTEE AUTHORIZED TO MEET
DURING SITTING OF THE SENATE

Hon. Colin Kenny, with leave of the Senate and notwithstanding rule 58(1)(a), moved:

That the Standing Committee on Internal Economy, Budgets and Administration have power to sit tomorrow, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

Motion agreed to.

QUESTION PERIOD

JUSTICE

TAIWANESE SHIP DOCKED IN HALIFAX HARBOUR—
ALLEGED ILLEGAL ACTS PERPETRATED ON HIGH SEAS—
GOVERNMENT POSITION

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, for the last few days a ship registered in Taiwan has been tied up in Halifax harbour. Some of its crew have accused the captain and some — if not all — of its officers of casting adrift or throwing overboard three Romanian stowaways off the Spanish coast.

Can the Leader of the Government in the Senate tell us if Canada has received representations from any foreign country, including Romania, about this matter? Is the government investigating the matter with the possibility of laying criminal charges, should the investigation warrant?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, as my honourable friend knows, Canada itself has no jurisdiction in this case but will provide all investigative assistance possible to any state which has jurisdiction and wishes to investigate and prosecute these particular matters. I understand that three countries have such jurisdiction.

The government has received a request from Romania to arrest the captain and certain crew members of the ship, with a view to extradition to that country. I understand that that request has been acted upon by justice officials, and that the RCMP is currently attempting to execute the warrants.

I do not have any knowledge of any other country making such a request on their behalf.

Senator Lynch-Staunton: The latest development, then, is that Romania has asked Canada to proceed to the arrest of certain individuals who appear to have been responsible for this odious act, and that the Department of Justice has instructed the RCMP to execute a search warrant, and perhaps even attempt to get on board the ship to arrest these people, is that correct?

Senator Fairbairn: The note that I have indicates that the RCMP is currently attempting to execute the warrant.

Senator Lynch-Staunton: The RCMP, then, is acting under the instructions of the Department of Justice. This is what I am attempting to establish. Up until now, we have been told that there was no way that the Department of Justice would ever get involved in an RCMP investigation. I am referring, of course, to previous statements that have been made in this chamber about the Airbus affair, where we have been repeatedly told that neither a minister nor a department of the Government of Canada would

involve themselves in an investigation initiated, led and directed by the RCMP. We are now being told that in this case the government is actively engaging the RCMP, ironically enough, on the urging or at the request of a foreign government. That is just a strange coincidence.

When does the government involve itself in RCMP investigations and when does it decide not to do so? Is this the way that the supervision of our federal police force is executed — on occasion it is let loose, and on other occasions the civil authority directs it?

Senator Fairbairn: Honourable senators, I will seek expert guidance on answering the question. I would suggest to the honourable senator that these are two profoundly different situations involving different circumstances.

Senator Berntson: Same department; same police force.

FISHERIES AND OCEANS

IMPOSITION OF MIFFLIN PLAN WITHOUT NECESSARY STUDIES—GOVERNMENT POSITION

Hon. Pat Carney: Honourable senators, my question is also for the Leader of the Government in the Senate. She may be aware that the Pacific Salmon Alliance is meeting on June 8 in Nanaimo, in my province of British Columbia, to assess the impact of the Mifflin fleet rationalization plan proposed by the Minister of Fisheries and Oceans, which could devastate the fishing fleet of the coastal communities.

We learned through testimony in the other place that, in bringing this plan forward, the Department of Fisheries and Oceans did no feasibility studies, no employment impact studies and no environmental studies.

Could the Leader of the Government in the Senate explain, or find out for us before June 8, why DFO took this unprecedented action without these necessary studies? Or was it the goal of the government to cripple the coast?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, it was certainly not the latter. My understanding is that an extensive consultation took place with the various elements involved in this difficult issue in British Columbia in an effort to come up with a solution that would be fair to the fishers but also in the interests of conservation of the stocks. I cannot answer with respect to the studies referred to by my honourable friend, but I will attempt to find out. There certainly were extensive consultations.

• (1400)

Senator Carney: Honourable senators, if the leader were to ask her colleague Senator Perrault, also from British Columbia, she would find that those consultations did not include any community whatsoever on the coast of British Columbia. As a British Columbia senator, he is aware of the nature of the concern.

The Coastal Community Network which represents all the towns, cities and hamlets, passed a resolution at its convention on May 26 asking the federal government to provide immediate

[Senator Lynch-Staunton]

disaster relief with the implementation of this plan for the coastal communities. For example, the coastal community of Alert Bay is becoming the first casualty of this plan. Since it was announced, the local band has lost six seine vessels and expects to lose another six company vessels. One of the native councillors suggests that the village will lose 80 per cent of its seine fleet. The aboriginal community will be particularly hurt by this plan. Everyone agrees that the fishing effort has to be reduced on the coast, but not one community agrees that the Mifflin plan is the way to proceed.

Would the Leader of the Government in the Senate find out what will be the nature of the disaster relief to be provided to these communities as they lose their resident fleets, and whether this information will be presented to the Pacific Salmon Alliance by the June 8 meeting date?

Senator Fairbairn: Honourable senators, I will seek the information which my honourable friend seeks with the date of June 8 in mind. I will convey it as best I can.

NATIONAL UNITY

COMMENTS OF MINISTER OF HUMAN RESOURCES DEVELOPMENT IN HOUSE OF COMMONS—GOVERNMENT POSITION

Hon. Consiglio Di Nino: Honourable senators, I, too, have a question for the Leader of the Government in the Senate.

I was disturbed and offended by Minister Young's comments to Mr. Nunez in the House yesterday. Is Minister Young suggesting that Canadians born in Canada have more rights or have different rights than Canadians like myself and many others in this chamber who were born elsewhere and chose Canada as a place to help build a better life for our families and, indeed, for all Canadians and for the rest of the world?

Mr. Young is inflaming both sides of the issue. He is quoted in the *Le Journal de Montréal* as saying:

[Translation]

— to go talk to real Canadians and find out what they think of it.

[English]

I would like the minister to tell this chamber who Mr. Young considers to be a real Canadian.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, first, with regard to statements made by members of Parliament, whomever they may be and with whatever party they may be associated, that is their right. As I understand it, Mr. Young was definitely not expressing the view suggested by Senator Di Nino, that those who come from other parts of the world are any less Canadian or have any less rights than those of us who were born here.

Senator Oliver: That is exactly what he did.

Senator Fairbairn: My colleague was trying to convey, perhaps in a state of frustration, the kind of attitude, hard work and devotion, exemplified by Senator Di Nino and others who have chosen Canada from elsewhere, that is of enormous value to

the strength and unity of this country, rather than the notion that this country should be separated, Quebec from the rest of Canada.

Senator Di Nino: Honourable senators, regardless of the side of the issue one supports, the minister must admit that all Canadians have a right to express their opinion on any issue that arises in this chamber or in the other place.

Senator Fairbairn: I have said as much.

Senator Di Nino: Prime Minister Chrétien is quoted in *The Globe and Mail* as saying, in defence of Mr. Young, that he is entitled to his opinion. Is the Prime Minister's support of Mr. Young an admission that the constitutional debate is limited only to so-called real Canadians, which must mean that millions of us have no right or role to play in this most important of all debates?

Senator Fairbairn: Honourable senators, absolutely not. In fact, the Prime Minister himself indicated that the gentleman from the Bloc Québécois who spoke had every right to do so, as have I. He said that just this afternoon. It is not just people who work in either the House of Commons or the Senate who have the right to state their opinions, but anyone across this country.

The Prime Minister referred to the great value of Canadians who come from outside this country, who choose this country, who support this country and who contribute to it, Canadians such as my honourable friend and others in this chamber. Mr. Young was expressing a frustration at one who is actively sitting in Parliament, certainly expressing his views but with a view to separating this country. Therein lies Mr. Young's frustration. It is not that there is no right to say so. Of course there is.

The examples set by my friend and some on this side have been exemplary and have added considerably to the strength of this country.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I have a supplementary on that subject. The Minister of Human Resources Development said to a naturalized citizen: "If you are espousing a cause which is non-federalist and if you continue doing that, you should find yourself another country in which to live."

Mr. Young has then established two categories of Canadian citizens. Those who come here by choice to enjoy our benefits are accepted as complete Canadian citizens, but if they tend to disagree with the majority, they are to be expelled, according to the Minister of Human Resources. Meanwhile, those who are born here are allowed to carry on with this same philosophy. That is what is so heinous about the minister's statement. He has created two categories of citizens and repeated the statement outside the House. Mr. Chrétien has defended those statements.

Senator Fairbairn: Honourable senators, neither the Prime Minister nor Mr. Young are creating different classes of citizens. They are trying to support this country and its unity, and to speak out against those who would destroy and separate it.

NEWFOUNDLAND

CONSTITUTIONAL RESOLUTION ON CHANGES TO SCHOOL SYSTEM—SOURCE OF DOCUMENT CIRCULATED TO PARLIAMENTARIANS—GOVERNMENT POSITION

Hon. Marcel Prud'homme: I should like to comment on this matter, honourable senators. I wish that we were having a formal debate on this issue because I have very strong opinions about my country. However, that is not my question today. What a beautiful country. One of the reasons I love Canada so much is that we have people like Mr. Nunez who prove that there is no other country like it in the world, although he is not in agreement with us.

• (1410)

I want my esteemed leader to pay close attention to what I am about to say, because I believe the role of the Senate is to enter into the kind of debate that will take place in the weeks to come. Senators received a document from the Government of Canada. I do not know if it is from Mr. Dion or from the Minister of Justice. We received what I used to call in French "le petit catéchisme." I do not know if I should call this the "Tobin" catechism. However, it is entitled, "Term 17: Towards a Modern School System for the Children of Newfoundland and Labrador, Questions and Answers."

Needless to say, being a practising Catholic, I can now recite all 17 parts in the same way I could recite the catechism when I was a six-year-old schoolboy.

My first question, honourable senators, regarding this document, which we have been told to deal with expeditiously, is whether it reflects the views of the Minister of Intergovernmental Affairs, Mr. Dion, the Minister of Justice, or the provincial government.

Second, I want to know where this document, which we all received, originated.

Senator Doody: I did not get one.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I must admit, with some chagrin, if this has been sent around to everyone, that I have not seen it. I will check with my office to determine if I have received a copy, and then I will determine its origins.

Senator Prud'homme: I hope honourable senators will read this document as well as another one which has simultaneously found its way to our desks. I am referring to a document that was printed at eleven o'clock this morning, and it is the response of the Catholic Education Council and Pentecostal Education Council to a memorandum sent by a good friend of mine and of all Liberals. The document is entitled "Questions and Answers." It arrived under my door.

It now seems that the House of Commons intends to proceed in a rapid fashion with this matter but it will only have this issue before it as a resolution. Upon completion of their deliberations, the matter will be sent to this chamber to be dealt with.

I became a senator for many reasons, one of which is to find out what being a Canadian means to us. What rights and protections exist? What is the role of the Senate in these matters?

I would ask the Leader of the Government in the Senate for a solemn commitment that, whatever happens in the House of Commons, we will not be asked to give rubber-stamp approval of this matter without having an opportunity to hold hearings. The Senate will not be rendering a service to Canadians if we hastily approve the resolution because that request has been made to us by the other place. My concern is that we have ample time for debate because I have many arguments that I wish to put forward which I believe will give all of us cause for reflection.

Having sat with Mr. Tobin —

The Hon. the Speaker: Your question, Senator Prud'homme?

Senator Prud'homme: Will there be a commitment that, whenever the question is put, there will be ample opportunity for a committee to study this matter?

Senator Fairbairn: This issue has not been placed before the House of Commons. It is certainly a question of public debate. My honourable friend would know that we have made constitutional changes before. Indeed, there is the case of the Prince Edward Island bridge, the fixed link —

Senator Phillips: That had nothing to do with human rights.

Senator Fairbairn: — and we have had constitutional resolutions for the Province of New Brunswick.

When this issue comes before the Senate, I am certain there will be an opportunity for senators to engage in not just debate but in questions.

Hon. C. William Doody: I should like to ask a supplementary.

The Hon. the Speaker: Honourable senators, on my list of those senators who wish to ask questions I have listed the Honourable Senators Comeau, Phillips, Tkachuk, and LeBreton. I also have a list of those who wish to ask what I presume are supplementary questions. Would those who have supplementaries so indicate. Senators Doody, Nolin and Murray.

Hon. Orville H. Phillips: I rise on a question of privilege, honourable senators. His honour has said that there is a list —

The Hon. the Speaker: Senator Phillips, there can be no questions of privilege during Question Period.

Senator Phillips: In that event, I will deal with it as a point of order.

CONSTITUTIONAL RESOLUTION ON CHANGES TO SCHOOL SYSTEM—ASSURANCES OF NORMAL PROCEDURAL TREATMENT IN PARLIAMENT—GOVERNMENT POSITION

Hon. C. William Doody: I fully appreciate the points that Senator Prud'homme was making. I would like the assurance of the Leader of the Government in the Senate, on behalf of her side of the house, that there will indeed be committee hearings on this

very important constitutional amendment that has been proposed, one which will affect the minority rights of various people in Newfoundland. I realize that this is being done by resolution, and it is not in every instance that a resolution is referred to committee in this place. However, I would like the assurance of the government side of the house that this resolution will be referred to a committee of this house, that public hearings will be held. I ask for assurance that the affected people in Newfoundland, particularly the Roman Catholics and the Pentecostal people, will be allowed to present their cases in committee and to let the public of Canada know exactly what is going on here. Will the minister give us that assurance?

Hon. Senators: Hear, hear!

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I have no reason to think there will not be a committee process involving this issue in the Senate.

Senator Doody: Honourable senators, can we take this as an assurance, then, that the government side will not oppose a reference to committee of this very important question?

Senator Fairbairn: Honourable senators, the Senate will clearly decide its preference on how the committee study should take place.

Senator Doody: That is not an answer.

The Hon. the Speaker: On a supplementary question, Senators Phillips and Nolin.

Senator Phillips: It is not a supplementary.

The Hon. the Speaker: I will put your name on the list for later, Senator Phillips. Honourable Senator Nolin.

Senator Phillips: May I raise my point of order now?

Some Hon. Senators: No.

The Hon. the Speaker: No, Senator Phillips.

Senator Phillips: Very well. I will raise it later.

The Hon. the Speaker: There can be neither points of order nor questions of privilege during Question Period.

[Translation]

NATIONAL UNITY

COMMENTS OF MINISTER OF HUMAN RESOURCES DEVELOPMENT IN HOUSE OF COMMONS—POSSIBILITY OF DISCIPLINARY MEASURES—GOVERNMENT POSITION

Hon. Pierre Claude Nolin: My question follows up on the answers the government leader gave Senator Di Nino and Senator Lynch-Staunton about Minister Young's attitude. The issue of national unity is at the heart of this country's survival.

I think that all 104 members of this house will agree with me that we are at a crossroads to our future.

Do you think it is appropriate for your Prime Minister to keep in his cabinet a minister responsible for helping to guide Canada along the crucial road to survival who loses his cool?

I understand there are Bloc members who are dedicated to achieving Quebec's independence. Do you not think it is inappropriate, to say the least, for a cabinet minister to lose his cool? I understand it is frustrating, but we in Canada have rules, principles, fundamental values that must be respected, and the right of dissent is one of them.

Do you not think, honourable senators, that the time has come for the Prime Minister to tell Mr. Young to calm down and perhaps even to go back to being a private member because he is not needed as a minister?

Senator Prud'homme: Come on! Come on!

• (1420)

[English]

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I will simply say this to my honourable friend: Here and now, the Prime Minister and myself are certainly in agreement with Senator Di Nino and Senator Lynch-Staunton and, presumably, with my honourable friend Senator Prud'homme, that this is a country in which there is freedom of speech. Whether we agree with the point of view of others is not the point; they have the right to express their point of view. I repeat: Everyone in this Parliament and in the country has the right to express a point of view. I doubt there is any country in the world where the freedom of expression is held in greater trust than it is in Canada. I doubt whether any Parliament in the world is as good a forum for freedom of speech as currently is the case with respect to our House of Commons.

Senator Lynch-Staunton: Let us not have closure, then.

Senator Fairbairn: The freedom that is extended to all the people who speak out on the national unity issue is clearly their right. They may tend to disagree, and they may get heated in their disagreement, but that does not detract at all from their right to express their views, whatever those views may be, and however approving we may be of them, or appalled by them.

[Translation]

Senator Nolin: I agree with you totally. The problem is the minister of the Crown who thumbs his nose at that freedom. All he is doing is stirring up the debate, and we have no need of that. Every time Mr. Young lifts the lid on national unity, we have problems in Quebec. That is what he does not understand.

Will someone within your government tell him to pipe down?

[English]

The Hon. the Speaker: Honourable senators, the time for Question Period, unfortunately, has expired. However, I have the Honourable Senator Murray on my list for a supplementary question.

Hon. Orville H. Phillips: Honourable senators, I rise on a point of order.

Hon. Lowell Murray: Honourable senators —

An Hon. Senator: We are still in Question Period!

Senator Phillips: I thought His Honour said that the time had expired.

The Hon. the Speaker: Senator Phillips, there can be no points of order raised during Question Period. Honourable Senator Murray.

Senator Phillips: I am sorry, I thought Your Honour said that the time for Question Period had expired.

The Hon. the Speaker: Senator Phillips, I would refer you to rule 23(1) of the *Rules of the Senate*. You will see therein that I cannot entertain a point of order or a question of privilege at this time.

Senator Phillips: I am not disputing that, Your Honour. I merely thought Your Honour had said that time for Question Period had ended.

The Hon. the Speaker: The time for Question Period is now over, but I will entertain an intervention from Senator Murray, who had indicated that he had a supplementary question. Unfortunately, the others on the list must wait for the next session.

I regret, Senator Phillips, that there were a number of what were supposed to be questions which, in my opinion, were really speeches. If the time for Question Period is taken up by that kind of thing, I cannot control it.

Senator Phillips: Fine, Your Honour. I will raise my point of order after Question Period is over.

NEWFOUNDLAND

CONSTITUTIONAL RESOLUTION ON CHANGES TO SCHOOL SYSTEM—POSSIBILITY OF FREE VOTE IN HOUSE OF COMMONS—GOVERNMENT POSITION

Hon. Lowell Murray: Honourable senators, my question is supplementary to those asked concerning the constitutional resolution respecting Newfoundland.

Is it true that the Prime Minister has agreed to a free vote in the House of Commons on this matter among supporters of the government?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, quite frankly, I do not know the answer to that question. The Prime Minister is considering how to proceed with the issue in the House of Commons. He has indicated, as I have said before in this house, that the matter will be brought before Parliament in June, and he is seriously looking at the options as to what the vote will be at that time.

With respect to the questions that were asked earlier on this matter, I should like to tell honourable senators that I was not being evasive. In fact, I was trying to recall what the process had been in the case of other resolutions that had come before this house. However, no doubt we will look at that situation when the resolution comes our way. At the appropriate time, if it is the

wish of this chamber that this particular subject be sent for study to a committee, then it will indeed go to a committee and there will be hearings.

BUSINESS OF THE SENATE

CONDUCT OF QUESTION PERIOD—POINT OF ORDER

Hon. Orville H. Phillips: Honourable senators, throughout Question Period today, I attempted to gain the recognition of the Chair. Our rules clearly state that the Chair will recognize the first senator to rise. A pattern seems to have developed whereby the Chair accepts a list of people who wish to ask questions during Question Period. Honourable senators, my contention is that that is completely contrary to our rules. It has become a practice within our caucus, and it is one that I totally oppose.

An Hon. Senator: Hear, hear!

Senator Phillips: I point out to honourable senators that, at this moment, I am the senior member in this chamber. My colleague from Cape Breton, Senator Macdonald, is senior to me, but he is absent from the chamber today. Nevertheless, when I want to ask a question, I should like to have some recognition of my seniority. However, today I have been sending signals to the Chair, with no noticeable success. I do not want to get into an argument with the Chair; that is not the purpose of my intervention. I have too much respect for the Chair to do that. When and if the Chair sends me signals that I am to be next to ask a question, then I am to be next. Then Question Period expires, and I do not get a chance to ask my question.

• (1430)

I have no intention of putting my name on a list of those who wish to ask a question. I have been around here too damn long to do that. Whether or not the Conservative caucus wants me to do it is immaterial. I ask the Chair to recognize the first person to rise.

I see His Honour the Speaker going through the rule book. It was rule 3 when I came to this place, but things have changed considerably since that time.

I object strenuously, honourable senators. I had a serious question to ask. As an aside, I also intended to thank the Leader of the Government in the Senate for something. That is something I do not usually do, but when someone deserves credit, I like to give it. It is with regard to Malpeque Harbour, and I am sure Senator Bonnell would have joined me in my expressions of appreciation.

I was on the list today. I checked with the individual who is supposed to hand in names. However, other people got in ahead of me and I do not get an opportunity.

I again point out to His Honour that the rules say “the Speaker shall” — there is no equivocation about it — “recognize the first senator to rise.” It does not stipulate on which side they should sit. It says that the Speaker shall recognize the first senator to rise.

I am damned annoyed that despite all my attempts to get up today, and on several other occasions, others have been recognized for supplementary questions and so on. I suggest that His Honour look at the pattern followed in the House of Commons. In Question Period there it is essential that members from each party have an opportunity to ask questions. Members there do not jump up saying, “I have a supplementary.”

My seatmate gets priority over me. I put my name on the list for today, and the Speaker has acknowledged that, but others were able to cut in ahead of me. What the hell do you have to do to ask a question around here?

Honourable senators, I would like to have a decision on my point of order.

Hon. Gerald J. Comeau: Honourable senators, I would like to comment on the point of order put forward by my senior colleague from Prince Edward Island, who happens to sit on the front bench and for whose knowledge and seniority in the Senate I have extreme respect. However, I do take exception to his interpretation of how Question Period should be conducted. I was sitting right behind him. I do not think he saw me getting up much faster than he, though, if that were the case, it is probably because of my younger age. I would have accepted it if senators on the front benches had been recognized before me, but I do not think longevity in the Senate necessarily creates better or more important questions.

I understand that the issue of the dredging of Malpeque Harbour is extremely important to the senator — and I do not wish to diminish that importance — but I, too, had an extremely important question which I was not able to ask. In fact, we do recognize the seniority of the front benches. However, I do not think that that should be the sole basis upon which His Honour recognizes speakers. Perhaps rapidity in gaining your feet should be taken into account.

I wish to support the Speaker in his handling of Question Period in the past few months. I approve entirely of his approach. With all due respect to my colleague from Prince Edward Island, I disagree entirely with his suggestion as to how senators should be recognized for asking questions during Question Period.

Senator Phillips: Honourable senators, I should like to point out to my good friend from Nova Scotia that I did not insist that senators on the front benches be recognized first.

By the way, I can tell my honourable friend that my question was not about Malpeque. I did not get a chance to ask the question, so he does not know what it was about.

Senator Comeau: You do not know what mine was about either.

Senator Phillips: No, but you were rising.

As I said, the rule says that the Speaker shall recognize the first to rise. On several occasions, I tried to ask questions during Question Period and I could not.

I repeat the question, and perhaps Senator Comeau will join me in this: What the hell do you have to do to get a question in around here?

It is frustrating, honourable senators, when you have a question you would like to ask and everything is orchestrated. I refuse to participate in that mechanism. I believe that the Chair has an obligation to recognize me regardless of the orchestration and organization. I am not so sure that in the future I will comply with that orchestration and organization.

I believe that His Honour is very well aware of the rule. I see that he is being advised by the Clerk Assistant. As I said, when I came to this place in 1963, it was rule 3, but the rules have changed considerably since then. However, the first senator on his or her feet is the one to be recognized.

• (1440)

I have noticed senators opposite attempting to ask questions and being unsuccessful. It is completely unfair and contrary to the rules of the Senate that this system should persist during Question Period.

Perhaps in hindsight it was a mistake. Sometimes you reflect on things. I recall that when we were in the majority we made certain rules, and I am not so sure in looking back that they were all that sagacious. One of them was the 15-minute time limit. I have difficulty with that. I find comfort in that occasionally honourable senators grant me an extension in time.

Again, I emphasize to His Honour that I feel that I am entitled to expect, once in a while — and I am not demanding priority of the level of the Leader of the Opposition or anything like that — to come into this chamber and be able to ask a question. I think that is my right as a senator, not as a party member. It does not matter whether I am a Conservative supporter or a Liberal supporter. I have a right to come into this chamber and ask a question. That must be recognized.

I should like a ruling that all honourable senators are equal. When I came into this chamber in 1963, the idea was, and it was repeated emphatically, that all senators are equal. The Speaker is the first among equals. Somehow or other, we have gone away from that, and now we are devising different cliques, parties, and so on. There should be none of that in the Senate. All are equal, and the Speaker is first among equals.

Your Honour, I ask that we go back to that protocol.

The Hon. the Speaker: I will hear Honourable Senator Murray and then Honourable Senator Prud'homme, and by then I think I will have received sufficient advice.

Hon. Lowell Murray: Honourable senators, I have some experience with both asking questions and answering them in this place, and I should like to say a word on this point of order.

I quite understand and sympathize with Senator Phillips' position when he was unable to put his question today. Our rules provide for 30 minutes for Question Period. I believe that 30 minutes is more than enough when there is only one minister

of the Crown in the chamber. She has no departmental responsibilities directly except for literacy policy and programs. I think all honourable senators who want to ask questions could easily be fitted into the 30 minutes if we agreed that henceforth the Chair should enforce the rules regarding brevity of questions and brevity of answers. Question Period is not the time for debate.

Hon. Marcel Prud'homme: Honourable senators, as one who has been here for a short time, I must say that I have been well treated by the Chair. Far be it for me to tutor the Chair on how to conduct the affairs of this chamber, except to say this: I totally agree with Senator Murray when he said questions and answers should be brief. I have a bad habit in that regard, as all honourable senators know, but when the Chair takes the floor I am very obedient. I know that His Honour is merely doing his duty, and that I should be brief. From now on, I will write out my questions and keep them brief and to the point, with a multiplicity of supplementaries, if needed.

When I left the House of Commons, I felt I was running away from a straitjacket of rules. On this point, I agree with Senator Phillips. I never agreed in the House of Commons that only the chosen ones should get the floor, even on the one-minute comments. You had to submit your question beforehand, and it had to be accepted. I know that rules are necessary, but they do not always facilitate Parliament at its best, and I have always believed that the Senate should be Parliament at its best.

I suggest that we have short questions and brief answers. I will abide by that stricture. If I do not, I ask honourable senators to please remind me.

I am sceptical of, and concerned about, a new trend that is developing here. We are beginning to look like the House of Commons, particularly if the Official Opposition is submitting lists. When I came to this chamber, I did not know that things here were also done that way. Until recently, I was sure that His Honour would recognize the Leader of the Opposition first, possibly allow him a few supplementaries, and then go on to recognize others. Now I learn that His Honour has a list.

In the House of Commons lists are not official. It was absolute hypocrisy. I once had a debate with some fellow members who had said, "Oh, there is no list." Of course there was a list and a ranking. If you were not to be chosen that day, that was it. Your rights were not protected. I would hope that we would leave our Speaker a little more leeway to choose, at least for the last part of the Question Period.

I was impressed with Senator Robertson when she was the chair of our Standing Committee on Privileges, Standing Rules and Orders. By the way, I am still waiting to hear when that committee will study my right to become a member of a committee. I have not been told about that yet. However, I was impressed with the way Senator Robertson conducted the review of Question Period.

Honourable senators, I ask that you take what I am about to say in conclusion in a positive way. I must be careful in my comments because I know that people will read them.

Surely, Your Honour, we are not pushed to the wall and working night and day when compared with other chambers. We do not come here so often. I think that perhaps we should consider extending Question Period, because the main part of our activities revolve around what is going on in the country at the moment. In some cases, we may take only 20 minutes or 25 minutes, but on those occasions when the mood is to go longer, we should not be subject to conducting ourselves under the duress of 30 minutes. There have been many problems in the past. However, now that civility is back, thanks in large part to you, Your Honour, perhaps we should consider extending the time period.

There are many things senators can bring to the attention of their own colleagues or the government. They may not expect an answer, but at least they could bring their concerns to the government for reflection. Perhaps we should all reflect together upon, first, following the rules; second, giving our Speaker a certain leeway; third, not becoming a replica of the House of Commons; and, fourth, extending our sittings, knowing that we sit less than half the time that the House of Commons sits. Otherwise we will have to sit on Fridays so that we can extend our Question Period by 30 minutes. I do not want to punish my colleagues by doing that.

• (1450)

SPEAKER'S RULING

The Hon. the Speaker: Honourable senators, under rule 18(3), I would indicate that I have heard sufficient argument on the subject. I am now prepared to rule on the point raised by Senator Phillips.

At the outset, I would thank the Honourable Senator Phillips for having raised the matter, and those senators who have contributed to the discussion.

I refer honourable senators to rule 33(1) which states:

When two or more Senators rise to speak at the same time, the Speaker shall call upon the Senator who, in the Speaker's opinion, first rose.

There is no specific rule regarding Question Period. This rule relates to speeches, but I have been following that rule for Question Period. The problem arises because, frequently, a number of senators rise, and those who are seated the front benches have no idea who has risen in the back benches. From my view of the chamber, it is apparent.

Insofar as seniority is concerned, I regret that I cannot show any preference to Senator Phillips. The rule is clear that my decision must be based on which senator, in my opinion, rose first.

Whether various caucuses prepare lists of speakers or questioners is not within my domain. I recommend that matter be raised within caucus; it is not a matter for the Chair. If I do receive a list, I follow it to the extent that it applies to the party which has submitted the list, not to the extent that I apply it to the Senate as a whole, including the independent senators. As a matter of fact, I recognized Senator Prud'homme today when he rose. I shall attempt to continue to recognize senators as they rise.

[Senator Prud'homme]

The point made by Senator Murray, however, is germane. If senators would restrict themselves to questions and not embark on speeches and argumentative debate, senators would have an opportunity to ask more questions during the 30-minute Question Period.

I thank the Honourable Senator Phillips.

ORDERS OF THE DAY

PEARSON INTERNATIONAL AIRPORT AGREEMENTS BILL

SECOND READING—MOTION FOR ALLOTMENT OF TIME
FOR DEBATE—DEBATE SUSPENDED

Leave having been given to proceed to Motion No. 1:

Hon. B. Alasdair Graham (Deputy Leader of the Government) moved:

That, pursuant to the provisions of rule 39 and in relation to Bill C-28, an act respecting certain agreements concerning the redevelopment and operation of Terminals 1 and 2 at Lester B. Pearson International Airport, not more than six further hours of debate be allotted to the consideration of the said bill at second reading stage;

That when the debate comes to an end or when the time provided for the debate has expired, as the case may be, the Speaker shall interrupt, if required, any proceeding then before the Senate and put forthwith and successively every question necessary to dispose of the second reading stage of the said bill; and

That any recorded vote on the said question or questions shall be taken in accordance with the provisions of rule 39(4).

He said: Honourable senators, when I gave notice of this motion yesterday, it was without any great measure of enthusiasm. However, in light of the history of Bill C-28 and of its predecessor, Bill C-22, and given what has occurred in the Senate during the past month, the government was left with no alternative.

Bill C-28 arrived in the Senate on Tuesday, April 23, 1996. On April 30, Senator Kirby rose to begin what promised to be an interesting and lively debate on the proposed legislation. That was virtually a month ago. Instead of allowing Senator Kirby to speak, let alone engaging in the debate themselves, members of the opposition raised points of order —

Senator Kinsella: Which is our right.

Senator Graham: — which challenged the very existence of the bill.

Senator Lynch-Staunton: No, no, no.

Senator Graham: Senator Lynch-Staunton began by claiming that proceeding with the bill would amount to a challenge of the independence of the judiciary —

Senator Lynch-Staunton: That is right; it was not to do with the proposed legislation.

Senator Graham: — because it would impact on a case which is currently before the courts.

His Honour, after carefully considering the matter, ruled on May 8 that this was a legal and not a procedural matter and that, consequently, he had no authority to rule. He cited from Beauchesne, from Bourinot and Erskine May, the authorities that guide us. Notwithstanding the fact that they had provided not a single precedent or authority to support their point of order —

Senator Lynch-Staunton: Because there are none.

Senator Graham: — the opposition appealed the Speaker's ruling, thereby inviting the Senate to break with the leading procedural authorities such as Beauchesne and Bourinot.

Senator Lynch-Staunton: Which you never did during the GST.

Senator Graham: On a recorded vote, the Speaker's ruling was sustained, thereby avoiding the unprecedented situation of a parliamentary chamber forcing a Speaker to render a decision on a question of law.

Following the Senate's decision to sustain the Speaker's ruling, Senator Kirby once again rose to begin second reading debate. Before he could even move the motion for second reading, let alone begin debate, Senator Kinsella intervened with a new point of order.

Senator Kinsella: And it was a good one.

Senator Graham: This time, it was an allegation that the message received concerning Bill C-28 was defective and in error because the House of Commons did not, in Senator Kinsella's opinion, follow proper procedure in passing the bill. He urged that the message be sent back to the House of Commons.

As was the case with Senator Lynch-Staunton's point of order, not a single precedent was provided for what was being suggested.

Once again, the Speaker took time to carefully consider what was said. On May 14, he made the following ruling:

I have no right to look into the proceedings of the other place to determine if it has acted in accordance with proper parliamentary practice. The privilege of that House, like our own, to regulate its own internal proceedings is indisputable and cannot be questioned.

This ruling was also appealed, but sustained by the Senate on a recorded division. As an aside, one can only imagine the reaction, leaving aside for the moment the fate of Bill C-28, had the Senate overturned the Speaker's ruling, thereby declaring that it would henceforth examine and take upon itself to regulate the internal proceedings of the House of Commons. This would have been a fundamental break with centuries of parliamentary tradition and utterly unprecedented, honourable senators.

In any event, that outcome was avoided when the Senate voted to confirm the Speaker's ruling. Following the vote, Senator Kirby once again rose to his feet. However, once again, he was prevented from speaking by another point of order.

• (1500)

This time it was Senator Phillips who argued that Bill C-28 was a bill of pains and penalties which was obsolete in Britain and which has never existed in Canada.

The Speaker, after consulting the authorities, ruled later that same day that Bill C-28 was a public bill and not a bill of pains and penalties. Mercifully, his ruling was not appealed.

The following day, on Wednesday, May 15, 1996, Senator Kirby was finally able to begin debate on second reading of the bill. In his remarks, Senator Kirby gave a brief but concise background on the bill and indicated the government's willingness to be flexible in addressing the concerns of senators opposite once the bill was sent to committee.

Yesterday, Senator Lynch-Staunton urged even greater flexibility by arguing for the release of the drafts of the amendments Senator Kirby referred to in his speech. Senator Lynch-Staunton quoted Senator Kirby as stating:

I am pleased to tell Senator Lynch-Staunton and all other members of this chamber that every one of the constitutional criticisms levelled against Bill C-22 will be addressed and satisfied by the amendments that the Liberal members of the committee are prepared to move in committee.

Senator Lynch-Staunton, however, did not quote the immediately preceding line as found on page 349 of our *Debates of the Senate* when Senator Kirby stated:

Honourable senators, although this bill is back before us in its original form, if Conservative senators insist in committee, we are prepared to propose amendments that are a direct response to the legal and constitutional concerns raised by my colleagues opposite.

Later that same day, in an exchange with Senator Lynch-Staunton, Senator Kirby stated:

We would prefer to pass Bill C-28 in its current form, but, in an effort to be reasonable and to get the issue dealt with fairly quickly, we are prepared to modify and amend the bill along the lines that I described, if in fact the honourable senator's side insists on getting those amendments. Why would we introduce them at second reading when we prefer the bill as it is? Those amendments are being offered once the bill gets to committee in an attempt to be reasonable. The simple thing to do, if honourable senators opposite want to see the amendments, is to send the bill to committee.

That is what was said two weeks ago, honourable senators. That is the situation today.

We want this bill to go to committee in order to ascertain whether members opposite continue to have the same concerns they have expressed consistently and uniformly for the past two years.

Senator Berntson: We have even more.

Senator Graham: If that turns out to be the case, we would be willing to move certain amendments to specific clauses of the bill to address those concerns. Those amendments cannot be moved at second reading. Citation 671(2) on page 201 of *Beauchesne's Parliamentary Rules & Forms, 6th Edition* states this regarding amendments at second reading:

The amendment must not be concerned in detail with the provisions of the bill upon which it is moved nor anticipated amendments thereto which may be moved in committee...

As Senator Kirby has described them, the amendments that could be proposed concern themselves in detail with specific provisions of the bill and, consequently, should be discussed or proposed at committee stage, not at second reading.

I am confident that the amendments, as Senator Kirby has described them, do directly address the concerns Senator Lynch-Staunton and his colleagues have been raising endlessly, and should result in a unanimous committee report.

The Hon. the Speaker: Honourable Senator Graham, I am sorry to interrupt but, under the rules, I must warn you that there is a 10-minute time limit on your speech.

Is leave granted to allow Senator Graham to continue?

Hon. Senators: Agreed.

Senator Kinsella: As long as he does not take another hour.

Senator Lynch-Staunton: You have two and a half hours.

Senator Graham: I will not take that long.

Unless I am being overly optimistic, there will be opportunities for my friends opposite to make their views known in committee and, if need be, at report stage and at third reading stage. However, we cannot begin that phase of our work on Bill C-28 until it is sent to committee.

Senator Kirby gave a second reading speech on May 15. Since then, the opposition has put forward only two speakers, Senator Lynch-Staunton on Monday, May 27 and Senator Nolin who spoke yesterday.

Senator Lynch-Staunton: With a 12-day break in between.

Senator Graham: When one takes into consideration what took place in the form of points of order in prior weeks, I do not believe it can be said that we have acted hastily or prematurely by introducing a time allocation motion at this time. It is not the purpose of this motion to stifle second reading debate.

We have had the bill for more than a month. It is not the purpose of this motion to stifle second reading debate but, rather,

to move the bill back into the same forum its predecessor was in when the session ended, which is to resume the examinations and discussions that were taking place in committee prior to prorogation. It is in this context that I urge all senators to view and support this motion that I have moved today.

Some Hon. Senators: Hear! Hear!

Hon. Noël A. Kinsella: Would Senator Graham respond to a couple of questions?

Senator Graham: Yes.

Senator Kinsella: Twice in his remarks, Senator Graham said that the bill has been before the Senate for a month. Would the honourable senator advise this house how many days this house has been in session since we received the bill?

Senator Graham: I would be happy to check the calendar, but I do not have that information at my fingertips.

Senator Kinsella: Would the honourable senator also advise this house, of those few sitting days when the bill was before this house, how many days were used up by points of order being raised, which senators have a right to do? Indeed, it is a responsibility of all senators to raise points of order when they apprehend, in their judgment, that there has been a breach of procedure.

The honourable senator alluded to the date on which Senator Kirby began his speech. How much time was available between the commencement of the second reading debate and Senator Kirby's speech, bearing in mind, of course, the time spent on points of order? My recollection is there was at least one sitting day.

For the record, it is important for us to know how many sitting days were actually available to members of the opposition to debate second reading.

Senator Graham: For the record, honourable senators, that information is readily available. Senator Kinsella can read as well as I can and obviously has the answer before he asked the question.

The point is that this legislation has been before the Senate for approximately a month. We think sufficient debating time has been allowed. We are now into a debate on time allocation. There are two and a half hours allotted for that. If this motion is passed when it is voted upon, honourable senators will have six hours more to debate the motion, and I hope that they will find that that allows them sufficient time, and indeed that they will be able to fill the time with the kinds of discussion and points that should be made before the bill proceeds to committee stage.

• (1510)

Senator Kinsella: Would Senator Graham reflect on the wording of the motion that he has placed before us? He has alluded to this motion but not to any of the details of the motion. Senator Graham has drawn our attention to one of the procedural authorities. There is another one, and it is Erskine May. At page 409 it is written as follows:

A motion for the allocation of time to a bill (or bills) sets out in detail some or all of the provisions which are to be made for further proceedings on the bill.

Would the honourable senator explain to this house at least some of the details upon which we are being asked to allot a limited amount of time for debate?

Senator Graham: Honourable senators, Senator Kirby has already indicated that all of the questions that are being asked with respect to amendments by members opposite will be dealt with in committee. We presume that members opposite have points that they want to make during second reading debate. We urge them to make their speeches at second reading, and we are providing ample time for them to do just that.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, Erskine May seems to indicate that in the notice of motion for time allocation, additional details on the substance of the bill should be given. I do not think it is correct to say that because Senator Kirby has already alluded to them in his second reading presentation, they automatically apply to this motion. The way we read it is that the amendments should be included in the motion so that we may know exactly to what time allocation is being applied.

Senator Stewart: That is irrelevant.

Senator Lynch-Staunton: It may be irrelevant to the honourable senator, but I am discussing an interpretation of an Erskine May definition of time allocation.

Senator Stewart: It is for committee stage.

Senator Lynch-Staunton: I would like clarification on that point.

Senator Graham: Honourable senators, I am satisfied that my motion is in order.

Senator Berntson: Perhaps we have to ask for a ruling.

Senator Kinsella: Honourable senators, may I therefore presume that, upon reflection and having listened to the debate that is to follow, I will not be obviated to raise a point of order on this issue by invoking the provision in our rules that says that an apprehended or suspected breach has to be raised as a point of order at the earliest possible time? Will I get the unanimous agreement of this house at a later time to raise the point of order? Without that leave of the Senate, I will be forced to raise my point of order at this time.

Your Honour, I would like to find out whether or not there can be unanimous agreement that if, later in this debate, I wish to raise this matter as a point of order, we will have the agreement of the house to allow me to do so, obviating the need to raise it at the earliest possible time.

The Hon. the Speaker: Honourable senators, that is not normal procedure, but I will say this: Obviously a point of order should be raised when the issue arises, so, in the course of debate, should some other matter arise, the honourable senator would be entitled to raise a point of order. However, if the honourable senator's point of order is on the validity of the motion, then the point of order must be raised now when the motion is before us. I could not entertain a point of order on the validity of the motion at a later date.

POINT OF ORDER

Hon. Noël A. Kinsella: Honourable senators, the point of order that I wish to draw to your attention is with regard to the motion presented according to rules 39 and 40 to allocate time for the second reading debate on Bill C-28. The motion moved by Senator Graham reads:

That, pursuant to the provisions of Rule 39 and in relation to Bill C-28, an Act respecting certain agreements concerning the redevelopment and operation of Terminals 1 and 2 at Lester B. Pearson International Airport, not more than six further hours of debate be allotted to the consideration of the said bill at second reading stage;

That when the debate comes to an end or when the time provided for the debate has expired, as the case may be, the Speaker shall interrupt, if required, any proceeding then before the Senate and put forthwith and successively every question necessary to dispose of the second reading stage of the said bill; and

That any recorded vote on the said question or questions shall be taken in accordance with the provisions of Rule 39(4).

Honourable senators, Erskine May provides, at page 409, the following:

A motion for the allocation of time to a bill... sets out in detail some or all of the provisions which are to be made for further proceedings on the bill.

In my judgment, the motion before us does not give any detail at all, but simply provides us with the title of Bill C-28.

Further, the record of this chamber indicates in the comments of Senator Kirby that the government, as a proponent of the bill, is ready to propose a number of amendments that will speak to the constitutionality of the bill, which the predecessor bill lacked, as determined by the committee at the time.

Not only does the motion moved by Senator Graham provide no detail, but we have the further question with regard to the comments on amendments by Senator Kirby during the second reading debate, which is to be limited by this motion, should it carry, of not providing any information as to the detail of those amendments.

I believe that this motion meets neither the tests of our rules nor the procedural literature on the allocation of time orders, such as the authority that I have cited.

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I would not have moved such a motion without checking for some kind of a precedent. In searching the records for a precedent, I came up with no less an authority than Senator Lynch-Staunton, the Leader of the Opposition. I refer honourable senators to the *Debates of the Senate* of March 25, 1992. That was at a time when Senator Lynch-Staunton was on this side of the house, I believe in the very position I occupy at the present time. It has to do with the third reading of a bill to amend the Canada Assistance Plan, and a notice of motion was presented to invoke the provisions of rule 40, which is now rule 39.

I am quoting from the Debates:

On the Order:

Resuming the debate on the motion of the Honourable Senator Bolduc, seconded by the Honourable Senator Grimard, for the third reading of Bill C-32, An Act to amend the Canada Assistance Plan.

At that particular point in time, curiously or ironically, the present Leader of the Government, Senator Fairbairn, who was sitting in the benches opposite, rose and said as follows:

Honourable senators, I should like to stand the debate on this bill until tomorrow, when I will be prepared to speak.

• (1520)

The Honourable John Lynch-Staunton, Deputy Leader of the Government, said the following:

Honourable senators, Bill C-32 is a bill which we expect to vote on, pass and give Royal Assent to by the obvious deadline, which is March 31 at midnight.

This was March 25, 1992. He went on to say:

I have had discussions with the Deputy Leader of the Opposition on at least two occasions, trying to come to an agreement on time allocation so that we could meet that deadline.

I have also done that, under the present circumstances, over the past number of days with Senator Berntson, the Deputy Leader of the Opposition. Senator Lynch-Staunton went on to state:

Unfortunately, at least for our side, we have not been able to extract a commitment that a vote would be taken, at the latest, on Tuesday, the 31st of March.

Therefore, having exhausted the voluntary approach, I wish to give notice of the following motion:

THAT pursuant to the provisions of rule 40 —

Again, that is now rule 39.

— and in relation to Bill C-32, an act to amend the Canada Assistance Plan, not more than six further hours of debate be allotted to the consideration of the said bill at the third reading stage;

THAT when the debate comes to an end or when the time provided for the debate has expired, as the case may be, the Speaker shall interrupt, if required, any proceeding then before the Senate and put forthwith and successively every question necessary to dispose of the remaining stages of the said bill;

THAT any recorded vote on the said questions shall be taken in accordance with the provisions of rule 40(4).

That is now rule 39(4)

Honourable senators, you cannot have it both ways. What was right for the Conservatives and Senator Lynch-Staunton at that particular time should be perfectly all right today.

Senator Oliver: If it was improper, you should have objected then.

Hon John Lynch-Staunton (Leader of the Opposition): If I may, honourable senators, if it was irregular at the time, a point of order should have been raised at that time. The point is that it was not irregular at the time. I did not say, "When we get to third reading, I will offer you a whole series of amendments to allow you to have a bill tailored to your concerns." That is happening in this case.

The bill before us which is subjected to time allocation is not the bill which will be before us at third reading. Therefore, the content of the bill and what we are asking time allocation for should be before us. That is the dispute. We are not disputing that invoking Rule 39 and asking for a time allocation is a proper procedure. As a matter of fact, Senator Frith once challenged that principle to the point of appealing the Speaker's ruling. It is a fact that time allocation by itself is a perfectly proper procedure, one which we introduced into the rules. I will follow up on that in my main intervention. The point is that the substance of this bill is different from what will eventually be before the house and, as has already been announced, that bill is not part of the time allocation motion.

Hon. Duncan J. Jessiman: Honourable senators, from reading rule 39, I do not think it is sufficient for the motion to merely state: "pursuant to rule 39." I believe it should state, "...the representatives of the parties have failed to agree to allocate a specified number of days or hours for consideration..." That has not been stated today.

Senator Graham: In the preamble to my motion yesterday I said exactly what Senator Jessiman is suggesting should be said today.

Senator Berntson: I agreed that we were miles apart.

The Hon. the Speaker: Do any other senators wish to speak on the point of order?

Hon. John B. Stewart: Honourable senators, the point of order has been raised inadvertently, I think, by reason of a mistake made in reading Erskine May.

As senator Lynch-Staunton listens to what I have to say, he will understand.

Senator Lynch-Staunton: I am listening.

Senator Stewart: At Westminster, it is not uncommon, as Erskine May says at page 408, for the government, on certain highly important or highly controversial bills, to lay out a full timetable for the passage of the bill — for example, so many hours in committee for the first 14 clauses; so many hours for the next 14 clauses; so many hours for the report stage; and so many hours for the third reading stage.

I think if Senator Lynch-Staunton were to read the paragraphs on pages 408 and 409, he would see that that is what is assumed,

and that that is the kind of time tabling described in the sentences which have been read into our record.

The allocation of limited amounts of time to the stages of bills, and occasionally other kinds of business, forms no part of the general procedure of the House, but is applied in each case to a particular bill...

Provision for a financial resolution in connection with a bill has sometimes been included in an order allotting time to the stages of a bill,...

I could go on and read other sections from Erskine May, but there is no point in so doing.

The Hon. the Speaker: I apologize for interrupting Senator Stewart but, under the rules, I must do so.

Pursuant to rule 135(8), I must advise honourable senators that the Senate will now adjourn during pleasure to await the arrival of His Excellency the Governor General, who is waiting to enter the chamber.

The Senate adjourned during pleasure.

[Translation]

ROYAL ASSENT

His Excellency the Governor General of Canada having come and been seated on the throne, the Honourable the Speaker ordered the Gentleman Usher of the Black Rod to go to the House of Commons and advise it that it is the wish of His Excellency the Governor General that the Commons accompany him immediately to the Senate. The House of Commons having been summoned and being come with their Speaker, His Excellency the Governor General was pleased to give Royal Assent to the following bills:

An Act to amend, enact and repeal certain laws relating to financial institutions (Bill C-15, *Chapter 6, 1996*)

An Act to amend the Contraventions Act and to make consequential amendments to other Acts (Bill C-16, *Chapter 7, 1996*)

An Act to establish the Department of Health and to amend and repeal certain Acts (Bill C-18, *Chapter 8, 1996*)

An Act respecting the Law Commission of Canada (Bill C-9, *Chapter 9, 1996*)

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 (Bill C-14, *Chapter 10, 1996*)

An Act to establish the Department of Human Resources Development and to amend and repeal certain related Acts (Bill C-11, *Chapter 11, 1996*)

An Act to amend the Canada Labour Code (nuclear undertakings) and to make a related amendment to another Act (Bill C-3, *Chapter 12, 1996*)

An Act establishing the Canadian Association of Former Parliamentarians (Bill C-275, *Chapter 13, 1996*)

I humbly beseech Your Excellency to give these bills the Royal Assent.

His Excellency the Governor General was pleased to give the Royal Assent to the bills.

The House of Commons withdrew.

His Excellency the Governor General was pleased to retire.

[English]

• (1620)

The sitting of the Senate was resumed.

PEARSON INTERNATIONAL AIRPORT AGREEMENTS BILL

SECOND READING—MOTION FOR ALLOTMENT OF TIME
FOR DEBATE ADOPTED

On the Order:

Resuming the debate on the motion of the Honourable Senator Graham:

That, pursuant to the provisions of rule 39 and in relation to Bill C-28, an act respecting certain agreements concerning the redevelopment and operation of Terminals 1 and 2 at Lester B. Pearson International Airport, not more than six further hours of debate be allotted to the consideration of the said bill at second reading stage;

That when the debate comes to an end or when the time provided for the debate has expired, as the case may be, the Speaker shall interrupt, if required, any proceeding then before the Senate and put forthwith and successively every question necessary to dispose of the second reading stage of the said bill; and

That any recorded vote on the said question or questions shall be taken in accordance with the provisions of rule 39(4).

Hon. John B. Stewart: Honourable senators, before His Excellency came to give Royal Assent, I was making a remark or two on the point of order now before the Senate. I said that I thought Senator Kinsella had been misled by Erskine May. Erskine May is a descriptive work. It describes what is done at Westminster. It is not a set of Standing Orders. They have their Standing Orders there, as we do here. As I say, Erskine May is descriptive.

Let me read a couple of sentences from that work. These will show that even at Westminster the kind of motion now proposed would be in order. At the middle of page 409, we read:

A motion for the allocation of time to a bill (or bills) sets out in detail some or all of the provisions which are to be made for further proceedings on the bill.

Conceivably, the whole timetable for the bill could be covered in the allocation order.

Then on page 410 we read:

An allocation of time order is not usually moved until after the second reading of a bill, and usually not until the rate of progress in committee has provided an argument for its necessity. The order provides that a certain number of days or parts of days are allotted in the form of a timetable to each of the remaining stages of the bill...

At Westminster, they ordinarily use closure, not allocation of time, on second reading motions. That is why allocation of time is not usually moved until after the second reading. At Westminster, ordinarily a motion for the second reading of a bill is voted on the very day that motion has been moved.

Erskine May is descriptive of the British process. On the other hand, our Standing Orders, like theirs, are prescriptive. Our rule relative to this motion is set forth in rule 39. The provisions of 39(1) have been complied with by the Deputy Leader of the Government in the Senate. Then, when we inspect the words of the proposed allocation of time order, we see that they are entirely consistent with the provisions of rule 39(2), which are:

In the event of a motion being moved pursuant to section (1) of this rule, the motion shall provide for at least:

(a) a further six-hours debate on any substantive motion, except as provided below;

(b) a further six-hours debate on a motion for second reading of a public bill;

This is a public bill. The motion would allow six hours of further debate, and the bill is at the second reading stage. We should not be misled by Erskine May's description of what they do at Westminster, and we certainly should not make that description more mandatory than the prescriptive rules which we ourselves have adopted for this house.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I hope I have a way of expressing the argument differently, but still coming to the same conclusion.

We are being asked to allocate a period of time to second reading of a bill. Second reading means approval or disapproval in principle. I quite agree with Senator Graham that amendments cannot be made at second reading. However, we are being asked to evaluate the content of the bill before us, and to agree whether we should proceed with it in principle to the next stage, which would be, in our case, committee stage, at which stage the bill is

examined more closely and carefully, and may or may not be amended.

However, the government has already told us that, at our request, it will amend this bill in such a way that the bill to which, today, we are being asked to give second reading within a limited time will not be the bill which the government already has in mind. The argument is that it would be fraudulent, in a way, to debate this bill at second reading and ask for its approval or disapproval in principle. We already know that all we have to say is, "Yes, we want to see all of those amendments that Senator Kirby is willing to offer at committee," which means that already the government has told us that the bill which we are being asked to approve in principle is not even the bill they have in mind. All we have to do is press a button and the whole bill will be gutted.

This argument is at the basis of our objections to the matter being debated in the first place, fundamentally, and we will repeat that argument at every occasion, because what is before us is not what the government has in mind. Senator Kirby himself has told us — and this was confirmed by Senator Graham — that all of our concerns will be addressed. All we have to do is to so signify if this bill goes to committee.

We are saying that in order to be fair to all of those who supported Bill C-22 in the past, both in the other place and here today, and who are being asked to approve Bill C-28 in principle. We are told that the principle of the bill before us today will be violated at our request, confirmed by both Senator Kirby and Senator Graham.

The clauses declaring the contracts null and void will disappear. The denial of access to the courts will disappear. Certain damages which could not be claimed can now be claimed, or could now be claimed, and so on and so forth. The end result, at our request, at the committee stage will be that our discussion today will be a complete waste of time because we are discussing something which has been pre-ordained to be changed drastically; so much so that the bill today and the bill that is intended with the amendments will bear no resemblance one to the other.

Before you rule, Your Honour, I would like clarification on one point: I trust that the time taken for discussion on points of order is not deducted from the two and a half hours which is allocated for discussion of the motion on time allocation.

Senator Stewart: Honourable senators, Senator Lynch-Staunton argues that he has difficulty with this second reading motion because there is a possibility, indeed the probability, I would say, of amendments at the committee stage.

As he said, this house is being asked to adopt the principle of the bill. As he knows, no amendment can be moved in committee that is not consistent with the principle of a bill. The prospect that he holds out before us — that if the principle of the bill is approved here today, eventually there will be an entirely different bill — is impossible. The committee will not be eligible to adopt amendments that are not consistent with the principle of the bill.

Senator Lynch-Staunton: That is an additional argument.

Hon. Noël A. Kinsella: Honourable senators, in the penultimate intervention of Senator Stewart, he drew our attention, I think quite correctly, to the fact that the practices described in Erskine May relate more particularly, perhaps, to the Parliament at Westminster. However, I draw the attention of honourable senators to rule 1(1) of the *Rules of the Senate* which provides that:

In all cases not provided for in these rules, the custom, usages, forms and proceedings of either House of the Parliament of Canada shall, *mutatis mutandis*, be followed in the Senate or in any committee thereof.

Honourable senators, that leads me to Beauchesne, which is a Canadian authority on the rules and forms of the House of Commons of Canada. At page 162, paragraph 534, Beauchesne indicates:

A motion for the allocation of time may set out in detail some or all of the provisions which are to be made for the further proceedings on the bill.

As Honourable Senator Lynch-Staunton remarked in our debate earlier, reference has been made to the fact that our colleague Senator Kirby has told this house that Bill C-28 is a skeleton, and that the real bill for which the government is intending to seek the approval of Parliament as Bill C-28 will be changed to make it more constitutional.

I do not wish to get into an argument with respect to the absurdity of the kind of logic whereby we are asked to approve, in principle, a bill for which there is consensus to make the bill constitutional by the acceptance of amendments that the government itself is proposing to set forth.

• (1630)

The point I wish to make in regard to the Speaker's ruling is that Beauchesne mentions details of the provisions. It is those same details to which Erskine May refers. We do not have those details in the motion provided by the honourable Deputy Leader of the Government.

Clearly, the government has placed this house in an untenable position by short-circuiting the system, by bringing forward a bill that is not the real bill, making it impossible for us to give serious consideration to the principle. In as far as we now have a motion before us for time allocation, the motion as presented is defective.

Senator Lynch-Staunton: One last point comes to mind because of what Senator Stewart has said. He is quite right. You cannot propose amendments or adopt amendments to a bill which violate the principle of the bill. We all agree on that point.

However, Senator Kirby has already announced that he will, at our request, at a signal from our side, offer amendments to the bill which will do exactly that. The bill at the moment, basically, strictly limits the access to a third party by claimants, and strictly limits the claims that can be made and gives the minister

authority over how certain claims can be assessed. It is very restrictive.

Senator Kirby's amendments to meet our concerns will give access to the courts for a wide variety of damages in a practically unlimited way with very few restrictions. Senator Stewart bolsters our argument that by already announcing amendments which violate the principle of the bill, we should not even be studying a bill, the principle of which we know ahead of time will be violated.

Hon. Finlay MacDonald: Honourable senators, as we all know, the time spent by the Standing Senate Committee on Legal and Constitutional Affairs on Bill C-22 was almost entirely devoted to the constitutionality of the bill. That was all.

Senator Kirby tells us that, in an attempt to be reasonable, amendments have been prepared. Surely no one in this chamber assumes that the preparation of amendments to assuage our concerns, which was the constitutionality of a piece of legislation, did not take a great deal of time and thought.

If these amendments, as we have been assured, satisfy all our concerns, what are we doing here? Why did Senator Kirby misspeak? He did misspeak. He should have just said nothing about amendments and we would have blithely gone along to the committee and, at the appropriate time, the amendments would have been produced. However, Senator Kirby did not do that. He set out the exact strategy of this new bill, Bill C-28.

Honourable senators, many puzzling things have happened in this matter. If you want even more puzzling information, I would refer you to one of the most profound thinkers in the country, the member of Parliament for Vancouver Quadra, Professor Ted McWhinney, a distinguished academic who has never had an unpublished thought in his life and who was quoted in the *Hill Times* on the revival of Bill C-22 and why we were doing it. He is reported as having said:

“Not pursuing it would be viewed as a reversal of government policy on the Pearson Airport and if they did not re-introduce it, you would want a pretty affirmative statement of why they are not going ahead if they decided not to reintroduce it.”

That is the quote. Honourable senators, Senator Kirby is a mathematician; he has a doctorate in mathematics.

Some Hon. Senators: Oh! Oh!

Some Hon. Senators: Shame! Shame!

Senator MacDonald: Sometimes such talent leads to a desire to be efficient. Why go through all of this if Senator Kirby has a way of cutting through it and getting right down to the crux of the issue?

If I cannot put the question to Senator Kirby, I will put it to Senator Graham again. Does Senator Graham not think that Senator Kirby misspoke when he laid out all the reasons why we should be debating a bill on third reading which, as our leader points out, will have no similarity to the debate tomorrow on second reading? Perhaps if he could give me an answer to that simple question, I would be satisfied, and we would not need to be here.

SPEAKER'S RULING

• (1640)

The Hon. the Speaker: Honourable senators, if no other senator wishes to speak, I am prepared to rule at this point.

I would thank all honourable senators who participated in the debate.

I will deal first with the question which is not really part of the point of order but which was raised by Honourable Senator Lynch-Staunton regarding timing.

I am bound by the rules. I would refer honourable senators to page 46, rule 40, which states:

(1) When an Order of the Day for a motion to allocate time for the consideration of any item of government business is called:

(b) the Speaker shall interrupt any proceeding then before the Senate and put every question necessary to dispose of the motion not later than two and one half hours after the order is called;...

Under that rule, I believe I have no alternative except, two and a half hours after the calling of the order, to call for the vote. I see no leeway for myself in that matter. Therefore, time spent on a point of order is unfortunately within that time period.

I have asked the Table how much time we have spent so far, and I have been informed that it is 45 minutes. I will make my ruling short so that I will not use any more time than is necessary from the allotted time.

Senator Kinsella has raised a point of order in which he questions the procedural acceptability of the motion. He has based it on a quotation from Erskine May, at page 409:

A motion for the allocation of time to a bill...sets out in detail some or all of the provisions which are to be made for further proceedings on the bill.

It is on that basis that Senator Kinsella feels that Senator Graham's bill does not do this.

Honourable senators, I have looked at the citation. I must draw to your attention our own rule 39(3) which states in part:

...no motion moved pursuant this rule shall allocate time to more than one stage of consideration of any item of government business.

We are in a situation where our rules are specific. When our rules are not specific or when there is nothing in our rules, then we go to other sources. In this case, our rules are specific. There is no need to go to other sources. Insofar as this point of order is concerned, I find that the motion is in order.

Hon. John Lynch-Staunton (Leader of the Opposition): Then we shall continue with the debate. We accept the ruling. We need not share the Speaker's view, but we certainly accept it.

However, I must say that after hearing our own rules quoted against us, I may ask the rules committee to have a look at them again and reread some of the objections of our friends opposite when they were on this side.

Senator Doody: Do you think they may have had some merit?

Senator Lynch-Staunton: Many of our objections to this motion have already been given through our discussion on the point of order. I will attempt not to repeat them unnecessarily. However, I am quite surprised, after listening to such an eloquent statement on freedom of expression in the Parliament of Canada by the Leader of the Government, that the deputy leader would get up right after and defend a motion to stifle that freedom of expression.

Be that as it may, I must admit that I am not prepared to discuss this motion as thoroughly as I would like because I frankly did not think the government, at least at this stage in its frustration over Bill C-22 and now Bill C-28, would introduce such a time allocation motion. I expected them to be a little more patient and a little more understanding on the purpose and proper usage of time allocation. Time allocation is a proper, even essential procedure which should only be invoked when it has become obvious to everyone that a certain debate is being continued largely for purposes to filibuster and delay without adding anything to the debate. It is used when endless and meaningless repetition is prolonging the debate and delaying a decision on a piece of legislation.

We have not reached that stage here. We have not even come close to that stage. We did raise points of order. Senator Graham has stated that we have spent a month on this bill. Certainly that "month" amounts to no more than 10 sitting days or so, including a few days' gap between the time of the first point of order and the Speaker's decision.

Senator Kirby introduced the second reading debate on a Thursday, as I recall. We immediately adjourned for the Victoria Day break. That means our first opportunity of reply was on the day we returned. The calendar shows a week's delay, but in sitting days there was no delay.

I gave the general feelings on this side about the bill and, immediately, one day after, the government introduced a time allocation motion. There is absolutely no justification to do so at this time. The chamber has heard only one speaker on both sides. It is not right to invoke time allocation on the debate on Bill C-28. This is a brand-new piece of legislation which is being presented under entirely different circumstances than was Bill C-22, in a completely different environment, with additional information which was not available when Bill C-22 was being debated. The entire circumstances surrounding Bill C-28 are different, including a court case which was not taking place at the time of Bill C-22. Many things have happened since Bill C-22 to create a totally different environment for Bill C-28. In effect, we are starting with the same bill but under totally different circumstances.

I want to refer to certain things which were said in this place to substantiate my surprise at the government's invoking of time allocation and the support of government members for that motion. When we were debating our new rules in June 1991, Senator Lavoie-Roux stated:

I would also like to mention the rules concerning time allocation as regards the right to democratically express oneself.

She added:

Too often in the last years, decisions important for our country have been postponed because of an excessive use of the rules.

That is a key word. We have not been using the rules excessively. If we had, it would have been obvious to everyone and time allocation could have been justified. We have not even reached that stage yet and I hope we never reach it. She also pointed out that, after due consideration of a matter, the results of our deliberations should be made within a reasonable period of time. We have not even reached that stage.

I also wish to confirm our support for time allocation at the right moment by quoting Senator Barootes during the same debate, who said:

I and my fellow Progressive Conservative members are fully prepared to live with these rules whether we sit in the government or opposition, and whether we are in a minority or majority position on either side.

We still believe that.

Immediately afterwards, Senator Perrault said:

Those words will come back to haunt you.

Well, these words are not coming back to haunt us, but I suggest that the words stated at the time by members opposite should certainly haunt them.

I still have a ringing in my ears from that most violent denunciation of those new rules — the Robertson rules, as we call them in our caucus. However, these are now the Senate's rules. I recall the criticism about the rules being prepared in secret and about agendas not being sent to committee members. I remember Senator Olson's diatribe about being practically thrown out of a committee room. All of this wonderful imagination, this fantasy, was created around a project to modernize our rules. This chamber recognized a need to replace the archaic rules that allowed the debate around the GST to become as chaotic as it did.

At the time shortly before the adoption of the rules, Senator MacEachen, whose knowledge of rules and of Parliament cannot be ignored, said about the new rules:

If these proposals are accepted, they will change dramatically the nature of the Senate and they will make it virtually impossible for a meaningful opposition to exist.

That is what he felt the new rules would do to the opposition. He continued:

You have built for yourselves minefields all over the place. Even a cursory reading of the rules shows you have built into them a number of potential minefields which will sow confusion, ambiguity and possibly chaos in the Senate.

As we attempted to modernize and update our rules, we were accused of creating chaos and of practically shutting down the opposition's ability to function properly.

Perhaps honourable senators opposite have heard enough of those kinds of quotes. I am simply trying to establish what has happened from 1991 to the present. The same people who condemned the inclusion of certain provisions in our rules are now practically salivating over them as they contemplate their usage at a stage where it was never contemplated that they would be used.

Let me quote Senator Haidasz who spoke at the time on behalf of his colleagues:

...I describe as indecent haste and ill-considered adoption of these new rules, rules that contain drastic changes here in our mode of work, and which actually render the Senate a weakened political institution...

And so it goes, honourable senators.

Senator Frith, who was Leader of the Opposition at the time, said:

I understand that these rather Draconian rules are a reaction to what took place during the GST debate. A 30-minute Question Period, along with other companion changes to the rules, is meant to make a filibuster impossible in the Senate.

That is on another aspect of the rules, but it is still pertinent.

He was quite right. The major purpose of the changes to the rules was to streamline them and to see that a filibuster could at least be limited, if not eventually stopped.

• (1650)

However, this statement was an admission that the role of the opposition, as he saw it, was to filibuster and frustrate. That is one of the reasons these rules were brought in, and is a major reason now why this government, in office now for nearly three years, and having in opposition condemned the rules endlessly and very bluntly, has yet to call the Standing Senate Committee on Privileges, Standing Rules and Orders to make any of the changes in the rules that, at the time, they were advocating. I doubt very much whether they still have that goal in mind, now that they are on the other side.

I should like to read into the record a quotation from a former Deputy Leader of the Opposition who, when talking about time allocation, pointed out:

...this is the first time that this Draconian measure has been used in the Senate. I emphasize "Draconian" because the method used to change the rules that were imposed on the Senate — imposed, because remember, never before in the other place or in this place were the rules changed by the method used by senators opposite.

If the procedure of changing the rules then was so horrible, why not immediately convoke the rules committee to do it in a fashion more acceptable?

The same Deputy Leader of the Opposition said at the time:

This is an independent chamber, a chamber that should not be under the thumb of the government, a chamber that should not be operating at the whim and wish of any cabinet minister. This chamber, an independent body, ought to make its own decisions. That, however, is not what is happening.

This, however, is not happening because of our new rules, apparently. The government is now invoking those or confirming, I suspect, that the anxieties of that time have now become advantages which they would like to keep.

The same Deputy Leader of the Opposition — and although I do not want to emphasize his contribution, because of his knowledge of the rules, he was one of the main spokesmen for the government — said:

In the summer of 1991, when the government side used its new found majority to change the rules in the Senate, much against, I believe, the traditions and the welfare of the Senate itself, one of the rules introduced put in place the closure motion... In our view it is a Draconian rule which should not be in here. It is an over-reaction...

...The closure rule is like a guillotine, but at least you have a day's notice of what will happen.

...They have the idea that the purpose of the Senate is to do what the government wishes. That is not the purpose of the Senate.

So it goes. I could go on, but I will not. Everything that I could add would only repeat what has been said by previous speakers in this debate.

The major point is: Can the government explain its adamant opposition to time allocation in particular, and to closure, to boycotting of the committee, and other conduct which was unique at the time and, hopefully, will not be repeated? Confirming their disdain of the rules, why do they now embrace them as if they were their own? That is affirmation number one.

Affirmation number two is the following: We have not reached the stage where time allocation can be justified. We have not even begun second reading debate. Certainly, if the house votes so, we will respect it. However, it sets me to wondering whether the government side understands the role of the opposition, and the responsibility of the government to the opposition.

When I sat in Senator Graham's chair — and he has already read a quotation into the record — I introduced time allocation on three or four occasions. I even did it once at committee because by that time we were being frustrated and deliberately obstructed. We were having adjournments of the debate over and over again. It was obvious that the opposition was not making a contribution to the debate so much as finding a way to delay the

adoption of legislation — particularly when there were certain deadlines to be met, such as we have been told is the case with respect to Bill C-12, namely, that there is a July 1 deadline. The government wants that particular bill passed by a certain date. That is a legitimate reason to introduce time allocation, because we should respect the government's wishes as expressed in the House of Commons.

In at least one case, if not two, when we presented time allocation it was because a date or a deadline, as my honourable friend mentioned — it was March 31 in one case — had to be met, or the government wished it to be met. However, in all cases, all along the way, opposition and government members had all the time they needed, prior to the request for time allocation, to debate the item, whereas today, even before the government replies to this side's main argument, which was expressed only on Monday, it imposes time allocation. It may be legal, but it is not fair. It is an irresponsible, heavy-handed move, and an attempt to deliberately stifle debate from this side.

Honourable senators, if we ever get there, we will discuss the merits and the demerits of the bill. What we are limited to doing here is discussing the merits and demerits of time allocation without, I assume, getting involved too much in the merits of the bill itself.

I simply wish to say that the government — as it has with Bill C-22 and, again, with Bill C-28 — is creating a series of precedents unseen in Parliament. I will not go into the merits of Bill C-28. We know how Bill C-22 was categorized, even by the Minister of Justice himself, who at the time said that it was an unprecedented bill which he hoped would never be repeated. That has set the stage for a whole series of other unprecedented moves, including the one that we heard about earlier, regarding the principle of the bill and its violation. Here we are being asked to add to those precedents, which I hope, if approved here, will never be accepted again elsewhere, or even in this place.

Some Hon. Senators: Hear, hear!

Hon. Lowell Murray: Honourable senators, if there is still time in this debate, I should like to take up briefly where the Leader of the Opposition left off. The Leader of the Opposition has given us a summary of some of the background to the rule that is being invoked by the government today.

For almost 125 years, this place operated without any very strict body of rules, and it operated pretty well. It operated that way because the place functioned rather as a ladies' and gentlemen's club, where honourable senators, notwithstanding partisan differences, were usually able to agree on how they would transact the business of the country as it came before them here, mostly in the form of legislation from the other place.

I think it was the late Senator Arthur Meighen, the uncle of our present colleague, who once said that in the House of Commons, MPs address themselves to the electorate; in the Senate, senators address themselves to the question. It was certainly the late Senator Meighen who said that the House of Commons is theatre and the Senate is workshop. That was pretty well the spirit that prevailed here for a great many years.

At one point during my years as a staffer in the mid-1960s, I worked on this side of the building with Senator Wallace McCutcheon. I was able to observe how the Senate operated in those days. Senator John Connolly was the Leader of the Government. There were other notables, a few of them still here, taking part in the deliberations of this place at that time.

All that changed, honourable senators, after the Liberal Party found themselves with a large majority but in opposition after the 1984 election. Things went from bad to worse over a period of four to six years and, finally, degenerated into the anarchy of the GST debate. For all kinds of reasons, not the least of which was the respect that one wants to see accorded to our parliamentary institutions, it was necessary to make some changes.

• (1700)

When we, the Progressive Conservative Party, finally had a small majority in this place, we set about revising the rules. What we did, perhaps unhappily because the Senate had always been unique in so many ways among parliamentary institutions, was bring in a set of rules that were very similar to the rules that prevail in most parliamentary assemblies that operate under the British system, certainly most parliamentary assemblies in this country and, specifically, the House of Commons.

Our rules are now similar in many ways to the rules that prevail in the House of Commons. We imposed a time limit on our speeches. There had been no time limit before that. We imposed an Order of the Day in the sense that the government finally could call the Order of the Day. For almost 125 years the government could not do that.

One of the problems that arose during the GST debate was that we could not get down the scroll past Petitions and other formalities to the point where we could debate the bill. Therefore, we brought in a rule which, I think, exists in most other chambers, which states that after Routine Proceedings have been completed the government can decide what the Order of the Day will be, which item of business it will place before the house on that day. That seemed to me then, and it seems to me now, to be an entirely reasonable arrangement.

We also arranged for deferred votes when a standing vote was to be taken. We arranged that there would be a time limit on the bell calling senators to vote when there was a standing vote.

We made a number of other changes which, as I say, brought the Senate rules pretty much into line with the rules that prevail in other parliamentary institutions in our system.

We provided for a time allocation rule. In principle, I think it is a pretty good one. First, I think there is an obligation on the leadership on both sides to try to come to an agreement on a given measure which is before the house. When they can come to such agreement, then the Leader of the Government or the Deputy Leader of the Government simply announces that an agreement has been reached and the Senate is bound by that agreement; there is no further debate on it. The agreement is that the debate at a given stage of a bill will proceed for so many hours and end at a specified time. Effectively, it becomes an order of the house.

Failing agreement, the Leader of the Government or the Deputy Leader of the Government, can rise at any time and, with notice, move a time allocation motion, the conditions of which are set out in our rules.

When we brought in those rules, as the Leader of the Opposition has just indicated, the howls of outrage from the Liberal opposition were truly extraordinary. Senator Lynch-Staunton has quoted some of the remarks that were made. A comment which he did not quote but which remains in my memory is a comment by our friend Senator MacEachen who compared, in an unfavourable light, what we were doing with the democracy movement in the Soviet Union. The clear message was that, while the then Soviet Union was heading for democracy, we were on the slippery slope to totalitarianism in Canada, and specifically in the Senate. As I say, the hyperbole was truly horrific.

I have no objection, in principle, to the time allocation rule that we have. I think it is a pretty good one. It is there to be used when the government decides that it wants to have recourse to it. Other rules are also there to be used, including the procedure concerning the pre-study of bills. If my friends the Leader of the Government and the Deputy Leader of the Government could summon up their courage and face down a couple of irredentists in their caucus, we would be able to use that rule more frequently to the benefit of the chamber and to the benefit of the public policy and legislative process in this country.

The question is one of judgment, honourable senators. The government brings forward a time allocation motion. Are they bringing it forward on the right bill at the right time under the right circumstances? The government has to make what is essentially a political calculation as to whether it is a proper use of the time allocation procedure. Ultimately, the government must answer to that. To the extent that anyone knows or cares what goes on in the Senate, ultimately, the use of time allocation is something the government has to answer for in the political process.

All I have to say about the present invocation of closure, honourable senators, is that it makes more offensive a bill that is already terribly offensive — unprecedented, as the Leader of the Opposition has pointed out. That bill, when it was Bill C-22, came here after quite an inadequate examination by those in the other place whose responsibility it is to examine it, namely, Her Majesty's Loyal Opposition. The other opposition parties, the Bloc Québécois and the Reform Party, let it go through without proper examination.

When it came to this chamber, yes, we tied it up for a good long time. We did that because a parade of constitutional authorities testified before our committee that that bill violated the Bill of Rights of 1960, the Charter of Rights of 1982, the rule of law, or all three. That is why we tied it up; and that is why we found it so offensive.

I simply say to my friends opposite that in trying to ram this bill through the Senate now by the use of closure, they are making an offensive bill more offensive by the process they are using to get it through.

Some Hon. Senators: Hear, hear!

Hon. Brenda M. Robertson: Honourable senators, my intervention will be brief. However, I felt obligated to involve myself in this debate this afternoon because the situation before us is somewhat curious, to say the least.

What is curious, as our leader has already identified, is that members opposite have resorted to a rule which many of the Liberal senators opposite condemned vigorously during debates on the report of the Standing Committee on Privileges, Standing Rules and Orders, a committee which I chaired. The abuse and the complaints continued in debates after the report was passed by the Senate.

I was going to say that I had the privilege or the honour of chairing that committee at the time. However, I decided I would not do that after reading some of the debate that went on at that time. However, I shall not offend the chamber by repeating so many of the insulting and inflammatory remarks made by members opposite at that time but, rather, I mention the tenor of the debate to put this curious situation into its proper context.

• (1710)

I must remind the chamber, as my leader has done, that members opposite refused to participate in drafting the new rules. They would offer only ridicule — nothing else. That went on for a considerable period of time until they suffered, perhaps, a crisis of conscience or some other state of mind. Our committee was advised that they were spending time reviewing the rules in order to make improvements to them. I must surmise that the attempt was abandoned because we never did see any substantial recommendations from the Liberal members on our committee to improve or strengthen the rules.

Honourable senators, I will not go into detail, but you must consider some of the things that were said. On October 15 of 1992, in the course of debate on a time allocation motion, Senator Frith, obviously speaking for all of the Liberal caucus, stated:

On the third area of abuse of Parliament by the new rules we have the one that is before us now. It is time allocation.
... I cannot imagine a new Senate —

At that time they were talking about having a newly constituted Senate.

... I cannot imagine a new Senate, one not controlled by the government, accepting such a Draconian rule.

If that is the view of honourable senators opposite, why, now that they are in the position to let their actions speak for them, do they conveniently resort to measures they so despise? It is a curious thing. It truly is. Perhaps the time has come for members opposite to officially strike from the record Senator Frith's plea on February 3, 1993 in this chamber. I quote:

I wish to go on the record as stating my hope that some day we will all agree to remove the provision for closure from the *Rules of the Senate* ...

Senator Berntson: Well, today is a good day.

Senator Lynch-Staunton: Start now.

Senator Robertson: The then Deputy Leader of the Opposition summed up the new rules by saying that the ultimate result of those new rules was wrong for this institution, since they put us totally under the thumb of government, and that was not the manner in which this institution could properly function. Therefore, they were totally opposed to those rules.

"Honourable members, that was then," to paraphrase the former Deputy Prime Minister of the other place. Today the rules are viewed in a considerably different light by members opposite, and that is where it becomes even more curious. To be generous, honourable senators, I suppose we have a few slow learners around because it has taken a number of years for the value of certain rules, such as the allocation of time, to be appreciated. At the time of the introduction, all committee members emphasized the importance of any government to have the right to bring before this chamber legislation, to have it put to a vote and to have a decision. We still feel strongly about that. It is a right of government to do that.

The contradiction of stated belief is odious. My comments today are made more out of concern than sadness, as I had the opportunity last night and this morning to review that dreadfully rude debate. There was uncalled-for rudeness in this chamber. In spite of that, my comments are out of concern more than sadness.

An historical pattern is clearly obvious to all Canadians who follow public affairs. The pattern is based on the notion that words do not matter in political discourse. It is an approach to politics I believe the Liberal Party has elevated to an art form. The most recent examples, of course, of carelessness with words relate to a number of items we have discussed here, such as the promises of the Liberal supporters to abolish the GST. They also said they would tear up the free trade agreement. They told us they would never cut unemployment insurance. It goes on and on.

Jobs, jobs, jobs. The Prime Minister stated that it would be like the good old days and Canadians would be back working again. Of course, during the last election campaign, when Kim Campbell suggested that job growth was not likely to occur until well into the next century, she was put down by the now Prime Minister as lacking hope and not fit to hold the exalted office of the Prime Minister. Now, of course, it is a different story. A week ago, in Vancouver, the Prime Minister said Canadians will probably have to live with high unemployment and that jobs will probably not be satisfactory in the foreseeable future.

I could go on, honourable senators, but it is the implication of this duplicity, saying one thing and doing another, that concerns me. It concerns me as a parliamentarian because of the effect on our governing institutions. It undermines confidence in our elected officials and contributes to the general sense that politics and politicians are not worthy of respect or belief. In that sense, I would suggest that we must do better. We must act as if our words and our actions have consequences, and not just pass them off as political rhetoric.

It strikes me, honourable senators, that this debate is a classic example of the need to act now. In that regard, I would ask honourable members opposite to remember their history and to choose their words with care.

The Hon. the Speaker: If no other senator wishes to speak, then the motion before us is the motion by the Honourable Senator Graham, seconded by the Honourable Senator Perrault:

That pursuant to the provisions of rule 39 in relation to Bill C-28 —

An Hon. Senator: 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 who are against the motion please say “nay”?

Some Hon. Senators: Nay.

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

And two honourable senators having risen.

The Hon. the Speaker: Is there an agreement to a five-minute bell?

Senator Kinsella: The agreement with Senator Hébert was for a half-hour bell.

The Hon. the Speaker: The agreement between the Whips is for a half-hour bell. Is that agreed, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: The vote will be at 10 minutes to six o'clock.

• (1750)

The Hon. the Speaker: Honourable senators, the question before the Senate is the motion by the Honourable Senator Graham, seconded by the Honourable Senator Perrault:

That, pursuant to the provisions of Rule 39 and in relation to Bill C-28, an Act respecting certain agreements concerning the redevelopment and operation of Terminals 1 and 2 at Lester B. Pearson International Airport, not more than six further hours of debate be allotted to the consideration of the said bill at second reading stage;

That when the debate comes to an end or when the time provided for the debate has expired, as the case may be, the Speaker shall interrupt, if required, any proceeding then before the Senate and put forthwith and successively every question necessary to dispose of the second reading stage of the said bill; and

That any recorded vote on the said question or questions shall be taken in accordance with the provisions of Rule 39(4).

Motion adopted on the following division:

YEAS

THE HONOURABLE SENATORS

Adams	Landry
Austin	Lewis
Bacon	Losier-Cool
Bonnell	MacEachen
Bosa	Marchand
Bryden	Milne
Carstairs	Pearson
Cools	Perrault
Corbin	Petten
Davey	Pitfield
De Bané	Poulin
Fairbairn	Prud'homme
Forest	Riel
Gauthier	Rompkey
Gigantès	Sparrow
Graham	Stanbury
Haidasz	Stewart
Hébert	Stollery
Hervieux-Payette	Taylor
Kenny	Watt
Kirby	Wood—42

NAYS

THE HONOURABLE SENATORS

Atkins	Kinsella
Beaudoin	Lavoie-Roux
Berntson	LeBreton
Charbonneau	Lynch-Staunton
Cochrane	MacDonald (<i>Halifax</i>)
Cogger	Murray
Cohen	Nolin
Comeau	Oliver
DeWare	Phillips
Di Nino	Rivest
Doody	Roberge
Doyle	Robertson
Forrestall	Rossiter
Ghitter	Simard
Jessiman	Spivak
Johnson	St. Germain
Kelleher	Tkachuk—34

ABSTENTIONS

THE HONOURABLE SENATORS

Nil

BUSINESS OF THE SENATE

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, there has been discussion between the leadership on both sides. Since we have already agreed to sit tomorrow morning at nine o'clock, it is agreed that all remaining orders, motions, inquiries and reports stand.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Thursday, May 30, at 9:00 a.m.

CONTENTS

Wednesday, May 29, 1996

	PAGE		PAGE
Royal Assent		Newfoundland	
Notice	451	Constitutional Amendment on Changes to School System— Assurances of Normal Procedural Treatment in Parliament— Government Position.	
Visitors in the Gallery		Senator Doody	456
The Hon. the Speaker	451	Senator Fairbairn	456
<hr/>			
SENATOR'S STATEMENT		National Unity	
Canada-China Relations		Comments of Minister of Human Resources Development in House of Commons—Possibility of Disciplinary Measures—Government Position.	
Human Rights in China and Tibet.		Senator Nolin	456
Senator Di Nino	451	Senator Fairbairn	457
<hr/>			
ROUTINE PROCEEDINGS		Senator Phillips	457
Business of the Senate		Senator Murray	457
Adjournment.		Newfoundland	
Senator Graham	452	Constitutional Resolution on Changes to School System—Possibility of Free Vote in House of Commons—Government Position.	
Senator Phillips	452	Senator Murray	457
Visitors in the Gallery		Senator Fairbairn	457
The Hon. the Speaker	453	<hr/>	
Internal Economy, Budgets and Administration		Business of the Senate	
Committee Authorized to Meet During Sitting of the Senate.		Conduct of Question Period—Point of Order.	
Senator Kenny	453	Senator Phillips	458
<hr/>			
QUESTION PERIOD		Senator Comeau	458
Justice		Senator Murray	459
Taiwanese Ship Docked in Halifax Harbour—Alleged Illegal Acts Perpetrated on High Seas—Government Position.		Senator Prud'homme	459
Senator Lynch-Staunton	453	Speaker's Ruling.	
Senator Fairbairn	453	The Hon. the Speaker	460
Fisheries and Oceans		<hr/>	
Imposition of Mifflin Plan Without Necessary Studies— Government Position.		ORDERS OF THE DAY	
Senator Carney	454	Pearson International Airport Agreements Bill (Bill C-28)	
Senator Fairbairn	454	Second Reading—Motion for Allotment of Time for Debate— Debate Adjourned.	
National Unity		Senator Graham	460
Comments of Minister of Human Resources Development in House of Commons—Government Position.		Senator Kinsella	462
Senator Di Nino	454	Senator Lynch-Staunton	463
Senator Fairbairn	454	Senator Jessiman	464
Senator Lynch-Staunton	455	Senator Stewart	464
Newfoundland		Royal Assent	465
Constitutional Resolution on Changes to School System—Source of Document Circulated to Parliamentarians—Government Position.		Pearson International Airport Agreements Bill (Bill C-28)	
Senator Prud'homme	455	Second Reading—Motion for Allotment of Time for Debate— Debate Concluded.	
Senator Fairbairn	455	Senator Stewart	465
Senator Phillips	456	Senator Lynch-Staunton	466
Senator Doody	456	Senator Kinsella	467
		Senator MacDonald	467
		Speaker's Ruling.	
		The Hon. the Speaker	468
		Senator Lynch-Staunton	468
		Senator Murray	470
		Senator Robertson	472
		BUSINESS OF THE SENATE	
		Senator Graham	474



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