



CANADA

# Debates of the Senate

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2nd SESSION

•

35th PARLIAMENT

•

VOLUME 135

•

NUMBER 31

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OFFICIAL REPORT  
(HANSARD)

**Thursday, June 13, 1996**

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THE HONOURABLE GILDAS L. MOLGAT  
SPEAKER

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

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

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Published by the Senate

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

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

## THE SENATE

Thursday, June 13, 1996

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

Prayers.

### VISITORS WELCOME CENTRE

**The Hon. the Speaker:** Honourable senators, I should like to remind you that the Visitors Welcome Centre opened for business today in the Centre Block at the location of what was formerly the post office.

I point out to all honourable senators that this project was undertaken with the complete cooperation of the two houses, and with great support from the Library of Parliament, the Department of Public Works, and so on. Since the two houses have cooperated completely on this project, I think you will find that both the Senate and the House of Commons are treated in an absolutely impartial, fair, and equal manner within the centre. There is no preponderance of one house or the other; the two houses are treated equally, thanks to the cooperation of the Speaker of the House of Commons in particular, with whom I worked on this project.

I invite all honourable senators and their staff to stop by the Visitors Welcome Centre.

(1410)

### THE LATE HONOURABLE GEORGE HARRIS HEES, P.C.

#### TRIBUTES

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, I rise today to say a few words following the announcement yesterday of the death of George Hees.

*Rogue Tory* is the name of a book by Denis Smith about “The life and legend of John G. Diefenbaker.” No doubt, many in this chamber have the book and look forward to reading it this summer uninterruptedly when both author and subject continue to be historically important and politically fascinating.

Even a cursory run-through of Mr. Smith’s go at Ottawa leaves the impression that Mr. Diefenbaker was not the only rogue under his microscope. If “political rogues” answer to the Oxford dictionary definition of possessing “a mischievous disposition,” the governments of Canada in the post-war years were enlivened, and often enlightened, by rogues of every stripe as Parliament emerged from the lifting shadows of depression and war.

Denis Smith introduces George Hees, the winner of a 1950 by-election, as “a handsome businessman, athlete and veteran with a brash and exuberant manner.” These 46 years since, Smith

and those who knew George might say — in fact, George himself might say — “Not bad for a beginning, not bad at all. But you ain’t seen nothing yet.”

Handsome? Hees and Clark Gable were the only two men who could get away with Margaret Mitchell’s immortal line: “Frankly, Scarlett, I don’t give a damn.”

Businessman? The very family name carried the full weight of accomplishment. In trade and commerce, he was the light beyond the dark contributions of academics who, too often, controlled the establishment.

Athlete? This former Argo linebacker walked four miles a day and swam 60-foot pool lengths every night. When Pierre Trudeau got to the ski slopes, he found George already there and ascending for his second downhill run.

Veteran? In the Parliamentary Guide, he only gave himself half a line describing his military career. It reads: “Served overseas as Brigade Major, 5th Infantry Brigade.” However, soldiers who served with him will tell you he was wounded in action, and how, still in uniform, he ran against General McNaughton on the conscription issue and won. They would also tell you that George Hees was the best ever minister because of the civility he brought to the veterans’ ministry.

Brash? In the entire chronicle of the Munsinger Affair — that sorry incident in the 1960s when the government of the day called in the Mounties to see what scandal could be attached to the opposition — George Hees was a sitting duck for the embroidery of the press. Wishart Spence, who was not the most sympathetic of judicial commissioners, could document only the fact that Hees had taken Gerda to lunch — an indiscretion the impetuous minister admitted. The judge asked whether it would not have been prudent to have found out something about the suspected spy.

Exuberant? To bring back the dark days of division surrounding the Diefenbaker decision not to arm Bomarc nuclear warheads on Canadian soil is still painful for stalwarts of my party. Although he considered resigning, Hees came through to support the Chief in the 1963 confidence vote which brought the Tories down. Exuberant? After the next Tory caucus, George Hees emerged saying, “We’ve never had a more united party.”

Almost everyone who knew George Harris Hees has a favourite story to tell about him. No one could enliven an evening of parliamentary trivia with the charm of former prime minister Brian Mulroney, but George was a close second. He was a delight at Conservative Christmas parties hosted by the PM, who led the singing while Hees led the dancing. The prime minister insisted it was the presence of his Veterans Affairs minister that prompted his mother’s enthusiastic attendance.

Honourable senators, George Hees was just a fine man. Canada has reason to mourn the loss of a great Canadian, and I join with the mourners to offer his family our deepest sympathy.

**Hon. M. Lorne Bonnell:** Honourable senators, Canadians have known and respected the Honourable George Hees for many of his accomplishments. He was a decorated war veteran, football player, businessman and a politician who served as minister of trade and as minister of transport, but for all these many accomplishments, George Hees was probably best loved and best known as minister of veterans affairs.

As a veteran who had been wounded himself during the Battle of the Scheldt, he understood and related to veterans and further advanced Canada's proud tradition of looking after its veterans. That is a non-partisan tradition in which all Canadian political parties have shared and continue to share, and George Hees was a great leader in that regard.

Honourable senators, the Honourable George Hees was respected by all who knew him, but the greatest measure of that respect is in the sadness that is felt today by all Canadian veterans. He was their champion, their hero and their friend.

**Hon. Orville H. Phillips:** Honourable senators, I should like to add a few words to the tributes being paid to George Hees. He was a very popular minister in the Diefenbaker government, and I should like to relate to you a couple of stories about him which show his peculiar and rather specific type of leadership.

George Hees was opening the new airport in Halifax, and there were some complaints that the airport was larger than Halifax needed. George answered that neatly by saying, "I assure you when this airport needs expansion, I will make sure it is expanded." I think of that remark as I walk out from the terminal, that long walk out to what I call "Truro" on my way to Charlottetown.

When George Hees took over as minister of trade and commerce, Gordon Churchill, his predecessor, had laid plans for putting on a drive to expand business in Canada. George added his own peculiar touch. One of the private members from Toronto engaged in the insurance business had special cuff-links made up for his salesmen. On those he had engraved YCDBSÓYA. George found out what it meant and adopted the same words as his motto for trade expansion. It translates, honourable senators, "You Can't Do Business Sitting On Your Ass." George made a particular point of driving that theory home to every business group with whom he spoke.

George Hees earned, I think, his greatest respect as minister of veterans affairs. It was a portfolio which he enjoyed and one he understood. Even after he retired, it was almost impossible to go into a Legion branch anywhere in Canada and not have someone inquire about George Hees. I think that is the greatest mark he will leave on Canadian history — the improvements and the interest he demonstrated in veterans affairs.

**Hon. Philippe Deane Gigantès:** Honourable senators, it was a pleasure and an honour living in the same apartment building as

Mr. Hees. When I heard and saw this morning that he had passed away, I called my two elder daughters, who knew him when they were tiny. They remember him as the gentle giant who had cookies for them.

(1420)

**Hon. Finlay MacDonald:** There were two Americans touring the House of Commons one day when the bells began to ring, calling members to a vote. Just then, George Hees was passing by. The tourists asked him why the bells were ringing. Hees replied, "I think one of them has escaped."

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## SENATORS' STATEMENTS

### WITNESS PROTECTION PROGRAM

#### SENATE AMENDMENTS TO BILL

**Hon. Lorna Milne:** Honourable senators, I want to draw the attention of the Senate to another example of what we hope is our ever-improving image in the eyes of Canadians. I refer to the matter of a bill which I was pleased to sponsor in this place on behalf of the government.

Bill C-13, the Witness Protection Program Bill, was adopted in the Senate with one very substantive amendment. After much discussion in committee, Senator Gigantès moved that the bill be amended to remove the word "opinion" from the clause setting out the powers of the commissioner to remove persons from the protection program. It was felt that the word conferred an arbitrary authority on the commissioner, empowering him to act without the need to really justify his decisions.

The Senate replaced this word "opinion" with the word "evidence," thus clarifying that the commissioner should act against the protectee only with good cause, and that the decision of the commissioner should be justiciable.

On Tuesday of this week, as the House of Commons was considering the Senate amendment, honourable senators will be interested to know that we were paid a compliment. The member of Parliament for Bellechasse, Mr. Langlois, was quite categorical. Allow me to quote from the translation of his comments:

...I believe the Senate has passed a very useful amendment...

Later in his comments, he stated:

In a country that believes in the rule of law, this is a notable improvement that deserves support.

I must admit, honourable senators, that I never expected to hear the Senate, proud federal institution that it is, praised in this way by a member of the Bloc Québécois.

**Hon. John G. Bryden:** Honourable senators, I sat on the Standing Senate Committee on Legal and Constitutional Affairs when the Witness Protection Program bill was amended. I would like to clarify one point. I believe Senator Milne is correct that Senator Gigantès moved that amendment. However, in all fairness and with all due non-partisanship, which everyone would expect from me, the impetus for that amendment came from Senator Doyle.

## POST-SECONDARY EDUCATION

### ATLANTIC CANADA—DECLINE IN GRANTS TO UNIVERSITIES

**Hon. Brenda M. Robertson:** Honourable senators, a recent report of the Maritime Provinces Higher Education Commission states that the most urgent financial issue facing the region's universities is the continuing decline in the level of dollar support from the government. In the Maritime provinces, for example, there has been no increase in grants to universities from provincial governments since 1990.

The best that the Government of New Brunswick can do is reduce its grants to universities by 2 per cent in each of the next three fiscal years. In turn, the provincial government attributes this problem to the 17-per-cent reduction in federal cash transfers to New Brunswick within the last fiscal year.

Tuition fees at Maritime universities have risen by approximately 40 per cent since 1990, while government policies on student aid have resulted in less bursary money, requiring more borrowing and heavier debt loads for our children and grandchildren.

I do know that the situation in Atlantic Canada is serious, and I am sure that there is also serious concern about this matter in other parts of Canada. The costs of higher education are getting almost beyond the ability of students to respond in a positive way. It is imperative that the government review its policy in this regard, and I hope to have a question or two on this subject later today or early next week, time permitting.

## ROUTINE PROCEEDINGS

### BUDGET IMPLEMENTATION BILL, 1996

#### REPORT OF COMMITTEE

**Hon. David Tkachuk,** Chairman of the Standing Senate Committee on National Finance, presented the following report:

Thursday, June 13, 1996

The Standing Senate Committee on National Finance has the honour to present its

## FIFTH REPORT

Your Committee, to which was referred Bill C-31, An Act to implement certain provisions of the budget tabled in Parliament on March 6, 1996, has, in obedience to the Order of Reference of Thursday, May 30, 1996, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

DAVID TKACHUK  
*Chairman*

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

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

## EMPLOYMENT INSURANCE BILL

#### REPORT OF COMMITTEE PRESENTED AND PRINTED AS APPENDIX

**Hon. Mabel M. Deware:** Honourable senators, I have the honour to present the sixth report of the Standing Senate Committee on Social Affairs, Science and Technology concerning Bill C-12, respecting employment insurance in Canada.

I ask that the report be printed as an appendix to the *Journals of the Senate*.

(*For text of report, see today's Journals of the Senate, Appendix "A", p. 384.*)

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

[*Translation*]

**Hon. Jean-Maurice Simard:** Honourable senators, before I agree to this motion —

**The Hon. the Speaker:** Honourable senators, the motion has first to be moved before you can talk about it.

[*English*]

(1430)

Honourable senators, the motion was that the bill be placed on the Orders of the Day for third reading at the next sitting of the Senate.

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

**Some Hon. Senators:** Agreed.

[Translation]

**Senator Simard:** Before giving consent to proceed to the consideration of this sixth report of the committee chaired by my colleague and friend Senator Deware, I would like to be briefed on the content of this report. Also, I would like to know when the next sitting will be held. I am not aware of the arrangements between the Liberal and Conservative leaders.

I would like the next sitting of the Senate to be next Tuesday. If it were decided that it should be this evening, tomorrow or on Monday instead, I would then have no choice but to withhold consent and hope the Senate will be sitting on Tuesday. I plan to speak on this report, but I will be unable to do so before Tuesday.

**The Hon. the Speaker:** Honourable Senator Simard, the committee report does not contain any amendments and our rules do not allow debate when a committee reports a bill without amendment. You may, of course, vote against the bill but, for the time being, there shall be no debate, because there were no amendments.

We could have a debate at third reading, but for now, all we can do, for now, is vote either for or against the motion before us.

**Senator Simard:** Honourable senators, could the two party leaders tell us when the next sitting of the Senate will be? It is the least they could do.

**The Hon. the Speaker:** Honourable senators, this is indeed an interesting question. However, I cannot allow you to ask it now. You may do so later.

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

[English]

## ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

ALTERNATIVE FUELS FOR INTERNAL COMBUSTION ENGINES—  
REPORT OF COMMITTEE ON MONITORING OF IMPLEMENTATION  
OF ACT PRESENTED AND PRINTED AS APPENDIX

**Hon. Ron Ghitter,** Chairman of the Standing Senate Committee on Energy, the Environment and Natural Resources, presented the following report:

Thursday, June 13, 1996

The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its

## THIRD REPORT

Your Committee, which was authorized by the Senate on Wednesday, March 27, 1996, to monitor all matters related to the implementation and application of the *Act to accelerate the use of alternative fuels for motor vehicles* (previously S-7), now presents its report.

Respectfully submitted,

RON GHITTER  
*Chairman*

(For text of report, see today's Journals of the Senate, Appendix "B", p. 387.)

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

On motion of Senator Ghitter, report placed on Orders of the Day for consideration at the next sitting of the Senate.

## PRIVATE BILL

QUEEN'S UNIVERSITY AT KINGSTON—REPORT OF COMMITTEE

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

Thursday, June 13, 1996

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

## TENTH REPORT

Your Committee, to which was referred Bill S-8, An Act respecting Queen's University at Kingston, has, in obedience to the Order of Reference of Monday, June 10, 1996, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

SHARON CARSTAIRS  
*Chair*

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

**Hon. Lowell Murray:** With leave, later this day.

**Hon. Philippe Deane Gigantès:** Honourable senators, before I give my consent that this be done today, I should like to say that I will not vote against the bill or refuse consent, but I am opposed to a feature in the bill which allows religious institutions to have a voice in education.

**The Hon. the Speaker:** Honourable senators, I must repeat again that at this point there can be no debate if there is no amendment.

On motion of Senator Murray, with leave of the Senate and notwithstanding rule 58(1)(b), bill placed on the Orders of the Day for third reading later this day.

## CONTROLLED DRUGS AND SUBSTANCES ACT

REPORT OF COMMITTEE PRESENTED  
AND PRINTED AS APPENDIX

**Hon. Sharon Carstairs:** Honourable senators, I have the honour to present the eleventh report of the Standing Senate Committee on Legal and Constitutional Affairs on Bill C-8, respecting the control of certain drugs, their precursors and other substances and to amend certain other Acts and repeal the Narcotic Control Act in consequence thereof.

I ask that the report be printed as an appendix to today's *Journals of the Senate*.

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

**Hon. Senators:** Agreed.

(For text of report, see today's *Journals of the Senate*, Appendix, "C" p. 392.)

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

**Senator Carstairs:** With leave of the Senate and notwithstanding rule 58(1)(b), I move that the report be placed on the Orders of the Day for consideration later this day.

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

**Hon. Noël A. Kinsella:** Explain.

**Hon. Mabel M. DeWare:** Explain.

**Senator Carstairs:** Honourable senators, as you know, this bill has been significantly amended. Primarily, they are technical amendments, but because of the breadth of those technical amendments, they must go back to the other place in order for them to deal with them.

We had a discussion in committee about the report being placed on the Order Paper for discussion later this day, and it is my understanding that the steering committee was in full agreement.

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, it is highly unusual to be asked to approve a committee report with amendments and to rush it through just

to satisfy the other place. The honourable senator will have to be more convincing than that.

**Senator Carstairs:** Obviously, if it is the will of this house to deal with these amendments at the next sitting of the Senate, that is what we will do. However, this bill has been delayed considerably in the Standing Senate Committee on Legal and Constitutional Affairs. We have tried to accommodate members of the committee on both sides. That has been the reason for the delay, and that was why we are seeking leave to proceed today.

**The Hon. the Speaker:** Honourable senators, is leave granted?

**Some Hon. Senators:** No.

On motion of Senator Carstairs, bill placed on the Orders of the Day for consideration at the next sitting of the Senate.

## FIRST NATIONS GOVERNMENT BILL

FIRST READING

**Hon. David Tkachuk** presented Bill S-9, providing for self-government by the First Nations of Canada.

Bill read first time.

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

On motion of Senator Tkachuk, bill placed on Orders of the Day for second reading at the next sitting of the Senate.

(1440)

## THE HONOURABLE ALLAN J. MACEACHEN

HIS LIFE AND TIMES—NOTICE OF INQUIRY

**Hon. Anne C. Cools:** Honourable senators, pursuant to rules 56(1) and (2) and 57(2), I give notice that Wednesday, I shall call the attention of the Senate to:

The life and times of Allan J. MacEachen, a great Liberal and an outstanding Canadian from Cape Breton Island, Nova Scotia;

and to his parliamentary service as a member of Parliament for 43 years in both the Senate and the House of Commons;

and to his exceptional contribution to the social and political life of Canada;

and to his upcoming retirement from the Senate on July 6, 1996.

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## QUESTION PERIOD

### JUSTICE

SALE OF AIRBUS AIRCRAFT TO AIR CANADA—  
ROLE OF MINISTER IN INSTIGATION OF INVESTIGATION—IDENTITY  
OF TRANSLATOR OF LETTER SENT TO SWISS AUTHORITIES—  
REQUEST FOR PARTICULARS

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, it is now quite clear from comments by the Justice Minister in the House of Commons only two days ago that the Department of Justice at the highest level was not only aware of the Airbus investigation by the RCMP but is also part of it, contrary to what has repeatedly been claimed by the Minister of Justice and others on his behalf, particularly in this place.

On June 11, on explaining the role of the international assistance group of the Department of Justice in a request of a police force wishing to make inquiries in a foreign country, Mr. Rock said, as recorded in the *House of Commons Debates* of June 11 on page 3635:

...when any police force in the country wishes to make inquiries of a foreign authority or a foreign government, the practice is to come to the international assistance group of the Department of Justice to communicate that request to the foreign government. In those circumstances, the lawyers and the senior officials of the international assistance group meet with the police and determine that there is a reasonable basis for taking the next step in the investigation, which is to ask a foreign authority for assistance. Once that is done, then the lawyers in the international assistance group work with the police in formulating that request and send it abroad.

In light of Mr. Rock's own words, how can the government continue to maintain that the Department of Justice was only a detached and neutral participant at a time when the minister himself now admits that his department collaborated closely with the RCMP in the preparation of its request to the Swiss authorities and therefore had been intimately involved with the Airbus affair for many months, if not longer?

**Hon. Joyce Fairbairn (Leader of the Government):** Honourable senators, the process which the Minister of Justice set out in the remarks which have been quoted by Senator Lynch-Staunton is a process which I believe has been known for some time.

**Senator Berntson:** You said you were simply a pipeline; a conduit.

**Senator Fairbairn:** That is absolutely right. That is the process by which transmissions are made to foreign governments.

**Senator Berntson:** That is not what you said before.

**Senator Fairbairn:** It is not a question of the Department of Justice involving itself in an investigation; it is a question of the

Department of Justice being the agent to send requests to foreign governments. The answers that I have given in this house involving any role that the Minister of Justice might have had stand on the record.

**Senator Lynch-Staunton:** Honourable senators, it is obvious that the Leader of the Government is still trying to convince us that the Minister of Justice had nothing to do with embarrassing activities by his own officials. However, he cannot detach himself from that.

The question today is with regard to the involvement of Department of Justice officials in the preparation of the letter which went to the Swiss authorities. At the time the letter was made public, the Justice Department issued a news release saying that the international assistance group reviews the request and makes sure it complies with the requirements of the foreign state.

At the time, we were told to believe that all the Justice Department did when these 100 to 150 requests a year come in is ensure that they fit the format acceptable to the government to which they are addressed and that, in this case, the content, the arguments and the meat of the letter were of no interest; it was solely to ensure that the format was right.

Now we hear from the minister himself, only two days ago, that this is not what the Justice Department does. This is the minister himself talking.

He said:

In those circumstances —

— that is, when they get a request to transmit a letter of information or participation to another government or foreign authority —

...the lawyers and the senior officials of the international assistance group meet with the police and determine that there is a reasonable basis for taking the next step in the investigation.

I repeat, "taking the next step in the investigation." So the RCMP went to the Department of Justice and said, "We have this request which we want to send to Swiss authorities. Can you please confirm that it is appropriate to do so?" According to Mr. Rock, the request was analyzed and the Justice Department officials gave their approval to the next step in the investigation being taken.

One can only conclude that the Department of Justice was aware of the investigation and by rewriting, redrafting, correcting and bringing the letter into proper form, it not only participated in the investigation but agreed to it. That is a long way from Ms Prost saying, "I am just here to forward the mail." There was actual participation by the Department of Justice in the formulation and drafting of the letter. The only conclusion which can be drawn from that is that the Government of Canada, through the Department of Justice, was an immediate participant in the investigation.



The question remains the same, and hopefully the right answer will finally come out: How can the government deny the fact that for months, if not longer, it has been actively involved in the RCMP investigation into what is called the Airbus affair?

**Senator Fairbairn:** Honourable senators, the Department of Justice has not been actively involved in the investigation of the Airbus affair. It has not been involved. It was involved at the time when a request was being made to a foreign government for information.

My honourable friend may draw his own conclusions, but the Department of Justice was not involved and is not involved in the investigation. The Minister of Justice has said that repeatedly, and that is fact.

**Senator Lynch-Staunton:** That is not what the Minister of Justice said two days ago. This is not my impression or someone else's impression; these are the words of the Minister of Justice himself. He said:

Once that is done —

— that is, determining that there is a reasonable basis for taking the next step —

— then the lawyers —

— these being Department of Justice lawyers —

— in the international assistance group work with the police in formulating that request and send it abroad.

They work with the police in formulating the request. The Department of Justice and the RCMP together worked on the text and agreed that it was appropriate to send it to the Swiss authorities in that form.

Now we are being asked to believe that it was a detached, remote, secondary, casual attention to a letter which suddenly became public. You can argue it, but we cannot believe it.

**Senator Fairbairn:** Honourable senators, I have argued it. I have stated it for many months now and I will continue to do so. If the Leader of the Opposition in the Senate does not believe it, I am afraid that I cannot do anything further to enlighten him.

**Senator Lynch-Staunton:** I am glad, at least, that Mr. Rock is a little more forthcoming in the House.

Can the minister find out for us who translated the letter into German before it was sent to the Swiss authorities?

**Senator Fairbairn:** Honourable senators, I will convey that question.

INVESTIGATION INTO SALE OF AIRBUS AIRCRAFT TO AIR  
CANADA—PROCEDURE EMPLOYED IN APPROACHING FOREIGN  
GOVERNMENTS—REQUEST FOR PARTICULARS

**Hon. David Tkachuk:** Honourable senators, I should like to ask a follow-up question to that of our leader.

(1450)

Last fall I had asked a question regarding the procedure for such a request. In other words, were there forms to fill out, or permissions to be granted, and, if so, who grants them? Today is June 13. After prorogation, I asked that question again. That would be approximately three and a half weeks ago. My question was: What is the procedure for sending a letter to a foreign government in order to get into the personal business of a Canadian citizen? I have again asked that question because it is the government which is creating the confusion. The Minister of Justice has laid out what he thinks the procedure is, and what I have been given is not a complete answer. It seems to me that if the government does not know what the procedure is, we have a really serious problem here.

It should not take very long to tell us exactly how a police force gains access to the Minister of Justice in order to have such a letter written.

**Hon. Joyce Fairbairn (Leader of the Government):** Honourable senators, I have requested as detailed an answer as I can get in the form of a delayed answer, to the honourable senator's question. As a consequence of today's questions, I will put more heat on. I have not received the answer that the honourable senator is seeking, and I will put the heat on to get it.

**Senator Tkachuk:** Can we be assured that the Senate will be informed of this answer prior to our rising for the summer?

**Senator Fairbairn:** I am not sure when we are rising for the summer, but that will be my objective.

## THE ENVIRONMENT

### CUTS IN FUNDING TO EXPERIMENTAL LAKES AREA— GOVERNMENT POSITION

**Hon. Mira Spivak:** Honourable senators, my question for the Leader of the Government in the Senate is as a result of a uniquely Canadian story which appeared on the front page of *The Globe and Mail* today. Some might consider it a tragedy. It has to do with the Experimental Lakes Area which, as the many people who have been following this story know, has been the object of cuts within the Department of Fisheries and Oceans — not 10 per cent, 20 per cent or 30 per cent — not even 50 per cent, but, right off the top, 70 per cent of this research facility. This is a facility which can exist nowhere else in the world because nowhere else in the world are there those pristine lakes in such a remote location that can be experimented upon to determine the causes of phosphate and mercury pollution, and of acid rain.

Of course, I must add that, after there was a great public outcry, including an international scientific outcry, the cuts were scaled back to 55 per cent. However, this will only ensure that the facility may remain, but there will be no scientists working there.

The article in today's paper says:

In what sounds like good news for the ELA, Fisheries Minister Fred Mifflin said in an interview on Tuesday that such heavy cuts...

— which are, I might interject, much more than to the Department of Fisheries and Oceans generally —

...to the Freshwater Institute's budget were not his decision.

I might say that I met with Mr. Mifflin, and I found him to be a man of extraordinary conscience and morality.

My question to the Leader of the Government in the Senate is this: If this was not the minister's decision, can she inform us who, then, is giving the minister this sort of advice, and what sort of advice can it be that would lead him to such a conclusion that is, as he says, not of his own initiative?

It is strange that freshwater science is being cut by 70 per cent while the whole department is enduring cuts that are nowhere near this level. Can the Leader of the Government enlighten us on this matter?

**Hon. Joyce Fairbairn (Leader of the Government):** I cannot today, honourable senators, give an answer to Senator Spivak. However, I will take her question to the minister and see what his answer might be.

I certainly concur with the comments of Senator Spivak on the characteristics of the minister and his devotion to not just coastal fisheries but inland fisheries as well.

**Senator Spivak:** Indeed, honourable senators, could I be more precise in my previous question? If it is not unparliamentary to ask, perhaps it could be determined whether, indeed, it was some official or officials within his department who gave this advice to Mr. Mifflin?

Further, I know there is an impending announcement, and I know many people on all sides of the political spectrum have been working hard to see if this unique facility could be saved. My next question is: Could the Leader of the Government find out whether the additional moneys would be sufficient not only to save the facility but also to save the livelihood of the world-renowned scientists who are presently working on this research project, and who need to be retained as a critical mass? Otherwise, this unique research will be lost to Canada, along with the comparative advantage that Canada has in this basic field.

**Senator Fairbairn:** Honourable senators, I will do my very best to get an answer for Senator Spivak on this issue. I know this is not a recent preoccupation of the honourable senator's; it is, indeed, a very long-time preoccupation with her.

In the letter that the Prime Minister sent to the premiers, I notice that the issue of freshwater fisheries is included among topics that they will discuss. I am sure there will be strong voices around that table who will speak out on this issue.

## NEWFOUNDLAND

### CHANGES TO SCHOOL SYSTEM—AMENDMENT TO CONSTITUTION—LACK OF RESPONSE TO CORRESPONDENCE FROM RELIGIOUS LEADERS—GOVERNMENT POSITION

**Hon. Jean-Maurice Simard:** My question deals with the motion to amend Term 17 of the Terms of Union of Newfoundland with Canada. If my information is accurate, we will be discussing several motions on this subject later this afternoon. However, honourable senators, I believe that my question has some urgency. It should not be so urgent, but my intervention will explain the urgency.

I have in my hand a memo that came from the Catholic Education Council and Pentecostal Education Council in Newfoundland and Labrador. That memorandum was circulated to all honourable senators sometime last week. In this memo, representatives of those councils state that they deplore the fact that the process for studying the amendment to Term 17 was too swift to give the resolution the level of deliberation that a change to the Constitution of Canada deserves, and to ensure that the Roman Catholic and Pentecostal positions with respect to this matter are adequately heard.

I will give honourable senators the essence of the memo: On October 4, 1995, Archbishop James H. MacDonald, Archbishop of St. John's, wrote to the Prime Minister requesting a meeting. As of yet, the Prime Minister has not replied to the Archbishop.

On January 4, 1996, the same Archbishop repeated by letter his request to meet with the Prime Minister. The Prime Minister still did not reply.

On January 30, 1996, by separate letters, Archbishop MacDonald and Reverend R.D. King, General Superintendent of Pentecostal Assemblies of Newfoundland, again asked to meet with the Prime Minister. Once again, the Prime Minister did not reply to any of those letters.

On January 30, 1996, Archbishop MacDonald and Reverend King wrote separate letters to Mr. Rock, again eliciting no reply.

(1500)

The same thing happened on May 17. Again, the Prime Minister did not reply.

My question is this: Is the PMO or the office of the Minister of Justice so disorganized, so lacking in staff and so arrogant that they cannot see their way clear to answering letters, or do they not care about what these very eminent religious leaders have to say?

A few years ago, Mr. Trudeau said that he did not care what the bishops said, that politics was in the hands of the Liberals and should be kept in Liberal hands. Are we back to the days when archbishops write to the minister and the PMO and never get answers? Perhaps the Leader of the Government in the Senate has another explanation. I hope she will undertake to obtain answers to the letters from these two gentlemen.

**Hon. Joyce Fairbairn (Leader of the Government):** Honourable senators, I obviously cannot give the honourable senator an answer today on the question of correspondence involving other levels of the government. I can endeavour to look into that, but I think the most important issue is that this amendment to the Constitution is now before the Senate. Honourable senators are working very hard to ensure that those on both sides of the issue in the province of Newfoundland will be heard. That is the issue before us now, and I hope we can proceed with it.

**Senator Simard:** Honourable senators, the Leader of the Government in the Senate has not answered my question. She did not confirm the disorganization in the Prime Minister's Office and Mr. Rock's office. She did not say whether she cared about the opinions of these religious leaders. She did not say whether she would attempt to get from the Prime Minister and from Mr. Rock answers to the letters penned by these religious leaders. Leaving rhetoric aside, I hope she will answer my questions directly.

**Senator Fairbairn:** Honourable senators, I certainly will not confirm disorganization in the Prime Minister's Office — not at all.

I also remind the honourable senator that I stated in the chamber last week a desire on the part of this side to proceed with committee hearings. Of course we care about the views of the people of Newfoundland, and that is precisely why we have brought forward a motion that the committee hold hearings, so that we can hear the views of the people of Newfoundland on this issue.

### EMPLOYMENT EQUITY ACT

AMENDMENTS PROMISED BY MINISTER—  
GOVERNMENT POSITION

**Hon. Janis Johnson:** Honourable senators, the Minister of Human Resources Development made a commitment to the Standing Senate Committee on Social Affairs, Science and Technology that he would pursue amendments to the Employment Equity Act to extend the coverage of the act to include parliamentary employees. In fact, the minister made several commitments to the Senate committee, all of which can be found in the committee's twelfth report dated December 12, 1995.

Could the Leader of the Government in the Senate inquire as to what action, if any, has been taken to fulfil these commitments which were to be proposed to cabinet on March 1, 1996.

**Hon. Joyce Fairbairn (Leader of the Government):** Honourable senators, I will speak with my colleague and try to obtain an answer to Senator Johnson's question.

### JUSTICE

INVESTIGATION INTO SALE OF AIRBUS AIRCRAFT  
TO AIR CANADA—ALLEGED APPROACH TO JOURNALIST  
BY JUSTICE MINISTER—GOVERNMENT POSITION

**Hon. Marjory LeBreton:** On December 12 last in this chamber, honourable senators, I placed on the record a matter of some serious concern regarding alleged actions of the Minister of Justice. At that time the allegation was that the Minister of Justice had merely passed on information which he had received from a member of the news media to some colleagues and to the RCMP.

Today we find out, honourable senators, that the Minister of Justice did not merely pass on information from a journalist but, in fact, sought the journalist's assistance. I quote today's *Ottawa Sun*.

*The Globe and Mail* managing editor Colin MacKenzie said yesterday that Rock approached parliamentary journalist Susan Delacourt for help in his behind-the-screen probe of Mulroney "one or two days" after he first heard about the allegations.

"In late 1993, she was asked by Rock if she heard about these allegations about Mulroney about offshore accounts — mortgages the whole nine yards," MacKenzie told the *Sun*. "And what she said was 'only what the rumors I've heard about Stevie's (Cameron) book'."

My question is this: Will the Minister of Justice own up, do the honourable thing, and resign?

### THE SENATE

APPOINTMENT OF REPLACEMENT  
FOR RETIRING NOVA SCOTIA SENATOR

**Hon. J. Michael Forrestall:** Honourable senators, I should like to withdraw my support for the appointment to this chamber of Dr. Savage to replace the distinguished Cape Bretoner, Senator MacEachen. I do so because the suggestion I have heard around Halifax seems to make more sense. The suggestion, honourable senators, is that a Cape Bretoner should be appointed to fill that seat. I agree.

What I really want to ask the minister is this: Is there any truth in the rumour that Dr. Savage will be sent down to Boston to replace Mr. Cameron?

**Hon. Joyce Fairbairn (Leader of the Government):** Honourable senators, I know that Senator Forrestall appreciates the intense consideration that goes into these decisions and, undoubtedly, his suggestions are appreciated.

I cannot comment on the honourable senator's second question. I am sure that the Prime Minister will be interested in the honourable senator's withdrawal of support for the Premier of Nova Scotia in favour of some worthy Cape Bretoner. I will certainly pass his suggestion along.

The problem with my honourable friend's suggestion is that I passionately do not want to lose the incumbent Cape Bretoner; he should be staying in this place.

**Senator Simard:** Why not change the Constitution?

**Senator Forrestall:** Frankly, if I had my choice between Senator MacEachen and Dr. Savage, I would opt for Senator MacEachen any day.

Could the Leader of the Government in the Senate give us her assurance that she will pass that suggestion along to Penny Collette in the PMO?

**Senator Fairbairn:** I would be delighted to do that. One of the sad things about all this was the revelation by my honourable friend the other night that he voted for the provision which now binds him. I regret that.

**Senator Doody:** I warned him.

[Translation]

## JUSTICE

### INVESTIGATION INTO SALE OF AIRBUS AIRCRAFT TO AIR CANADA—ALLEGED APPROACH TO JOURNALIST BY MINISTER—REQUEST FOR RESPONSE

**Hon. Pierre Claude Nolin:** Honourable senators, my question is for the Leader of the Government in the Senate. My colleague Senator LeBreton has just asked a question which I believe merits a response. That question raises the importance of ministerial responsibility in our democratic system here in Canada. I think the least we can expect of you, as the representative of the government in the Senate is a straight and clear answer to the honourable senator's question.

[English]

**Hon. Joyce Fairbairn (Leader of the Government):** Honourable senators, obviously I cannot respond to our colleagues' questions on the position or the resignation of the Minister of Justice. Personally, I hope that that resignation will not be forthcoming.

In the case of Senator LeBreton's newspaper quotations, they reflected the perspective of one individual conveying a story. The Minister of Justice has said, as the senator noted, that there were conversations with journalists some time ago which he transmitted on to other authorities. At the time, he said those conversations did not involve the Airbus situation and that they virtually came to nothing.

**Hon. Marjory LeBreton:** Honourable senators, at that time, the Minister of Justice said that the information which he passed on to the police did not relate to the case that was under

investigation at the time, that is, the case with regard to the Airbus investigation. Yet clearly, today, in the comments made on behalf of Susan Delacourt, he is asking about offshore bank accounts. How could it be much clearer than that?

Honourable senators, I have a supplementary question. If the Minister of Justice will not do the honourable thing, then will the Prime Minister insist that the Minister of Justice resign over this matter?

**Senator Fairbairn:** Honourable senators, I do my honourable friend the courtesy of telling her that I cannot answer the question.

## HUMAN RESOURCES DEVELOPMENT

### EFFICACY OF INFRASTRUCTURE PROGRAM IN CREATING EMPLOYMENT—GOVERNMENT POSITION

**Hon. Mabel M. DeWare:** Honourable senators, I have a question for the Leader of the Government in the Senate concerning the infrastructure program. On Friday last, Statistics Canada said there were 37,000 fewer construction jobs in May 1996 than there were in May 1995. Yet the government is telling Canadians that the infrastructure program has helped create over 100,000 jobs. Can the minister explain this discrepancy and, in particular, the overall drop in Canadian construction jobs?

**Hon. Joyce Fairbairn (Leader of the Government):** Honourable senators, I would like to get a broader answer to Senator DeWare than I can provide today. The fact of the matter is that the infrastructure program has created and is continuing to create jobs. There have been other downturns in the construction business in recent months which have hindered employment growth. There are reasons for those downturns.

The infrastructure program itself has been of considerable assistance not just in creating work for Canadians but in producing, in communities all across this country, some badly needed and very innovative projects which will benefit people in those areas of Canada.

**Senator DeWare:** Honourable senators, over the last three weeks, I have listened to many witnesses and read hundreds of briefs dealing with business, labour and individuals regarding the UI bill, and every one of them expressed concerns about employment in this country. I hope that Part II of this bill and the program being planned with the provinces to create jobs and job training will be as effective as the government says the infrastructure program has been.

**Senator Fairbairn:** Honourable senators, I join with my honourable friend in that hope as well. There is no question that it really does not matter on which side of this chamber or any chamber one sits, the preoccupation and the priority is to get Canadians working. Many issues exist in the country and in the economy which make that goal very difficult to reach. However, it remains an underlying and fundamental priority of this government. I join with my honourable friend in hoping that ongoing plans and programs will accelerate that pace.

## INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

### EIGHTH REPORT OF COMMITTEE PRESENTED

Leave having been given to revert to Reports of Committees:

**Hon. Colin Kenny**, Chairman of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Thursday, June 13, 1996

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

### EIGHTH REPORT

Your Committee has examined and approved the following budgets presented to it by the Standing Senate Committee on Fisheries and the Standing Senate Committee on Foreign Affairs for the proposed expenditures of the said Committees for the fiscal year ending March 31, 1997:

#### Standing Senate Committee on Fisheries

Professional and Special Services	\$12,000
Witnesses Expenses	6,000
All Other Expenditures	<u>500</u>
<b>TOTAL</b>	<b>\$18,500</b>

#### Standing Senate Committee on Foreign Affairs

Professional and Other Services	\$7,900
Transport and Communications	9,964
Witness Expenses	8,000
Courier Services	100
All Other Expenditures	<u>1,200</u>
<b>TOTAL</b>	<b>\$27,164</b>

Respectfully submitted,

COLIN KENNY  
*Chairman*

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

On motion of Senator Kenny, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

### NINTH REPORT OF COMMITTEE PRESENTED AND PRINTED AS APPENDIX

**Hon. Colin Kenny:** Honourable senators, I have the honour to present the ninth report of the Standing Committee on Internal Economy, Budgets and Administration dealing with a proposal to extend benefits and entitlements to individuals who are now on contract with senators.

I ask that the report be printed as an appendix to the *Journals of the Senate* of this day.

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

**Hon. Senators:** Agreed.

(*For text of report, see today's Journals of the Senate, Appendix "D", p. 398.*)

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

On motion of Senator Kenny, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

## ORDERS OF THE DAY

### NEWFOUNDLAND

#### CHANGES TO SCHOOL SYSTEM—AMENDMENT TO CONSTITUTION—MOTION IN AMENDMENT ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Fairbairn, seconded by the Honourable Senator Stanbury:

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

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

### SCHEDULE

#### AMENDMENT TO THE CONSTITUTION OF CANADA

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

"17. In lieu of section ninety-three of the Constitution Act 1867, the following shall apply in respect of the Province of Newfoundland:

In and for the Province of Newfoundland, the Legislature shall have exclusive authority to make laws in relation to education but

(a) except as provided in paragraphs (b) and (c), schools established, maintained and operated with public funds shall be denominational schools, and any class of persons having rights under this Term as it read on January 1, 1995 shall continue to have the right to provide for religious education, activities and observances for the children of that class in those schools, and the group of classes that formed one integrated school system by agreement in 1969 may exercise the same rights under this Term as a single class of persons;

(b) subject to provincial legislation that is uniformly applicable to all schools specifying conditions for the establishment or continued operation of schools,

(i) any class of persons referred to in paragraph (a) shall have the right to have a publicly funded denominational school established, maintained and operated especially for that class, and

(ii) the Legislature may approve the establishment, maintenance and operation of a publicly funded school, whether denominational or non-denominational;

(c) where a school is established, maintained and operated pursuant to subparagraph (b)(i), the class of persons referred to in that subparagraph shall continue to have the right to provide for religious education, activities and observances and to direct the teaching of aspects of curriculum affecting religious beliefs, student admission policy and the assignment and dismissal of teachers in that school;

(d) all schools referred to in paragraphs (a) and (b) shall receive their share of public funds in accordance with scales determined on a non-discriminatory basis from time to time by the Legislature; and

(e) if the classes of persons having rights under this Term so desire, they shall have the right to elect in total not less than two thirds of the members of a school board, and any class so desiring shall have the right to elect the portion of that total that is proportionate to the population of that class in the area under the board's jurisdiction."

#### *Citation*

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

And on the motion in amendment of the Honourable Senator Doody, seconded by the Honourable Senator Kinsella, that the motion be not now adopted but that it be referred to the Standing Senate Committee on Legal and Constitutional Affairs;

And on the motion in amendment of the Honourable Senator Murray, P.C., seconded by the Honourable Senator

Robertson, that the motion be further amended by adding thereto the following:

That the Committee be authorized to permit coverage by the electronic media of its public proceedings with the least possible disruption of its hearings;

That the Committee be instructed to travel to Newfoundland and Labrador to hear representation on the proposed Constitutional amendment;

That the Committee present its report no sooner than September 30, 1996; and

That the Committee be authorized to deposit its report with the Clerk of the Senate if the Senate is not sitting and that the said report shall thereupon be deemed to have been tabled in the Chamber.

**Hon. Lowell Murray:** Your Honour, I understand that discussions have been held between the leadership of the two parties represented here, as a result of which it would be possible, with the agreement of all honourable senators, to avoid a division on that matter at this time.

Honourable senators, permit me to state what I understand to be the agreement. Then I will ask leave to change in one particular the subamendment which I moved on Tuesday, June 11.

There is an amendment before the Senate by Senator Doody that the motion be referred to the Standing Senate Committee on Legal and Constitutional Affairs. As we know, the government is agreeable to that amendment.

My subamendment is in four parts. I understand that the government is agreeable to paragraph one, permitting that the committee be authorized to permit coverage by the electronic media. I further understand that the government will support paragraph two, that the committee be instructed to travel to Newfoundland to hear representations, et cetera.

Paragraphs three and four deal with the timing of the report and the manner of its presentation. I need leave to make a change to the date in paragraph three of my subamendment.

It was no secret that, once the resolution was referred to committee, the government was seeking to have it report and to have the matter finalized in the Senate by June 21.

(1520)

We felt that was entirely too hasty, especially given the fact that the House of Commons had passed the resolution without any hearings at all.

Therefore, I proposed in my subamendment that the report be presented no sooner than September 30. In the discussions to which I refer, an honourable compromise seems to have been reached, and the new date is July 17. I believe this would afford

the chairman of the Standing Senate Committee on Legal and Constitutional Affairs sufficient time to organize hearings and to travel to Newfoundland to hear witnesses and then to present a report. Of course, if she tells me that is not enough time, I can change it again.

If leave is granted, honourable senators, I would change this subamendment to indicate the July 17 date. I believe that the remainder of the subamendment, namely, that the committee be authorized "to deposit its report with the Clerk of the Senate if the Senate is not sitting, and that the said report shall thereupon be deemed to have been tabled in the Chamber" is satisfactory to both sides.

Honourable senators, with leave, I propose that the terms of my subamendment be changed as follows: That the words after "report" be removed and the following substituted therefor: "no later than July 17, and."

My original subamendment said "no sooner than." The government insists on the formulation "no later than July 17." I have agreed to that on the understanding that if the minority on the committee feels that it needs until July 17 to complete its work, the majority on the committee will not insist on an earlier date than.

**The Hon. the Speaker:** Honourable senators, is leave granted to the Honourable Senator Murray to change his subamendment from "That the committee present its report no sooner than September 30, 1996" to "That the committee present its report no later than July 17, 1996."

**Hon. Senators:** Agreed.

**Hon. B. Alasdair Graham (Deputy Leader of the Government):** Honourable senators, the interpretation as enunciated by Senator Murray is accurate and acceptable, as I understand it, to all sides.

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, I assume it would be the intention of the government to call the Senate back to adopt the report or to debate it. Assuming that the report is tabled on July 17, when should we expect to be called back, if we are to be called back at all?

**Senator Graham:** I could not give an accurate date. It would depend upon the timing and the work of the committee

**Hon. C. William Doody:** Central to the first wording of Senator Murray's motion was the "not earlier than" clause, which was intended to prevent the majority from calling the committee back before it had completed its work. The clause now reads "not later than July 17." We have the assurance of the government side that they will not put a muffler on this and cut it off earlier than July 17, assuming that the committee's work is not done by that time, and that the minority will have the opportunity to ensure that the work of the committee will continue through to,

and perhaps including, July 17, if there are witnesses who still want to be heard.

**Senator Graham:** Honourable senators, there is agreement that the committee will be given ample time to make a complete examination, to hear witnesses as they so deem, and not to use the hammer at any time before it is required with regard to reporting on July 17.

**Hon. Gerald R. Ottenheimer:** Honourable senators, I wish to speak briefly on the subamendment. I agree with it and support it. Both sides have agreed that the Standing Senate Committee on Legal and Constitutional Affairs have hearings on the matter, that there be electronic media coverage, that the committee travel to Newfoundland, and that the report be submitted not later than July 17.

After the committee has completed its hearings and the report has been submitted, in my opinion, the Senate should then deal with the report immediately. That would mean that the Senate would be called back soon after July 17.

It is important that the Senate have its decision on this matter recorded and that senators put their views on record. The people of Canada in general, and the people of Newfoundland in particular, have a right to know not only the decision of the Senate but also the views of individual senators on this particular matter.

If the Senate were to agree to the motion, then it would have immediate effect. If the Senate were to reject it, then, obviously, we are within the time frame of the six-month suspensive veto, for which the clock began ticking on June 3.

[*Translation*]

**Hon. Jean-Maurice Simard:** Honourable senators, I would echo the words of Senator Ottenheimer. I agree entirely with his wish that Canadians and Newfoundlanders understand the rules of the game. The bill has to be brought out in the open, rather than left to sit for six months after its introduction in Parliament.

If someone could tell me the contents of the agreement between the two parties, I would speak to the amendment. If I may adjourn the debate to Tuesday, I will speak then. If the agreement provides that everything is to be concluded and the bill referred to committee this afternoon, I have some reservations I would like to express. I should like some explanations on the timetable.

**The Hon. the Speaker:** Honourable senators, I cannot answer your question. Are you making a motion to adjourn the debate?

**Senator Simard:** I could be kind, as I very often am. If the explanation were that it suits everyone, I would speak on Tuesday. If I am asked to stop speaking today, because an agreement cannot be undone, I would like to give it some thought before voting.

[English]

(1530)

Your Honour, if he gave me that information, I would hope that someone among our leaders, either Senator Fairbairn or another colleague, might provide us with the information I have been requesting.

**The Hon. the Speaker:** Honourable senators, Honourable Senator Simard is speaking on the amendment. If he wishes to adjourn the debate, he is free to do so. However, he is asking a question which I cannot answer. If no one can answer the question, I must entertain a motion to adjourn.

Can someone answer the question?

**Hon. Sharon Carstairs:** Honourable senators, I will attempt to answer the question. I am delighted with the amendment which is before us today, but I must explain to Senator Simard that there are some logistical problems. It is now June 13. We will have to make arrangements to travel to Newfoundland. We have to take staff with us. I cannot begin to make those arrangements until the matter is referred to my committee.

I am under that constraint as well as the time constraints of the St-Jean-Baptiste holiday and the July 1 holiday. The sooner the matter is referred to the committee, the sooner we can make our plans in order to have a thorough public hearing process in Newfoundland as well as in Ottawa to hear those who wish to appear from other parts of the country. I hope that we will get that reference today in order that we can begin to make those plans tomorrow morning.

[Translation]

**Senator Simard:** As I said earlier, I want to be accommodating. I wanted to speak to do my best to defend the francophones of Newfoundland. I met with some of these communities' representatives, as did some of my colleagues. This week, however, I have been busy with other matters.

I suggest that Senator Carstairs call these witnesses Tuesday night or Wednesday morning next week and make arrangements for the period from July 3 to 15. My request is not unreasonable. I can understand that another senator may want to speak to this motion. I will certainly do so next Tuesday, if this does not interfere too much with your plans and if you go ahead and schedule meetings for Tuesday night or Wednesday next week and until July 17. I hope I will not be classified as unaccommodating. If no one has any explanations for me, I shall be compelled to adjourn this debate until next Tuesday.

[English]

**Hon. Eric Arthur Berntson (Deputy Leader of the Opposition):** Honourable senators, I am probably a central figure in this discussion in that I was the one negotiating with my colleague, the house leader from the other side. I thought I had

consulted with most people in my caucus who were interested in this issue.

While the government initially had some reluctance to sending this matter to committee, then to having the committee televised and then to the committee travelling, it has agreed to all of those things. It has agreed to referring the resolution to committee, to electronic media coverage in the committee and to the committee travelling.

Discussions then moved on to reporting time. We were holding out for September but the government side wanted something earlier than September. After consulting with several of my colleagues, it was decided that a reporting date of July 17 was not unreasonable.

I apologize for not consulting with all of my colleagues, but I did make that commitment to my friend opposite. That is not to say that any honourable senator cannot object or take another course of action, but I suggest that there will be ample opportunity to raise questions when the committee is sitting.

[Translation]

**Senator Simard:** I have nothing against being a nice guy. Still, I would really like the honourable senators on this side and those who are in the majority in this chamber, who are sitting to the right of His Honour, to undertake today to hear what the francophone minority in Newfoundland and Labrador, and the Fédération des Acadiens francophones de Terre-Neuve in particular, has to say.

If I had that guarantee, I would not object to closing the debate today, provided I am given the assurance that representatives of this francophone minority will be heard. They are the ones who are struggling with problems with their educational system and who made representations to the Wells administration, certainly to Premier Tobin, and perhaps to previous administrations as well. The Government of Newfoundland and Labrador continues to ignore them and ignore its responsibility under section 23 concerning the right to education. They are asking for a provincial structure to be put in place.

I met Premier Tobin a couple of weeks ago. I made every attempt to get him to give me this assurance. I heard him on television. He is sympathetic to the cause, but I have not heard him make any firm commitment.

In January 1996, the Newfoundland government introduced its program to reform the school system in the province. Except for a few words about a new reform that could accommodate the needs of francophones, there was very little on this in this reform proposal.

I hope these people will be heard. They went to court, and the judge ruled in favour of the francophones. He acknowledged in his ruling that both the spirit and the letter of section 23 had been ignored and that the Government of Newfoundland and Labrador had failed in its responsibilities.



I should like to hear Senator Carstairs on this and to have the assurance that these francophones will be heard and given more time to prepare.

[English]

**The Hon. the Speaker:** Honourable senators, the procedure in which we are involved is totally out of order. I realize that —

**Senator Simard:** I am speaking on the motion.

**The Hon. the Speaker:** That is fine, but —

**Senator Simard:** I am asking a question.

**The Hon. the Speaker:** Honourable senators, Senator Carstairs is free to speak, but if she speaks, she will exhaust her right to speak again.

**Senator Carstairs:** Honourable senators, I will exhaust that right. I just want to assure Senator Simard that there has indeed been a request from la Fédération des parents francophones de Terre-Neuve et du Labrador, and they will be heard. I assure him they will be heard; in Newfoundland or here, wherever they wish to be heard.

[Translation]

**Senator Simard:** Honourable senators, I could have had more to say if I had had time to prepare, but I thought I would speak next Tuesday. The other senator I talked to an hour ago is not here, and I cannot speak for him. I would be tempted to accommodate him by moving that the debate be adjourned. He may have another opportunity to indicate his intentions and to speak during the final debate on this motion. As I will have a chance to do so at that time, I will talk to you about the problems of francophones and about my concerns regarding the motion before us.

I am still not convinced that the rights of the francophone and religious minorities will not be undermined by this motion and this constitutional amendment. I will have an opportunity to express my views during the debate on this motion.

[English]

**The Hon. the Speaker:** Honourable senators, Honourable Senator Ottenheimer has already spoken on this subamendment, which was amended with leave, but requests the right to speak again. Is leave granted?

**Hon. Senators:** Agreed.

[Translation]

**Senator Ottenheimer:** Honourable senators, Senator Simard has introduced a new theme. I do not want to try your patience. First of all I would like to thank Senator Simard for his interest in French-speaking Newfoundlanders. I also want to thank Senator Carstairs for her interest.

I would not like to let this opportunity slip by for an anglophone Newfoundlander to voice support for the rights of the francophone minorities in Newfoundland. Two weeks ago, I spent two or three hours at a meeting in Newfoundland of the Association des parents des enfants francophones. There are about 350 students in five French-language schools in Newfoundland, one in St. John's, two in Labrador, one on the West Coast and one in central Newfoundland, totalling 350 students in the five schools.

I am not talking of immersion schools, but schools for francophone Canadians. My six-year-old granddaughter goes to one of these schools. Her first language is French because her father is francophone. They spent eight or nine years in Quebec and now they live in Newfoundland. French is the language usually spoken in the home.

I am telling you this to demonstrate that language is not the same as ethnicity. There are people whose origins are English, Scottish, Ukrainian and so on, who have adopted French as the language of the home, and vice versa of course.

The francophone minority in Newfoundland demands the right to have its own school board, call it authority or what you will. That is just semantics. Francophones in Newfoundland do not want to merely be an extension to the anglophone school board, or a committee on the anglophone school board. They want to have their own system to govern the French language schools of Newfoundland.

I am totally in agreement with that desire which is, in my eyes, totally justified. I have already said that minority rights are part of our societies in Canada. The rights of bilingual minorities are also very important. I understand that the bilingual minority in Newfoundland will have the chance to present its position before the committee. I am sure the committee will listen to these people with understanding and goodwill, while acknowledging the rights of linguistic minorities in our country.

Thank you, honourable senators, for having given me this opportunity to speak on this very important theme.

**Some Hon. Senators:** Question! Question!

**Hon. Marcel Prud'homme:** Honourable senators, the more I hear the word "question," the more likely I am to exercise my right to speak.

I will go over the events of the day so that people will understand my feelings a little better. I was ready to cooperate.

When they called me to consult about an agreement that had already been reached between the parties, I was at your reception. I say that in all honesty for the benefit of those who might have tried to reach me. I could have been reached at the reception, where I met some of the staff, but things became rushed.

I must say, honourable senators, that once again, I was trying to defend the existence of the Senate. I was selected to preside over the elections of the Canada-Romania Association.

If I had not been there, there would have been no senator. There are people in the other place who do not want a Senate. So, I was there.

I have the honour to announce to you that at least two senators were elected to this very important organization. I will tell you their names right now. There was our most honourable friend Senator Jean-Louis Roux, and our very knowledgeable colleague Senator Roberge. The Senate is therefore quite well represented.

Even if they had been able to reach me, it was too late. Senator Berntson, a very good friend of mine, told me that an agreement had been reached and that they had been unable to get in touch with all the senators. Frankly, honourable senators, I am not the one abusing the rules. I do not want to have the club — I call it a club — against me for nothing, so I cooperate.

However, to ask for my consent for agreements that have already been reached, frankly, does not leave much time for reflection. In that connection, I am absolutely convinced that they are trying to move too quickly. This is a fundamental issue for the Senate. We should have asked for at least two more weeks, to allow ordinary people to give their opinion. By ordinary people, honourable senators, I mean those who do not have lobbyists, big organizations and top-name lawyers to defend them, who do not have millions of dollars at their disposal. When I say that ordinary people have a great deal of difficulty, I mean that they know what they want to say, but they have difficulty saying it. It takes a lot of time to produce a summary of all these opinions, at least a few days or weeks.

I think, honourable senators, that it is the role of the Senate to protect these people and their rights.

*[English]*

Do we know what the word “rights” means? I just heard about a speech made in the National Assembly in Quebec City by Mr. Clifford Lincoln. Is there a more honourable gentleman? He stood up in front of the National Assembly and said, “Rights are rights are rights.” He was applauded by everyone, including those who, according to him, trampled on the rights of some people in Quebec. He is now a member of the other chamber. He voted against this proposition because he is concerned about it.

I know the rules. However, as I have said, I will not abuse them. I will not do that because I want to be happy here forever and ever. However, I am ready to sit alone for a while, and bleed alone, as John Diefenbaker would say.

Honourable senators know the rules. I could have — that is why there was so much panic — said “no,” and that would have been it. There would not have been consent to accept Senator Murray’s amendment today. It would have to be moved next week. I am not the kind of person to play games. I am not sorry to have been late as a result of doing a duty for the Senate, making sure that senators are represented in every activity of Parliament.

I am still concerned. Yes, it will go to committee. I also have a certain confidence because I trust the chairperson of that committee. I trust her, and I say it publicly in English and in French.

*[Translation]*

Yes, I trust Senator Carstairs.

Even if there are no journalists present, it is a good thing to accumulate minutes and then, when you have enough, you say, here, I defended Senator Carstairs.

Do you think, honourable senators, that I am afraid to go to Quebec? There is not one place in Quebec I would be afraid to show my face, even defending Senator Carstairs, whom they claimed to be so unpopular in Quebec. She taught me things on the issue of the Indians, for example.

*[English]*

She is the one who told me that we have no lessons to learn from anyone in Canada in terms of our treatment of the Indians. We are way ahead of many of the other provinces.

I need no lessons when it comes to education in Quebec either. I am fed up. Come visit me in Montreal, honourable senators, where there is an Armenian school. Does such a school exist in other provinces? We produce the best trilingual people. Do other provinces have Greek schools, paid for by the state? Montreal has, and we produce the best trilingual people. I am fed up of always hearing “Quebec, Quebec, Quebec.” Are there as many Jewish schools in the other provinces as we have in Montreal? I am glad to stand by their rights to have such schools. They are schools of excellence. That is the Montreal about which some of us across this great land of ours do not know.

This is all related to the debate about the rights of minorities. I will never sit down if a minority of any kind is perceived to be under attack. No one will touch someone of the Jewish faith in my province — they will have to touch me first. No one will touch someone who is black in my province or in my country, before touching me. Even if we think we are not touching them — if they perceive that they are being touched, then we will take the time to tell them they are not.

This debate is related to what I have just been saying. What is this urgency? Having sat so long in the other chamber, perhaps I know too much. I know all about this hanky-panky stuff of, “Quick, quick, it’s Friday.” It is like the definition of death in the Bible.

*[Translation]*

I will come like a thief in the night. I will not announce myself. I will take you by surprise.

I do not want to be surprised. It is the role of the Senate to not allow itself to be surprised. Honourable senators, it is our duty to protect minorities.

[English]

If some senators from Newfoundland perceive that they are being affected, then is it not good sense to consult them, to protect them, to convince them that they are secure? To do so, it takes time. I am not saying I am against it. I do not know, honourable senators, I swear, how I will vote at the end of the day. I will listen to arguments. I am one of those who listens to all speakers, and I say, "That makes sense." That does not mean that I am like a yo-yo changing my mind as soon as someone speaks. I listen to arguments. Otherwise, why are we here? We are supposed to be the chamber of sober second thought.

[Translation]

Honourable senators, as I was saying, I am pleased to have been late because I was defending the Senate in another cause. This precluded me from thinking about Senator Murray's motion in amendment. You indirectly obtained my agreement to not ask for the adjournment of the debate. There again, I went along.

[English]

I do not want to play the same game as those who would propose the adjournment of a debate because they do not feel well. I do not feel well today. However, it is when I do not feel well that I should stand up. When you do not feel well, it is too easy to say, "I do not feel well. I am going to my office."

I feel there is something here for the Senate to do. If anyone were to touch my Indians in Quebec, they would have to touch me first. My friends, they were here before my ancestors. Therefore, I have to stand up for their rights. I have always said that to Senators Watt, Adams and now Senator Twinn. I have also said it to Mr. Anawak and Madam Blondin. Of course, I have said it to Senator Marchand, my good friend.

Honourable senators, I beg of the chairman of the committee, if she sees that she needs one more week, take it. We are now stuck with July 17. Why July? What is so magic about July? It is because, "Quick. Go. Go. We will surprise them." As is written above the door of the Speaker's chamber, *Nihil ordinatum est quod praecipitur et properat*, which means that nothing is well ordered that is hasty and precipitate.

I owe no favour to anyone in Newfoundland or in the other place. I only owe favours to the Canadian people and that is my job as a senator.

(1600)

I owe no favour and no allegiance to anyone but the Canadian people. It is our duty to be convinced in our conscience that we are doing the right thing for Canada. If Canada is to be a harmonious country, all of its parts must feel happy to be known as Canadian. That is why I stood up for the fifth veto. Do honourable senators remember? There was no fifth veto for the province of British Columbia.

[ Senator Prud'homme ]

[Translation]

It was a French Canadian, it was Marcel Prud'homme who got up and said:

[English]

It does not make sense. British Columbia should have a veto. It is a growing region of this country. I am ready to go and explain what it means to be fair.

My father did not speak English, but he knew one word — it was "fair."

[Translation]

When my father used to say it was not fair, we knew something was wrong. This is why I have many friends in Newfoundland. I did not do it to run for office in Vancouver, even though I would like to be a member of Parliament when I retire at age 75. After all, I will have to do something. You can laugh if you want.

[English]

Sadly, we will miss Senator MacEachen. However, two days ago he said, "Ladies and gentlemen, do not worry about me. I see there is a new map in Nova Scotia, and I may run again." The same could happen to us.

Honourable senators, we are here to go against the wind; to go against pressure; to stand up for what is right.

As I look at the Government Leader in the Senate, I trust her. However, she is stuck with a deadline. She may need more time to do a good job. Our responsibilities are transferred to her in many ways. I say publicly that she has my trust. I know that she will ensure that people are well treated. I know that she has the strength to resist the pressure that she will be under to go, go, go. We know the players in this game. I sat with some of them.

Honourable senators, I am ready to say yes. I will not speak any further and I will not delay. I trust that we will do a good job for Canadians. We will travel across this land, to colleges and universities, farming areas, urban areas and native lands, and the Senate will not be portrayed kindly by the press. However, who cares what the press thinks? Having seen their obsession at the press conference with Mr. Juppé, I can tell you I do not have much respect for them. They wanted Mr. Juppé to slip. He did not slip, but as he returns to Paris, I wonder what he is thinking?

Honourable senators, I only hope that the committee has the time to debate this issue fully.

**The Hon. the Speaker:** Honourable senators, does any other honourable senator wish to speak on the subamendment?

The question before the house is the original motion by the Honourable Senator Fairbairn, P.C., seconded by the Honourable Senator Stanbury. Do you wish me to read that motion?

**An Hon. Senator:** Dispense!

**The Hon. the Speaker:** The motion in amendment, moved by the Honourable Senator Doody, seconded by the Honourable Senator Kinsella, is:

That the motion be not now adopted, but that it be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

The further motion in amendment, which was further amended with leave today, was moved by the Honourable Senator Murray, seconded by the Honourable Senator Robertson:

That the committee be authorized to permit coverage by the electronic media of its public proceedings with the least possible disruption of its hearings;

That the committee be instructed to travel to Newfoundland and Labrador to hear representation on the proposed constitutional amendment;

That the committee present its report no later than July 17, 1996; and

That the committee be authorized to deposit its report with the Clerk of the Senate if the Senate is not sitting, and that the said report shall thereupon be deemed to have been tabled in the chamber.

Is it your pleasure, honourable senators, to adopt the motion in amendment by Senator Murray?

**Hon. Senators:** Agreed.

Motion in amendment by Senator Murray, as further amended, agreed to.

**The Hon. the Speaker:** Honourable senators, we are now back on the motion in amendment moved by the Honourable Senator Doody and seconded by the Honourable Senator Kinsella.

The Honourable Senator Cochrane wishes to speak.

**Hon. Ethel Cochrane:** Honourable senators, I wish to make a few remarks about this resolution to amend Term 17 of the Newfoundland and Labrador terms of union concerning the protection of denominational schools.

I want to begin by saying that there is not a citizen of Newfoundland alive today who was not educated in a denominational school. In my own case, I both studied and taught in that system. The same is true today of one of my daughters. The result for many of us is a certain inevitable attraction to and affection for the traditional schools and educational councils that we grew up with and have always known.

For at least three decades now there has been growing pressure for change to this educational system. In part, that pressure has

come because of secularization, as has been the case in the rest of Canada and throughout the developed world. In part, that pressure has come from considerations of economy and efficiency, which are as important in the education system as they are elsewhere in the province's budget.

The result is the resolution to amend Term 17, which we have before us. It is backed by the results of the provincial referendum held last year and two subsequent votes in the Newfoundland and Labrador House of Assemblies, both of which you have heard much about in recent days. There has been a significant debate both here and in the other chamber about this resolution, with many serious arguments raised for and against its adoption. In reviewing that debate, I must tell you that I was struck by two things.

First, there is widespread agreement on both sides of this issue that the education system in Newfoundland and Labrador is in need of reform — I share that view. The administration of education in my province is cumbersome and inefficient. Too much of the education budget is devoted to administration by too many boards, to unnecessary transportation costs, and to wasteful duplication of maintenance and construction expenditures. Too little of that budget goes directly to the children in the classroom. I support the reforms proposed by the provincial government.

Second, however, there remain serious, contentious issues regarding the implications of this resolution for the rights of minorities both inside the province and elsewhere in Canada. Honourable senators, I believe that this resolution is a very significant matter and that Parliament has an obligation to examine it with care. Yes, it was dealt with in haste in the other place with no opportunity for public hearings. I am pleased that the Leader of the Government in the Senate is receptive to the suggestion that this resolution should be given proper consideration in committee. I have some suggestions for the members of that committee.

First, there is a motion that the committee should be authorized to travel to Newfoundland and Labrador to hold public hearings. If the committee is travelling for hearings, it cannot begin and end in St. John's. It should hold hearings elsewhere in the province as well.

(1610)

St. John's does not represent all of Newfoundland. The problems such as busing and the large number of very small schools are not the problems of St. John's. Those problems are to be found elsewhere in my province.

In addition, the provincial government has undertaken, after the passage of this resolution, to continue to allow the operation of uni-denominational schools where numbers warrant. I am sure, honourable senators, that the committee will find that numbers will warrant it in St. John's. It is in smaller communities outside St. John's where numbers will not warrant it. The effects of education reform will be very different in St. John's and the rest of the province. The committee might very well find a variety of views elsewhere in the province.

I should like to urge the committee in the strongest possible terms to exercise judgment and common sense in the selection of witnesses to be heard. I know that the committee will want to hear from the churches, especially the Roman Catholic and the Pentecostal churches, from the premier and other provincial politicians, and from constitutional experts.

Those parties will be heard, there is no question, but those are precisely the witnesses that I feel our committee does not need to hear. The constitutional experts have already voiced their opinions. The churches and the elected representatives have lobbied us extensively and have sent us many lengthy briefs, submissions, arguments and opinions. They have all made their views and their reasoning abundantly clear. That material is readily available to the committee.

However, there are many other people whose views have not been heard and who should be invited to appear before the committee. The committee should hear from pupils who support this change and from pupils who oppose it. It should hear from parents and teachers on both sides of this issue. It should hear from principals, school administrators and superintendents on both sides of this issue.

In short, the committee should go out of its way to solicit the views of the people who will be affected by the proposed changes.

Finally, honourable senators, I should like to return to a point which I mentioned earlier. There is widespread agreement that the education system in Newfoundland and Labrador is in need of reform. Many contributors to this debate have mentioned that there is a framework agreement between the churches and the government to implement reforms such as reduction in school boards, more rational construction and maintenance funding, among others.

There is legislation pending in the House of Assembly to enact those changes. The Newfoundland government, however, has told us that the legislation would be subject to constitutional challenge if this resolution were not passed.

During debate on this resolution in the other place on June 3, at page 3352 of the *Debates of the House of Commons*, the Honourable Warren Allmand raised this issue:

We are also told by eminent legal counsel that the Government of Newfoundland could have established real public schools before now had it wanted to do so. It does not need an amendment to the Constitution.

A very important court decision in 1926 said that any province, because they control education, can establish parallel systems of public education in their provinces if they want to.

I know that the provincial government and, no doubt, some constitutional experts disagree with this conclusion. But why not sort it out?

We are asking our committee to examine this resolution and to report back not later than July 17. It will not be voted on in this

chamber until then. In the meantime, the provincial House of Assembly could pass its legislation and refer it to the Supreme Court for an opinion. If the court's opinion is that the legislation is not subject to challenge, then we do not need this resolution. If the court takes a different view, then our committee can take that into consideration.

**The Hon. the Speaker:** Does any other honourable senator wish to speak?

If not, is it your pleasure, honourable senators, to adopt the motion in amendment by Senator Doody, as amended?

**Some Hon. Senators:** Yes

**Some Hon. Senators:** No.

**The Hon. the Speaker:** Would those honourable senators in favour of the motion in amendment, as amended, please say "yea"?

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** Would those honourable senators opposed to the motion in amendment, as amended, please say "nay"?

**Some Hon. Senators:** Nay.

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

I declare the motion in amendment of Senator Doody, as amended, carried, on division.

Motion in amendment of Senator Doody, as amended, agreed to, on division.

## STATE OF THE ARTS IN CANADA

### NOTICE OF INQUIRY

Leave having been given to revert to Notices of Inquiries:

**Hon. Janis Johnson:** Honourable senators, I give notice that on Monday, June 17, 1996, I will call the attention of the Senate to the state of the arts in Canada today.

## PEARSON INTERNATIONAL AIRPORT AGREEMENTS BILL

### CONSIDERATION OF REPORT OF COMMITTEE— POINT OF ORDER—SPEAKER'S RULING SUSTAINED

On the Order:

Consideration of the ninth report of the Standing Senate Committee on Legal and Constitutional Affairs (Bill C-28, An Act respecting certain agreements concerning the redevelopment and operation of Terminals 1 and 2 at Lester B. Pearson International Airport, with amendments and observations), presented in the Senate on June 10, 1996.—(*Speaker's Ruling*)

**The Hon. the Speaker:** Honourable senators, on June 11, 1996, last Tuesday, when the order was called for consideration of the ninth report of the Standing Senate Committee on Legal and Constitutional Affairs dealing with Bill C-28, Senator Kinsella rose on a point of order. He claimed that the committee, in adopting a report proposing amendments that he viewed as contrary to the principle of the bill, acted beyond its authority and that, in consequence, the report should not be put to the Senate.

In making his case, he referred to the *Rules of the Senate* and to several passages from different authorities including Erskine May, Beauchesne and Bourinot. Senator Kinsella also cited a Senate precedent from 1973. Supporting Senator Kinsella in this view was the Leader of the Opposition, Senator Lynch-Staunton, who made several interventions during the discussion on this point of order.

[Translation]

Holding the opposite view, Senator Graham, Deputy Leader of the Government, Senator Carstairs, Chair of the committee, and Senator Stewart maintained that the amendments to Bill C-28 adopted by the committee were in accord with the principle on which the bill is based and that there was nothing reprehensible in the report from a procedural viewpoint.

[English]

I want to thank the honourable senators who participated in the debate on the point of order. I found it very interesting, although I feel that it is now the Speaker who is in a bit of a conundrum.

The crux of the matter is the identification of the principle of the bill. The opposing positions taken in the debate stem from different assessments made as to what is the principle of the bill. Senator Kinsella and Senator Lynch-Staunton, on the one hand, claim that the principle of Bill C-28 is very specific. It is their view that the bill declares the agreement "not to have come into force and to have no legal effect." They also maintain that the bill "bars certain activity or other proceedings against Her Majesty in right of Canada in relation to the agreements." Senator Graham, Senator Carstairs and Senator Stewart, on the other hand, take a broader view of the principle of the bill. They claim that the bill seeks "to set aside the agreements and, at the same time...to define the liability of the Crown consequent upon the enactment of that clause."

If one accepts the position of Senator Kinsella and Senator Lynch-Staunton on the principle of Bill C-28, the committee would seem to have exceeded its power and the report should be ruled out of order. Senator Graham and Senator Stewart argued, however, that such a specific assessment of the principle of the bill might unduly restrict the ability of the Senate or its committees to consider the substance of any bill.

In this regard, I was interested in the references to the ruling made by Senator Macnaughton cited by Senator Kinsella. The ruling of Senator Macnaughton was made on November 21,

1973, in his capacity as Chairman of the Committee of the Whole while it examined Bill C-2, an Act to amend the Criminal Code. An amendment had been proposed to abolish capital punishment permanently. A point of order was raised challenging the amendment because it was thought to be contrary to the principle of the bill.

To determine what was the principle of the bill, Senator Macnaughton reviewed the second reading debate as well as the bill itself. In this particular case, the amending bill sought to provide for a continuance of an experiment to limit the application of the death penalty for five more years. This intention was confirmed by the debate at second reading. As Senator Macnaughton pointed out, 24 of the 28 senators who spoke during the second reading debate mentioned the principle of the bill and agreed on it. With such a consensus, Senator Macnaughton was able to rule that the proposed amendment was out of order and, as Senator Kinsella pointed out, his decision was sustained following an appeal to the Senate.

[Translation]

Following Senator Macnaughton's example, I studied the bill and reviewed the debate that had taken place at the time of second reading. The debate about Bill C-28 was spread over several days beginning on May 15, 1996, when the sponsor of the bill, Senator Kirby, set out the government's intentions in his introductory remarks. Going over the development of the bill, he stated that the intent was to "cancel the Pearson agreements." At the same time, though, he indicated that the government was prepared to submit amendments to meet the legal objections which had been advanced against Bill C-22 during the previous session. He also explained the expected results of the amendments. Senator Kirby's description of the exact nature and goal of the amendments the government was prepared to submit to the committee can be found on page 350 of the *Debates of the Senate*.

The debates held at the second reading stage dealt in large part with the possibility of amendments being presented, with the proviso that their approval without having been discussed in committee was out of the question. While still objecting to the government's policy regarding the Pearson Airport Agreements, Senator Lynch-Staunton seemed to accept Senator Kirby's stated intention to submit amendments — and I quote what Senator Kirby said in English —

[English]

"will address the concerns of senator opposite him." Senator Lynch-Staunton at the same time, however, stated that he would not debate "what is not before us."

Second reading of Bill C-28 was given by the Senate on May 30 and the bill was then referred to the Standing Senate Committee on Legal and Constitutional Affairs, where the amendments were duly moved and adopted. The committee reported the bill with these amendments and an observation last Monday, June 10.

In my assessment, the principle of this bill is not a simple one to identify. Certainly, the language of the bill itself does not identify its principle in precise terms. The title indicates that the bill relates to certain agreements concerning the redevelopment and operation of Terminals 1 and 2 at Lester B. Pearson International Airport. These agreements are to be abrogated and a mechanism established to compensate some of the affected parties. To what extent the specific provisions of the bill dealing with the status of the agreements and the issue of liability are to be counted as part of the bill's principle is subject to interpretation.

Senator Kinsella held that there were three criteria by which amendments to a bill could be assessed and, as if to prove the point, Senator Stewart suggested that the committee amendments fulfilled these three conditions. In this connection, I am mindful of the fact that amendments similar to these now proposed were adopted by the Senate during consideration of Bill C-22 without objection.

As Speaker, my role is to see to it that the rules and practices of the Senate are followed, and that senators are provided with an opportunity to debate issues in an orderly manner so that the Senate can come to its decision on those issues it has elected to consider.

In this case, I am reluctant to find for the point of order raised by Senator Kinsella. The arguments that have been presented were persuasive, but not conclusive. The one thing that is clear is that there is no consensus on the principle of this bill, and it is not for the Chair to impose one.

Accordingly, I feel that it would be more appropriate to allow the Senate to determine what constitutes the principle of Bill C-28. The Standing Senate Committee on Legal and Constitutional Affairs has proposed certain amendments to the bill, and it would be better for the Senate itself, rather than for the Speaker, to determine whether those amendments should be incorporated into the bill. Therefore, the report will be put before the Senate for debate.

**Senator Doody:** A bill without principle!

*And two honourable senators having risen.*

**The Hon. the Speaker:** We have senators rising to challenge the ruling of the Speaker. Is there an agreement on the bells?

**Hon. Noël A. Kinsella:** We have agreed to a 50-minute bell, so that the vote will take place at 5:15 p.m.

**The Hon. the Speaker:** The Whips advise me that they have agreed to a 50-minute bell. Is that agreed, honourable senators?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** The vote will take place at 5:15 p.m.

(1710)

Speaker's ruling sustained on the following division:

#### YEAS

#### THE HONOURABLE SENATORS

Adams	Landry
Anderson	Lewis
Austin	Losier-Cool
Bacon	Lucier
Bonnell	MacEachen
Bosa	Maheu
Bryden	Marchand
Carstairs	Milne
Cools	Pearson
Corbin	Petten
Davey	Pitfield
De Bané	Poulin
Fairbairn	Riel
Forest	Rizzuto
Gauthier	Robichaud
Gigantès	Rompkey
Grafstein	Roux
Graham	Stanbury
Hays	Stewart
Hébert	Stollery
Hervieux-Payette	Taylor
Kenny	Watt
Kirby	Wood—46

#### NAYS

#### THE HONOURABLE SENATORS

Andreychuk	Kelly
Angus	Keon
Atkins	Kinsella
Beaudoin	Lavoie-Roux
Berntson	LeBreton
Bolduc	Lynch-Staunton
Buchanan	Macdonald ( <i>Cape Breton</i> )
Charbonneau	MacDonald ( <i>Halifax</i> )
Cochrane	Meighen
Cogger	Murray
Cohen	Nolin
Comeau	Oliver
DeWare	Phillips
Doody	Rivest
Doyle	Roberge
Forrestall	Robertson
Ghitter	Rossiter
Grimard	Simard
Gustafson	Spivak
Jessiman	Stratton
Johnson	Tkachuk
Kelleher	Twinn—44

## ABSTENTIONS

## THE HONOURABLE SENATORS

Ottenheimer—1

**The Hon. the Speaker:** Honourable senators, we are now back on the motion for adoption of the report.

**Hon. Sharon Carstairs:** Honourable senators, I am pleased to present the report of the Standing Senate Committee on Legal and Constitutional Affairs on Bill C-28, An Act respecting certain agreements concerning the redevelopment and operation of Terminals 1 and 2 at Lester B. Pearson International Airport.

Honourable senators, the committee has reported the bill with several amendments. I should like to describe and explain those amendments briefly to this chamber. The first amendment was to clause 3 of the bill. The original clause would have declared the Pearson Airport Agreements “not to have come into force and to have no legal effect.” This clause has been criticized in particular by certain senators opposite who objected to the declaration “that contracts are not only cancelled but have never even existed.” Those were the words of Senator Lynch-Staunton in the Senate on October 5, 1994, at page 861.

To answer this objection, the committee amended the clause to read:

The agreements are hereby declared to have no legal effect after December 15, 1993.

December 15, 1993, honourable senators, was the date that the consortium was supposed to, but did not, assume the asset, the Pearson terminals, under the contract.

The December 15, 1993 date is consistent with the finding of Justice Borins in the ongoing litigation concerning these agreements, that the contracts were repudiated by the government on December 3, which repudiation was accepted by the consortium on December 13, 1993.

The next two amendments follow upon the first one. Clauses 4 and 5 were amended by the committee so that they would no longer provide that undertakings, obligations, liabilities, estates, rights, titles, and interests arising out of the agreements, in the case of clause 4, and estates, rights, titles, and interests in respect of certain real property of anyone claiming through a party to an agreement, in the case of clause 5, would be declared not to have come into existence. As amended, they would each be declared to have no legal effect after December 15, 1993.

The next amendment was to clause 7. That clause barred actions or proceedings arising out of the Pearson Airport Agreements. Honourable senators are aware that this was a controversial provision and was criticized by several witnesses,

as well as by a number of senators opposite. To meet those objections, the committee amended the provision to allow access to the courts but, to be consistent with the government’s policy and with the principle of the bill, to limit the heads of damages that could be awarded in any such action or proceeding.

This limitation was then elaborated in clause 8 as amended by the committee. As amended, the clause stipulates that an award of damages may be made only in respect of claims that relate directly to Terminals 1 and 2 at Pearson International Airport that are recoverable by law against the Crown, and that no damages are to be awarded for lost profits, lobbying fees, any investments in a company or partnership controlled by the consortium that resulted in a change of control by the company or partnership, any claim for loss of value of any share, partnership interest or investment, or non-compensatory, punitive, exemplary or aggravated damages. These limitations were included to ensure that the bill as amended is consistent with the stated policy of the government, that compensation be restricted to out-of-pocket expenses less lobbying fees.

The committee’s role was to examine the legal and constitutional issues surrounding the bill. The committee was satisfied that these limitations and, indeed, all of the amendments were legal and constitutional.

Two clauses were deleted from the original bill by the committee. These were clauses 9 and 10. Clause 9 provided that no one was entitled to any compensation from Her Majesty in connection with the coming into force of the act. With the amendments to the other clauses, this clause was no longer required.

Clause 10 similarly was no longer required. That clause gave the minister discretion to enter into agreements to pay certain amounts in connection with the coming into force of the act. That ministerial discretion had been criticized by some witnesses and certain senators opposite. Without agreeing with those criticisms, the committee voted to delete this clause from the bill.

Honourable senators, we all know the long and difficult history of this bill and its predecessor, Bill C-22. Honourable senators opposite were very concerned that there were legal and constitutional problems with the provisions of the bill and with certain amendments that had been proposed to address their concerns.

One witness in particular, Professor Patrick Monahan of Osgoode Hall Law School, raised several constitutional objections. These were taken seriously by several honourable senators opposite. The amendments were prepared specifically to address these concerns.

I am pleased to tell this house that when he testified before our committee, Professor Monahan stated:

My conclusion on the whole, or on balance, would be that it is likely that a court would rule Bill C-28, as it is proposed to be amended, as valid constitutionally.



That is found in the blues on page 1020-1. He expressed some reservation about the ban on aggravated or punitive damages awards in section 8(2)(e), but testified that it was very unlikely that a court would rule that provision unconstitutional. Again, that is found in the blues on pages 1040-1, -2 and -3.

I am satisfied that we were able to find solutions to the legal and constitutional objections raised. We did this by considered, objective discussion of the legal and constitutional issues before us. Without agreeing with the objections, I believe that the bill as reported by the committee satisfactorily addresses the legal and constitutional objections that were made over the past two years to this bill and its predecessor, Bill C-22.

Though senators may continue to have differing views of this bill on policy grounds, as far as legal and constitutional difficulties are concerned, I am confident that we can now all agree that they have been set aside by the amendments I have described. It is on this basis that I urge all senators to support the report.

You will note that the report in its observation makes note of the minority view of the honourable senators opposite that other issues have not been addressed, and I welcome their comments on this matter.

On motion of Senator Lynch-Staunton, debate adjourned.

#### ALLOTMENT OF TIME FOR DEBATE—NOTICE OF MOTION

**Hon. B. Alasdair Graham (Deputy Leader of the Government):** Honourable senators, as I explained last month, it should come as no surprise to anyone in the Senate that we on this side of the chamber wish to move ahead with Bill C-28 in an expeditious fashion. Although, once again, there have been discussions between myself and the Deputy Leader of the Opposition —

**Hon. Eric Arthur Berntson (Deputy Leader of the Opposition):** And we are still miles apart.

**Senator Graham:** — on coming to an agreement about a date on which we could have a final disposition on Bill C-28, those discussions have not proved fruitful.

Consequently, since we have met with no success in reaching a consensus, I wish to give the following notice. I give notice that on Tuesday, June 18, 1996, I will move:

That, pursuant to the provisions of Rule 39(d) 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 a single period of a further six hours of debate be allotted to the consideration of the said bill at both the report and third reading stages.

That when the debates come 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 report stage and third reading 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).

**Senator Berntson:** Honourable senators, the essence of what has just been put on the record by my colleague is correct. rule 39(4) deals with the deferral of the vote. The understanding we have is that the votes necessary to dispose of Bill C-28 would take place at 5:30 p.m. on Wednesday.

**Hon. Lowell Murray:** If the closure motion passes.

**Senator Berntson:** Yes, if the closure motion passes, of course.

However, getting back to the 5:30 p.m. vote, that time could be altered to an earlier time, subject to the agreement of the Whips.

**Senator Graham:** The deputy leader's interpretation is absolutely correct.

#### ADJOURNMENT

Leave having been given to revert to Government Notices of Motion:

**Hon. B. Alasdair Graham (Deputy Leader of the Government):** Honourable senators, with leave of the Senate, and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, June 18, 1996, at 2 p.m.

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

**Hon. Senators:** Agreed.

Motion agreed to.

#### BUSINESS OF THE SENATE

**Hon. B. Alasdair Graham (Deputy Leader of the Government):** Honourable senators, there have been discussions between the leadership on both sides of the chamber. There seems to be a disposition that all remaining items on the Order Paper stand.

**Hon. Lowell Murray:** I received leave earlier today to proceed with my Queen's University bill at third reading stage, honourable senators. With the indulgence of the house, I should like to do that.

**Senator Graham:** If there is agreement, honourable senators, we would stand all items except for the very important item relating to Queen's University.

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

**Hon. Senators:** Agreed.

**PRIVATE BILL**

## QUEEN'S UNIVERSITY AT KINGSTON—THIRD READING

**Hon. Lowell Murray** moved third reading of Bill S-8, respecting Queen's University of Kingston.

He said: Honourable senators, once again, I am in the debt of honourable senators for accommodating me.

This bill was passed at second reading earlier this week and was considered, with leave, by the Standing Senate Committee on Legal and Constitutional Affairs. I thank the members of the committee for accommodating the university in this way.

Mr. Robert Little, solicitor for the university, appeared before the committee and answered numerous questions from members of the committee concerning the background and history of the

Queen's University Charter and the purpose and details of this bill. The committee then saw fit to return the bill to the Senate without amendment.

Therefore, I would ask for the indulgence of honourable senators once again in supporting the bill at third reading. It is my understanding that Mr. Peter Milliken, the member of Parliament for Kingston and the Islands, would, if the bill passes third reading here, be presenting it to the House of Commons in the hope of its passage by that chamber before the summer recess.

I wish to thank honourable senators.

Motion agreed to and bill read third time and passed.

The Senate adjourned until Tuesday, June 18, 1996, at 2 p.m.

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**THE SENATE OF CANADA  
PROGRESS OF LEGISLATION  
(2nd Session, 35th Parliament)  
Thursday, June 13, 1996**

**GOVERNMENT BILLS  
(HOUSE OF COMMONS)**

<b>No.</b>	<b>Title</b>	<b>1st</b>	<b>2nd</b>	<b>Committee</b>	<b>Report</b>	<b>Amend.</b>	<b>3rd</b>	<b>R.A.</b>	<b>Chap.</b>
C-2	An Act to amend the Judges Act	96/03/19	96/03/20	Legal & Constitutional Affairs	96/03/21	none	96/03/26	96/03/28	2/96
C-3	An Act to amend the Canada Labour Code (nuclear undertakings) and to make a related amendment to another Act	96/03/27	96/03/28	Social Affairs, Science & Technology	96/05/01	none	96/05/08 referred back to Committee 96/05/16	96/05/29	12/96
C-7	An Act to establish the Department of Public Works and Government Services and to amend and repeal certain Acts	96/03/27	96/03/28	National Finance	96/05/14	none	96/06/12		
C-8	An Act respecting the control of certain drugs, their precursors and other substances and to amend certain other Acts and repeal the Narcotic Control Act in consequence thereof	96/03/19	96/03/21	Legal & Constitutional Affairs	96/06/13	fifteen			
C-9	An Act respecting the Law Commission of Canada	96/03/28	96/04/23	Legal & Constitutional Affairs	96/05/09	none	96/05/14	96/05/29	9/96
C-10	An Act to provide borrowing authority for the fiscal year beginning on April 1, 1996	96/03/26	96/03/27	National Finance	96/03/28	none	96/03/28	96/03/28	3/96
C-11	An Act to establish the Department of Human Resources Development and to amend and repeal certain related Acts	96/04/24	96/04/30	Social Affairs, Science & Technology	96/05/15	none	96/05/16	96/05/29	11/96
C-12	An Act respecting employment insurance in Canada	96/05/14	96/05/30	Social Affairs, Science & Technology	96/06/13	none			
C-13	An Act to provide for the establishment and operation of a program to enable certain persons to receive protection in relation to certain inquiries, investigations or prosecutions	96/04/23	96/04/30	Legal & Constitutional Affairs	96/05/28	one	96/05/30		
C-14	An Act to continue the National Transportation Agency as the Canadian Transportation Agency, to consolidate and revise the National Transportation Act, 1987 and the Railway Act and to amend or repeal other Acts as a consequence	96/03/27	96/03/28	Transport & Communications	96/05/08	none	96/05/16	96/05/29	10/96
C-15	An Act to amend, enact and repeal certain laws relating to financial institutions	96/04/24	96/04/30	Banking, Trade & Commerce	96/05/01	none	96/05/02	96/05/29	6/96

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-16	An Act to amend the Contraventions Act and to make consequential amendments to other Acts	96/04/23	96/04/25	Legal & Constitutional Affairs	96/05/02	none	96/05/08	96/05/29	7/96
C-18	An Act to establish the Department of Health and to amend and repeal certain Acts	96/04/24	96/04/30	Social Affairs, Science & Technology	96/05/08	none	96/05/09	96/05/29	8/96
C-19	An Act to implement the Agreement on Internal Trade	96/05/14	96/05/30	Banking, Trade & Commerce	96/06/11	none	96/06/12		
C-20	An Act respecting the commercialization of civil air navigation services	96/06/05	96/06/10	Transport & Communications					
C-21	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1996	96/03/21	96/03/26	--	--	--	96/03/27	96/03/28	4/96
C-22	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1997	96/03/21	96/03/26	--	--	--	96/03/27	96/03/28	5/96
C-28	An Act respecting certain agreements concerning the redevelopment and operation of Terminals 1 and 2 at Lester B. Pearson International Airport	96/04/23	96/05/30	Legal & Constitutional Affairs	96/06/10	seven			
C-31	An Act to implement certain provisions of the budget tabled in Parliament on March 6, 1996	96/05/28	96/05/30	National Finance	96/06/13	none			
C-33	An Act to amend the Canadian Human Rights Act	96/05/14	96/05/16	Legal & Constitutional Affairs	96/05/28	none	96/06/05		

**COMMONS' PUBLIC BILLS**

<b>No.</b>	<b>Title</b>	<b>1st</b>	<b>2nd</b>	<b>Committee</b>	<b>Report</b>	<b>Amend.</b>	<b>3rd</b>	<b>R.A.</b>	<b>Chap.</b>
C-243	An Act to amend the Canada Elections Act (reimbursement of election expenses)	96/05/16	96/05/28	Legal & Constitutional Affairs					
C-275	An Act to establish the Canadian Association of Former Parliamentarians	96/04/30	96/05/14	Legal & Constitutional Affairs	96/05/16	three	96/05/16	96/05/29	13/96

**SENATE PUBLIC BILLS**

<b>No.</b>	<b>Title</b>	<b>1st</b>	<b>2nd</b>	<b>Committee</b>	<b>Report</b>	<b>Amend.</b>	<b>3rd</b>	<b>R.A.</b>	<b>Chap.</b>
S-2	An Act to amend the Canadian Human Rights Act (sexual orientation) (Sen. Kinsella)	96/02/28	96/03/26	Legal & Constitutional Affairs	96/04/23	none	96/04/24		
S-3	An Act to amend the Criminal Code (plea bargaining) (Sen. Cools)	96/02/28	96/05/02	Legal & Constitutional Affairs					
S-4	An Act to amend the Criminal Code (abuse of process) (Sen. Cools)	96/02/28							
S-5	An Act to restrict the manufacture, sale, importation and labelling of tobacco products (Sen. Haidasz, P.C.)	96/03/19	96/03/21	Social Affairs, Science & Technology					
S-6	An Act to amend the Criminal Code (period of ineligibility for parole) (Sen. Cools)	96/03/26							
S-9	An Act providing for self-government by the first nations of Canada (Sen. Tkachuk)	96/06/13							

**PRIVATE BILLS**

<b>No.</b>	<b>Title</b>	<b>1st</b>	<b>2nd</b>	<b>Committee</b>	<b>Report</b>	<b>Amend.</b>	<b>3rd</b>	<b>R.A.</b>	<b>Chap.</b>
S-7	An Act to dissolve the Nipissing and James Bay Railway Company (Sen. Kelleher, P.C.)	96/05/02	96/05/08	Transport & Communications	96/05/15	none	96/05/16		
S-8	An Act respecting Queen's University at Kingston (Sen. Murray, P.C.)	96/06/06	96/06/10	Legal & Constitutional Affairs	96/06/13	none	96/06/13		

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