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**Thursday, October 3, 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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## THE SENATE

Thursday, October 3, 1996

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

Prayers.

[*Translation*]

### SENATORS' STATEMENTS

#### NATIONAL UNITY

REFERENCE TO SUPREME COURT OF CANADA

**Hon. Gérald-A. Beaudoin:** Honourable senators, I have always said that Quebec's secession has a legal dimension and a political dimension. We can see this clearly now with the government asking the Supreme Court for an opinion and the renewed focus on Plan A. At the end of the road, it bears repeating, the political dimension will carry the day.

All of us in this chamber are federalists. We want Canada to remain a united country.

I can understand the need for security that is being expressed in various regions of Canada. I have no trouble understanding that the Canadian public wants to have its say in the current debate on Canada.

As a lawyer, I understand the weight of legal arguments. In many cases, they can end a conflict or resolve a problem.

There is, however, one point to which I wish to draw the attention of this house today: It concerns what has come to be known as Plan A.

The surest means of saving Canada, in my opinion, is through political negotiation. First and foremost, Quebec must be recognized for what it is. Quebec must be given proper amending protection, so that its fundamental jurisdiction will not be at the mercy of a fluctuating majority. This protection is now provided for in a resolution and in a federal statute passed in the House of Commons and in the Senate. However, we must go further and enshrine it in the very Constitution of the country.

Thus, if another referendum were held on the secession of Quebec, Quebecers would have something very concrete to offer their province, and all the federalists in Quebec would rejoice.

If we look at Quebec's claims since 1945 and since the quiet revolution, we see that, basically, Quebec wants to be recognized for what it is, a different society. And, in my opinion, Quebec will obtain this recognition within the Canadian federation, or, if it is unsuccessful, it could decide to leave Canada.

If a change of direction can save Canada, it will be through Plan A. The moment of truth is here. There is still time to take

this path and I strongly urge the Government of Canada to resume and continue its negotiations with the various provinces in our country. Already, there have been breakthroughs.

I am unable to admit, even implicitly, that we have already lost the battle. This country must act without delay.

### WORLD TEACHERS' DAY

**Hon. Rose-Marie Losier-Cool:** Honourable senators, the United Nations Educational, Scientific and Cultural Organization, UNESCO, has designated Saturday, October 5 World Teachers' Day, in honour of the women and men who are devoting their lives to the education of our children.

Across the country, numerous teachers' organizations, local associations and schools have particular activities planned to mark this special day.

A number of provincial and territorial governments, and several municipalities, have proclaimed October 5 World Teachers' Day.

According to Maureen Morris, president of the 250,000-member Canadian Teachers' Federation

Teaching today in a changing world is more demanding and more stimulating than ever before. Teachers today, perhaps more so than ever in the past, are required to provide a calm and stable environment for learning in a world characterized by rapidly changing social values, great strides in technological progress, a never-ending deluge of educational reforms, and a family environment that is all too often in upheaval because of stress, poverty and violence.

With respect to the World Day, Mrs. Morris refers to:

...the attention and special care teachers provide to the children in their charge. All too often, we tend to focus on the negative aspects of education. In my opinion, we need to speak of our successes, to proudly promote our public schools and to give credit for their success where it is due — to the teachers of Canada.

In her statement inviting the entire country to celebrate International Teachers' Day on October 5, Mary Hatwood Futreli, president of the 23-million member Internationale de l'Éducation, says:

When the blossoming potential of a student meets with the liberating art of a teacher, a miracle takes place.

Honourable senators, as a career teacher, I feel privileged today to have the opportunity to pass on to all of my colleagues throughout Canada the appreciation of the Upper House.

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[English]

## ROUTINE PROCEEDINGS

### CRIMINAL CODE

#### BILL TO AMEND—FIRST READING

**The Hon. The Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-45, to amend the Criminal Code (judicial review of parole ineligibility) and another Act.

Bill read first time.

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

On motion of Senator Graham, bill placed on the Orders of the Day for second reading on Tuesday next, October 8, 1996.

### ASIA-PACIFIC REGION

#### FOREIGN AFFAIRS COMMITTEE AUTHORIZED TO STUDY IMPORTANCE TO CANADA

**Hon. John B. Stewart:** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(f), I move:

That the Standing Senate Committee on Foreign Affairs be authorized to examine and report on the growing importance of the Asia-Pacific region for Canada, with emphasis on the upcoming Asia-Pacific Economic Cooperation, or APEC conference to be held in Vancouver in the fall of 1997, Canada's year of Asia-Pacific,

That the Committee have power to engage the services of such counsel and technical, clerical and other personnel as may be necessary for the purpose of its examination and consideration of the said order of reference;

That the Committee have the power to adjourn from place to place outside Canada; and

That the Committee submit its final report no later than July 31, 1997.

**The Hon. the Speaker:** Is leave granted?

**Hon. Senators:** Agreed.

Motion agreed to.

### TRANSPORT

#### PACIFIC REGION COAST GUARD AND MARINE SERVICES— PROPOSED CUTS TO PROGRAMS—NOTICE OF INQUIRY

**Hon. Pat Carney:** Honourable senators, I give notice that on Tuesday next, October 8, 1996, I will call the attention of the

Senate to the state of marine safety on the British Columbia coast in view of ongoing light station de-staffing and the proposed cuts to maritime navigation, search and rescue, and other essential programs of the Pacific Region Canadian Coast Guard Marine Services.

## QUESTION PERIOD

### NATIONAL UNITY

#### REFERRAL TO SUPREME COURT OF CANADA— EFFICACY OF GOVERNMENT ACTION

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, I wish to ask the Leader of the Government for a clarification on the significance of the Minister of Justice's decision to refer three constitutional questions to the Supreme Court. As I understand it, a reference to the Supreme Court usually results in an advisory opinion, not a legally binding decision. This being so, would the federal and Quebec governments not be within the rule of law if, for whatever reason, one or the other or even both decided to ignore the opinion in whole or in part? To put it another way, how can the opinion of the Supreme Court on these three questions that have been referred to it be enforced if they do not have the rule of law?

**Hon. Joyce Fairbairn (Leader of the Government):** Honourable senators, if I may, I should like to take that question to my colleague for his response.

**Senator Lynch-Staunton:** Honourable senators, I am trying to restrain myself, but it seems to me that on an issue as fundamental as the future of this country, the cabinet would have had some basic knowledge of the purpose of the minister's decision. Apparently that is not so.

However, what is even more disturbing about the Justice Minister's decision is that he is making the Supreme Court a major participant in a political debate of the utmost gravity, for he is asking the court to substitute for the federal government in what has been its fundamental and historical responsibility since 1867, the maintenance of Canadian unity. Why do we need the court to tell Canadians what they already know — that their Constitution makes no provision for secession and that any change in the terms or in the nature of the federation can only be accomplished by mutual agreement of all the parties concerned?

My question to the minister representing the Government of Canada is this: Why does the government not have the courage to confirm this basic premise firmly and unequivocally? Of course, should a province disagree, it would be the one to bring a challenge before the courts.

**Senator Fairbairn:** Honourable senators, in my opinion, the minister has been clear that the Government of Canada believes that any change in Canada must be effected in an orderly and respectful manner and in keeping with the rule of law. On this question of great importance, the opinions of my friend will be heard with great respect and with great interest, as I said the other day. However, the Minister of Justice is seeking an opinion from the Supreme Court of Canada on the three questions that have been raised. I believe this is a perfectly valid course of action for the federal government to take, so that Canadians in all parts of the country will know the context of the situation, should it arise.

• (1420)

One thing I want to repeat to my honourable friend is that the priority of the government has been clearly stated by the Prime Minister, and as recently as last night. The priority of this government is to conduct its relations with the province of Quebec and other provinces in this country in such a way as to confirm the unity of the country and eliminate any future necessity for a referendum.

**Senator Lynch-Staunton:** The priority of the government is to tell any province in this country that if it wants to secede, there is no way that it can secede under the conditions of Confederation. That is the priority of the government. If a province wants to break the conditions under which it entered Confederation, or alter them, then all Canadians must be involved.

Why should the Government of Canada go to the Supreme Court and say, "There is a possibility of secession. Give us some direction as to how secession should take place, in the event that, after a vote, such a course of action should be embarked upon by a province."

This government is doing things upside down. They should be telling Canadians, "If a province wants to secede, let it take its own responsibility by going before the courts, if it wants to do things legally or in any other way."

Why should the Government of Canada be a party to such an idea in any way, and indeed why should it draw in the Supreme Court of Canada as a party to the possibility of secession? This is the tragedy of the decision of the Minister of Justice.

Let me finish by saying this: Is it not a tragic irony that the two leading federalist personalities in the province of Quebec who saved the country in October, 1993, Jean Charest and Daniel Johnson, are the first two to condemn the action taken by the government to refer three questions to the Supreme Court of Canada? Is it not a tragic irony that the effect this action of the Minister of Justice has had on Quebec has been to make the separatist forces more unified, while at the same time causing greater division amongst the federalist forces? Does the Government of Canada not realize what it has done? Does it have no respect for the federalist forces in Quebec, who have to balance off the tensions of nationalism and their care for Canada? Is this government so blind and so fixed on its "Trudeau-ish"

approach to Canada that it cannot understand what Quebec is all about? Does it not appreciate the fact that both Johnson and Charest were there on the front lines, while the Prime Minister was out in Western Canada, fund-raising and admonishing his troops not to worry about a thing, only to return five days before the referendum saying, "I am in a panic mode; save us"? Despite that, we were saved.

Does this government not appreciate that it is letting down the very people in Quebec that it needs to keep this country together?

**Senator Fairbairn:** First of all, my friend's original question is not based on a solid statement at all. I would remind Senator Lynch-Staunton that what he has said about the current Constitution has been said many times before, both by the Prime Minister and by the Minister of Justice.

The Minister of Justice is seeking from the Supreme Court of Canada — an institution that is respected across this nation — an opinion on a question of law. That is what he has done —

**Senator Lynch-Staunton:** An unenforceable opinion.

**Senator Fairbairn:** — and that is what the Supreme Court of Canada will produce, as it has done in the past. I do not agree with my honourable friend that this is a course of action that is meaningless.

As far as my honourable friend wishing to portray the events of last October in his own light, I will not get into a debate with him over that. I will say that many people were involved in the cooperative effort that helped produce the results that were rendered in the last referendum. My honourable friend may wish to single out only two persons, but in fact there were many others, both within and outside Quebec, who worked very hard at achieving a positive result from the referendum, and they, too, deserve the same kind of respect as my honourable friend gives to the two gentlemen he has mentioned. I agree with him that they indeed played a strong and important role in that battle. However, there are others who deserve the same kind of respect and appreciation from my honourable friend and others in Senate.

**Senator Lynch-Staunton:** I used the word "pious" the other day to which the minister took umbrage, and I will use it again. These are only pious statements. Everyone did a marvelous job. We all did marvelous jobs. However, that is not the question.

The question that I am asking the minister is this: The Supreme Court can only give an opinion. However, that opinion is not binding. Therefore, since the opinion requested is one which it is hoped will keep Quebec quiet, neither party — neither the federal government nor Quebec — need accept that opinion. What, then, is the value of the referral to the Supreme Court?

The second, more fundamental and immediate question is: Is the Government of Canada not concerned about the fact that the two leading spokesmen for federalism during the October referendum campaign have condemned the decision of the government to make such a referral to the Supreme Court? That is the question.

In making its referral to the Supreme Court of Canada, the Government of Canada has driven a greater wedge between the federalist forces in Quebec; forces that are, and have always been on tenterhooks, because they are torn between their commitment to federalism and the reality of nationalism in Quebec.

Federalism outside Quebec and federalism within Quebec are not the same thing. However, they amount to the same commitment to this country. Therefore, with this reference, the federal government is telling Daniel Johnson, the leader of the Liberal Party in the province of Quebec who has been the most supportive of federalism since Jean Lesage: "Forget it; we will do it our way." You have told Jean Charest who, by his commitment, helped to save this country in October of 1993, "Forget it; we will do it our way."

All we are told is that the Supreme Court will decide our future. The Supreme Court will not decide our future; the Government of Canada, by committing to this country, and not by abandoning its responsibilities to a non-political group, will save this country. However, the way it is going now is in the opposite direction.

**Senator Fairbairn:** My honourable friend just said that the Government of Canada, by a commitment to this country, will save this country. I would agree with that statement.

**Senator Lynch-Staunton:** I am asking a question: I am not asking for a pious statement.

**Senator Fairbairn:** My honourable friend loves the words "pious statement". He, too, is a master of the pious statement. I am simply saying to my honourable friend that the Supreme Court of Canada will not decide the future of this country.

The Supreme Court of Canada, as a respected institution of this country, has been asked to express its view on a very important series of questions. This is not undermining the resolve of the federalist cause within Quebec. The gentleman to whom my honourable friend refers certainly has the interests of the federalist mission in Quebec strongly at heart. I will add that the Prime Minister of this country, who also is from Quebec, has fought his entire life to keep Quebec a proud part of Canada, and he will continue to do so as long as he is in public life.

In conclusion, the Government of Canada has a priority, a strong commitment, probably above any other, to maintain the unity of this country. That is what it is doing, with care and with attention.

• (1430)

**Hon. Noël A. Kinsella:** Honourable senators, I have a supplementary question. It is very simple. Does the Government of Canada have a plan as to what it will do when it receives this opinion from the Supreme Court of Canada?

**Senator Fairbairn:** Honourable senators, my answer to my honourable friend today is the same as it was the other day. The Government of Canada has asked for an opinion. It will receive the opinion and it will use the information in the opinion in any

future actions that become necessary. My honourable friend has asked me to describe what the plan is after the Supreme Court rules. I am telling honourable senators what the plan is right now. The plan is to continue with the efforts that this government has made — through legislation in Parliament and through the work it is doing every day with the provinces, including Quebec — to give strength and meaning to the reality of the renewal of our federation.

## PRIME MINISTER'S OFFICE

### ROLE OF PERSONAL ADVISOR IN INVESTIGATION OF TRANSGRESSIONS OF MINISTERS—GOVERNMENT POSITION

**Hon. Marjory LeBreton:** Honourable senators, it was reported in the media in the past few days that a minister of the Crown, the Secretary of State (Training and Youth), improperly used a government credit card and, once discovered, claimed she was within Treasury Board guidelines, a fact that was disputed by a Treasury Board official. The "Ethics Commissioner" said that he met with the minister and reported that she had now agreed to use her own personal credit cards for personal expenses.

My question is very specific: What is the role of the Ethics Commissioner in matters such as this? Is it to smooth out a situation on behalf of the government and avoid an embarrassing controversy, or is it to thoroughly investigate the matter and report to Parliament the results of the investigation?

**Hon. Joyce Fairbairn (Leader of the Government):** Honourable senators, I will get the exact reference on the responsibilities of the Ethics Commissioner for the honourable senator.

**Senator LeBreton:** Honourable senators, I have a supplementary question. Did the government call in the RCMP to investigate this matter as well?

**Senator Fairbairn:** I will inquire.

## NATIONAL UNITY

### MOTION TO APPOINT SPECIAL COMMITTEE— TIMING FOR RESUMPTION OF DEBATE

**Hon. Marcel Prud'homme:** Honourable senators, as we all know, motion No. 22 by Senator Beaudoin, seconded by Senator Lynch-Staunton, has been on the Order Paper now for seven sittings. The order is standing in the name of the Honourable Senator Petten. Fine. My question is: Will we be proceeding on that motion?

I am one of those who believe we should go ahead. It could be helpful to have a group of senators who take their duties seriously looking into this issue that is of great concern to all of us, and certainly to me. Yesterday, I expressed my sympathy to Madame Bourassa. When we come back in two weeks, I intend to proceed with what I have to say about Mr. Bourassa, but is it not the best way —

**Senator Berntson:** When are we coming back?

**Senator Prud'homme:** I do not know.

**Senator Doody:** We have not been consulted.

**Senator Prud'homme:** That is what I hear. I hope we sit next week.

**Senator Doody:** They should consult with the opposition. We should be included.

**Senator Prud'homme:** I was not consulted, I assure you. I go by what I hear in the corridors. I am sure you have staff who report to you fully on what they hear.

If we come back next week, so much the better. Personally I think we should sit continuously in these times when Canada is under attack. We should not adjourn. We should take our duty seriously. Are we going to proceed with this motion? If so, when?

**Hon. Joyce Fairbairn (Leader of the Government):** Honourable senators, the motion is on the Order Paper for debate, as the honourable senator well knows. I am sure that Senator Petten would not object to standing down if my honourable friend wished to intervene in that debate. There are undoubtedly people on this side of the house as well who wish to do so. Senator Petten would not hold up the discussion of this motion simply because it was adjourned in his name.

**Senator Prud'homme:** I am sure of that.

**Hon. William J. Petten:** Honourable senators, I would be happy to yield to Senator Prud'homme or any other honourable senator who wishes to speak on this debate.

**Senator Berntson:** We would expect no less from such a fine gentleman.

## WOMEN'S HEALTH FORUM

FIRST CANADA-UNITED STATES CONFERENCE—EXCLUSION  
OF PARTICIPATION BY PROGRESSIVE CONSERVATIVE  
SENATORS—GOVERNMENT POSITION—REQUEST FOR ANSWER

**Hon. Finlay MacDonald:** Honourable senators, you will recall that in August there was a very important meeting of the Canada-U.S.A. Women's Health Forum, which was referred to by Senator Cohen last Tuesday, September 24, I believe. She congratulated the government on its initiative in holding this important conference and went on to express her concern about what appeared to be the select list of invited participants. As a result, on the same day, I asked the Leader of the Government if she could give us a simple explanation. Has the leader made inquiries, and is she able to give that explanation today?

**Hon. Joyce Fairbairn (Leader of the Government):** Honourable senators, I have put in a request for a full explanation of how the group was picked or how people were able to gain access to that meeting. I have not received a full explanation yet.

I have sent back further questions. As soon as I have a clear picture, I will give my honourable friend an answer. I empathize with the question by Senator Cohen.

## PUBLIC WORKS

ALLEGED INCIDENT OF SEXUAL HARASSMENT  
AT CONSTRUCTION SITE ON PARLIAMENT HILL

**Hon. Erminie J. Cohen:** Honourable senators, a blatant case of sexual harassment unfolded last year on Parliament Hill, right under the nose of the federal government. Even though it involved work on a contract tendered by Public Works and Government Services Canada, the government did nothing about it.

Engineer Ann Raney was hired by subcontractor Ray Wolf of Protech Building Restoration to do repair work on the Peace Tower. Protech, in turn, worked for Colonial Building Restoration, which had been subcontracted by Fuller Construction. Ms Raney was sexually harassed by site manager Akram Karmash of Colonial and was forced off the job, along with Mr. Wolf, who supported her, and 24 other Protech employees. Public Works said this was a private matter between employees and subcontractors and therefore could not interfere.

However, honourable senators, through the Freedom of Information Act, Ms Raney and Mr. Wolf finally learned that the Public Works contract did, in fact, contain a tough antidiscrimination clause. Yet the government chose not to invoke it.

In September, the government announced it was tightening non-discrimination rules at all of its new construction projects. Public Works will now be able to dismiss contractors or their subcontractors from job sites and bar companies with a history of discrimination from future contracts.

Honourable senators, my question to the leader is this: Why is the government not applying these new rules retroactively so Ms Raney will finally see some measure of justice done, and in view of this incident, will the government still consider Colonial Building Restoration for any future government contracts?

**Hon. Joyce Fairbairn (Leader of the Government):** Honourable senators, I will be pleased to seek an answer for Senator Cohen.

## NEWFOUNDLAND

CHANGES TO SCHOOL SYSTEM—AMENDMENT TO TERM 17  
OF CONSTITUTION—HIRING OF LOBBYIST BY DEPUTY MINISTER  
OF FISHERIES—REQUEST FOR DETAILS OF CONTRACT

**Hon. C. William Doody:** Honourable senators, my question, I am sure, will come as no surprise to the Leader of the Government. I raised the matter some time ago and again earlier this week in comments I made from this place. I am curious about the involvement of the ex-Justice Minister from Newfoundland in the lobbying for the passage of the proposed new Term 17.

It has been alleged that he was paid \$1,000 a day by the Department of Fisheries and Oceans to lobby on behalf of the Government of Newfoundland, or perhaps on behalf of the Government of Canada, in an attempt to pass this rather obnoxious amendment.

• (1440)

Can the minister explain to us how the vote for the Department of Fisheries could be interpreted to include the hiring of a lobbyist for the purpose of forwarding an initiative of a provincial government, but paid for by the taxpayers of Canada?

**Hon. Joyce Fairbairn (Leader of the Government):** Honourable senators, I have made inquiries on this question. As my honourable friend will know, the Minister of Fisheries also has other responsibilities associated with the cabinet as the regional minister for the province of Newfoundland, as I do for the province of Alberta. He engaged the services of Mr. Roberts. He did so, I am told, not within the departmental budget but within his own ministerial budget, which is available for such contracts. That is the response that I was given.

**Senator Doody:** For the sake of the record, honourable senators, newspapers have quoted the Minister of Fisheries and Oceans as saying that this payment or retainer came from the vote of the Deputy Minister of Fisheries and Oceans. By what stretch of the imagination could a vote of Parliament to a department be extended to include the right of a deputy minister to hire a lobbyist to push forward the agenda of a provincial government? Further, would the minister be kind enough to provide a copy of Mr. Roberts' contracts and table it in this chamber?

**Senator Fairbairn:** Honourable senators, with respect to the second question, I will inquire as to whether those documents are available.

To the first question, I would reiterate that I have checked on that point with the office of the Minister of Fisheries. Payment for the services of Mr. Roberts came out of the minister's own office budget as a regional minister, and not out of that of the deputy.

**Senator Doody:** For the edification and education of us ex-provincial people, could the minister give us some sort of terms of reference, or definition of scope of the spending of a minister's vote? Is there some limitation on what area that budget can be spent, and to what areas it can be applied? Is a minister given a vote of money to use at his or her discretion without any parliamentary accounting? Are there standards of liability or responsibility to which we could expect a minister to be held? Is a block vote of money, of whatever size, voted to a minister of the Government of Canada? I would be interested to know the size of this seemingly limitless vote of the Minister of Fisheries and Oceans, or indeed of any other minister. What degree of accountability does the minister have to the Parliament of Canada?

**Senator Fairbairn:** Honourable senators, I think my first response is that there are no limitless funds. However, in the interests of precision, I should like to get a description of this kind of support and provide it to my honourable friend.

**Senator Doody:** I appreciate the minister's reply.

## THE SENATE

### CHARGES LEVIED ON SENATORS FOR DOCUMENTS ESSENTIAL FOR RESEARCH—GOVERNMENT POSITION

**Hon. Eymard G. Corbin:** Honourable senators, I have a question that may be of interest to all senators. It is directed to the Leader of the Government in the Senate.

This morning, my office received a phone call from Statistics Canada to the effect that they had complied with a request from my contractual researcher regarding information about the GST. I will not go into any details. However, before delivering the information, I was requested to pay some \$40 for the documents in question — plus GST, I suppose.

This research is being done at my request. It arises out of the private member's bill presented by Senator Di Nino last Thursday. I adjourned that debate, and I am doing my best to expedite my examination of the question in order to be able to speak at the earliest opportunity.

Honourable senators, something is dreadfully wrong in this instance when members of Parliament, which includes senators, are required to pay for a service that is essential in carrying out their duties as members of Parliament. I have never heard of such nonsense before. If this is part of the total effort of cost recovery on the part of the department, it is going a little too far. I do not accept that obstacles of that nature should be put in our way in carrying out our essential duties as legislators.

I will ask the Leader of the Government — and I do not expect an answer today — if that matter could be examined, and if she could report back to the house at the earliest opportunity.

**Hon. Joyce Fairbairn (Leader of the Government):** Honourable senators, I am not aware of what documents might have been sought, but I will certainly follow that up. Any further information that the honourable senator could give to me would probably help me in that task.

## EMPLOYMENT INSURANCE

### CHANGES TO RULES GOVERNING FISHERS— APPLICATION OF INTENSITY RULE—GOVERNMENT POSITION

**Hon. J. Michael Forrestall:** Honourable senators, I have a supplementary to a question asked the other day that I wish to put to the Leader of the Government in the Senate. It arose out of the tabling a few weeks ago by the government of the regulations respecting employment insurance, having to do with so-called intensity and its implication with respect to the fisher people of our country.

As we all know, there has been a reduction of some \$33 million from the \$235 million paid out last year. That is a cut of some 14 per cent. I presume that a large measure of this reduction will come as a result of the application of the intensity rule to fishers. It penalizes them, and there is a formula.



The point of concern that I have arises from the fact that apparently the government seems to forget every once in a while that it regulates the fishery. The government tells the fisher folk when they can fish, and when they must stop fishing. It tells them how many fish they may catch, and how many they may not.

Given that fact, why would the government penalize the very people whom it regulates in this fashion by applying the intensity rule? It is a bit of a slap in their face. After all, they have no control.

First, is the government fully aware of the implication of this intensity rule as it affects fisher folk? Second, would the government give some very quick consideration to exempting particularly those fishers in the heavily utilized species who are subject do this intensity rule?

• (1450)

Apparently today is the last opportunity for members of the other House to rise in their places — and some 30 are required to do so in order to bring about a debate so that this matter might have a further airing.

If the minister could respond to those two questions, I would be grateful.

**Hon. Joyce Fairbairn (Leader of the Government):** Honourable senators, I will try to get the responses that Senator Forrestall seeks. As he knows, there has been a very long discussion of the changes in the employment insurance provisions, including the issue of the intensity rate. I will relay his specific question on the possibility of exemption to my colleague Mr. Young for his views.

## ANSWERS TO ORDER PAPER QUESTIONS TABLED

### BUSINESS DEVELOPMENT BANK OF CANADA— ALTERNATIVE FUEL VEHICLES

**Hon. B. Alasdair Graham, (Deputy Leader of the Government)** tabled the answer to Question No. 102 on the Order Paper — by Senator Kenny.

### NATIONAL CAPITAL COMMISSION— ALTERNATIVE FUEL VEHICLES

**Hon. B. Alasdair Graham, (Deputy Leader of the Government)** tabled the answer to Question No. 124 on the Order Paper — by Senator Kenny.

## ORDERS OF THE DAY

### NEWFOUNDLAND

#### CHANGES TO SCHOOL SYSTEM—AMENDMENT TO TERM 17 OF CONSTITUTION—REPORT OF COMMITTEE—MOTION IN AMENDMENT—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion of the Honourable Senator Rompkey, P.C. seconded by the Honourable Senator De Bané, P.C., for the adoption of the thirteenth report of the Standing Senate Committee on Legal and Constitutional Affairs (*respecting Term 17 of the Terms of Union of Newfoundland with Canada set out in the Schedule to the Newfoundland Act*), deposited with the Clerk of the Senate on July 17, 1996.

And on the motion in amendment of the Honourable Senator Doody, seconded by the Honourable Senator Kinsella, that the report be not now adopted but that it be amended by deleting the words “without amendment, but with a dissenting opinion” and substituting therefor the following:

with the following amendment:

Delete the words in paragraph (b) of Term 17 that precede subparagraph (i) and substitute therefor the words: “where numbers warrant,”.

**Hon. Jean B. Forest:** Honourable senators, as I rise to make my maiden speech — admittedly using the most liberal interpretation of the term “maiden” — you will not be at all surprised that I do so to address an issue that involves two areas in which I have long been involved as an advocate — issues in which, if I have not yet *gagné mes épaulettes*, I have certainly garnered a head of grey hair.

I speak, of course, of the fields of education and minority rights, as affected by the amendment to the Constitution of Canada, Term 17, or the Terms of Union of Newfoundland with Canada. Having had a longstanding interest in minority rights as they apply to denominational schools, I listened with great interest to the original debate in the Senate last June. Later, I returned from Alberta for the hearings in Ottawa because of my deep concern over this issue, my desire to come to a better understanding of the background of this proposed legislation and the differing points of view being brought to bear.

While I have learned a great deal from the hearings, and from everything that I have since heard and read, including the report of the committee, and I certainly have a much better understanding and appreciation for the reasoning of those supporting the change to Term 17, I still have concerns about amending the Constitution in order to effect these changes.

As I mentioned in the preamble to one of my questions at the hearings, I am a former Manitoban who grew up, attended and taught in the public school system of Manitoba; a fine system — witness the results. In those days, prior to the arrival in Canada of so many non-Christian immigrants, the public schools were, in essence, Christian schools based on the Judeo-Christian tradition; schools in which prayer and scripture study formed part of the usual daily activities.

There remained, however, among members of Manitoba's French Catholic community, smouldering bitterness because the religious and linguistic rights which they had insisted upon, and which had been constitutionally guaranteed when the province entered Confederation in 1817, were taken away by provincial legislation a short 20 years later. Parents who wished to have their children attend Catholic schools had to pay for the capital and operational costs of those schools, in addition to taxes paid in support of the public school system which they chose not to attend.

Successive provincial governments in Manitoba have legislated changes that have, in part, addressed this inequity, but to this day many Franco-Manitobans still feel that they were cheated out of rights that had been constitutionally guaranteed and were a condition of their entering Confederation.

Later, I moved to Alberta, where the rights to publicly supported denominational schools, which had been enshrined in the ordinances of the Northwest Territories, were carried forward and guaranteed in the Alberta Act of 1905. Involved as a teacher, parent and trustee in the separate school system in Alberta, I found a fine spirit of cooperation between the separate and public school systems and a positive attitude among those parents who made up the majority, such that it was only then that I came to appreciate how much the minority groups in Manitoba, and indeed all Manitobans, had lost when the constitutionally guaranteed rights of the minority were taken away by a majority vote of the provincial legislature.

I have since hoped, and still hope, that neither the people of Newfoundland nor those of any other province would suffer such a loss in the future. In Newfoundland, as we all know, the terms of entry into Confederation in 1949 safeguarded, as they did in Manitoba and Alberta, their citizens' rights to denominational schools. In 1987, these rights were extended to include Christians of the Pentecostal denomination.

While the proposed changes to Term 17 cannot be construed as a denial of all the existing rights to denominational schools, at the hearings and in our other presentations we heard from many groups and individuals, including aboriginal leaders, who feared that the proposed changes would result in a diminution of their rights. I believe that this is surely a time when we as senators should exercise most carefully our role as parliamentarians, reviewing with sober second thought the amendment already approved by the House of Commons.

As a parent, former educator, educational administrator and trustee, I certainly support initiatives that will enhance the quality of education for every student. I also appreciate the need for educational reform to meet the needs of changing times and, in these times of fiscal restraint, the need for cost efficiency.

It is my understanding from what I have read, and from Senator Doody's presentation on Tuesday, that with the consent and cooperation of the major stakeholders, changes are already being effected that will result in a decrease in the number of

school jurisdictions in Newfoundland, a rationalization of the transportation system for students, and a process for the prioritization of school construction projects. I applaud these initiatives which, with the goodwill of all concerned, have been or are soon to be implemented. It would be my hope that other outstanding issues might also be resolved in the same manner by the stakeholders in the educational system of Newfoundland.

During the debate, concerns were expressed by some Newfoundlanders regarding what they perceived to be too much religious influence within their educational system. There were, however, legal opinions given that stated that, under the present Term 17, there is no constitutional barrier to the setting up of non-denominational schools or a public school system in Newfoundland.

That being the case, this change, if agreed upon, could and should be implemented without the need for a constitutional amendment.

• (1500)

With respect to the problems within the education system of Newfoundland and the efforts being made to resolve them in order to enhance the quality of education and make it more cost effective, as I read the situation — and I certainly stand to be corrected if I have misread it — some significant changes have already been agreed to; others could be made with the agreement of the stakeholders and without resorting to a constitutional amendment that would jeopardize the guaranteed rights of the minority groups in Newfoundland, as well as those of other minority groups in Canada.

As so often has been declared in this debate, education falls within provincial jurisdiction, and I believe it should be dealt with there.

The responsibility for the protection of minority rights, however, is quite another matter. That falls squarely within federal jurisdiction, and every Canadian parliamentarian and every Canadian citizen clearly has a stake in that issue. In that regard, I quote from a document tabled with the committee. Professor Patrick Monahan, a constitutional lawyer, wrote:

It has generally been assumed that the various constitutional guarantees for denominational education in different provinces are not subject to abrogation or amendment simply because a majority of the citizens in a particular province would support such a change. Indeed, to amend or abrogate these guarantees on such a basis would be inconsistent with the very principle that led to their entrenchment in the first place. Denominational guarantees were entrenched precisely so as to put them beyond the reach of majority sentiment in favour of abrogating the rights of the minority. Therefore, I agree that a constitutional amendment to Term 17 that is not supported by all the classes of persons protected by that guarantee could be seen as a precedent that would permit other provinces to seek similar changes.

Because I support this view, and because I feel so strongly with respect to the principle and practice of protecting constitutionally guaranteed minority rights, I find myself unable to support this amendment to the Constitution of Canada. I have earlier communicated my concern about it to the Prime Minister and to our leader in the Senate.

I consider the changes put forth by the honourable senators opposite to be an honest attempt to give back something of what the proposed constitutional amendment would take away. However, I must ask myself if that is enough. Would it not be better in a free vote to defeat this resolution? This action would afford the government the opportunity to return the matter to Newfoundland where the stakeholders in the educational system, with the cooperation and consent of all their minority groups, could complete the reforms that they now have well under way.

This action would also send out to Canadians a strong signal that, on the matter of protecting minority rights, the Senate stands firm, a signal that these rights could not be taken away without the consent of the people for whom they were guaranteed in the Constitution.

Apart from certain lapses to which Senator Carstairs referred yesterday, over the years, Canada and the Liberal Party, which I support, have developed, both at home and abroad, a strong tradition and a proud history of supporting minority rights. I hope that in this situation the Senate will stand to uphold that long history and that proud tradition.

**Hon. Anne C. Cools:** Honourable senators, I rise to speak in support of Senator Doody's amendment to the resolution on Term 17 of the Newfoundland Act 1949, formerly the British North America Act, 1949, which granted denominational education rights in Newfoundland. I shall examine the effects of religion, language, minority and cultural entitlements on education, and review the 1890 Manitoba Schools question and the importance of religious education to Canadian society. I shall review the commitments made to Newfoundlanders in 1949, and the Senate's historical role in 1890 and 1949 and duties today in that regard.

Canadian attitudes toward education are pivotal in the history of our Confederation and our Constitution. Our children's education and socialization determine their world view and their characters. Our children, their future and their formation concern us all. Culture, including language and religion, is a major influence on our children. The effect of religion and language on culture is profound.

Honourable senators, section 23 of our Charter of Rights and Freedoms guarantees the rights of citizens who received their primary school instruction in the minority language of a province to have their children similarly educated. In 1990, the Supreme Court of Canada interpreted section 23 in the case of *Mahe v. The Queen in right of Alberta*. The question was whether Edmonton's educational system satisfied Charter standards. The Supreme Court ruled that Edmonton's educational system

infringed linguistic minority rights, and ordered greater management and control of education to the minority. In his ruling, Chief Justice Brian Dickson underlined the link between language and culture. Such a link has always been maintained by French-Canadians across Canada who have advocated that French language maintenance is essential to the protection and promotion of their culture. In the current debate on this Term 17 constitutional amendment, the Canadian Conference of Catholic Bishops and the Pentecostal Assemblies of Newfoundland, and others, have argued that the same relationship exists between religious denomination and culture. Religious denomination is integral to the identity and culture of its adherents because it determines how individuals understand themselves and interpret their world.

Honourable senators, Canada's most poignant battle for denominational education rights was the Manitoba Schools question. In 1890, despite the constitutional protection of denominational schools by the Manitoba Act 1870, section 22, the Manitoba government and the then Premier, Thomas Greenway, enacted legislation entitled, "An Act Respecting the Department of Education and An Act Respecting Public Schools." These acts dismantled the denominational school system and also implemented a public education system. Manitoba's Protestant majority agreed, knowing that the Protestants would control the advisory boards prescribing the religious exercises used in the schools. This left the Roman Catholics without influence.

The turbulence, the turmoil and the anguish in Manitoba in the 1890s was great. Many resulting court cases contested the validity of these statutes. These cases were later appealed to the Supreme Court of Canada, and then to the Judicial Committee of the Privy Council in the United Kingdom. Roman Catholics also petitioned the Senate of Canada. This petition to the Senate, signed by His Eminence Elzéar-Alexandre Cardinal Taschereau, Archbishop of Quebec, and the prelates of the Roman Catholic Church, namely, His Grace Alexandre-Antonin Taché, Archbishop of St. Boniface, His Grace J. Thomas Duhamel, Archbishop of Ottawa, His Grace John Walsh, Archbishop of Toronto, and His Grace James Vincent Cleary, Archbishop of Kingston, among others, petitioned the Senate to protect and to preserve the denominational education system in Manitoba.

Senator Mackenzie Bowell presented that petition in this chamber on May 9, 1894. Senator Bowell later became Prime Minister on December 21, 1894, and was eventually forced to resign on this same issue on April 27, 1896. This petition reads partly as follows:

11. Catholics believe in the necessity of religious instruction in schools. This conviction imposes upon them conscientious obligations and these obligations give them rights of which they cannot be deprived. They cannot be satisfied by saying: others do not believe as you do, therefore you must change your convictions...Such an argument is neither fair nor just.

The undersigned, pastors of souls, are at one with their flocks, in insisting on the rights they claim, and they are fully determined to preserve them in their integrity. There is in this a question of justice, of natural equity, of prudence and of social economy, closely connected with the fundamental interests of the country....

12. The undersigned petitioners are fully aware that Manitoba and the North-west Territories were received into Confederation; after promises, made to the first inhabitants of that vast country, in Her name, and by the authority of Her Majesty.

The immediate representative of our beloved Queen assured them that "...respect and attention would be extended to the different religious persuasions and that on their union with Canada all their civil and religious rights and privileges would be respected."...

13. The undersigned...petition His Excellency the Governor General in Council and ask the honourable members of the Senate and of the Commons of Canada, of whatsoever party they may be, to help in a fair settlement of the actual difficulties.

• (1510)

This 1894 petition to the Senate is as relevant today as it was then. The Manitoba schools question resulted in many court cases. One famous 1891 case was *Barrett v. the City of Winnipeg*. Mr. Barrett contested two City of Winnipeg by-laws levying taxes on real and personal property to support the public schools. These by-laws had been enacted pursuant to the Manitoba Public Schools Act, abolishing the denominational school system. Mr. Barrett asserted that the provincial government could not so legislate because the Manitoba Act 1870, section 22, constitutionally protected Manitoba's denominational school system. The lower court ruled with the Manitoba government that it did have the power to enact such legislation. On appeal in 1891, the Supreme Court of Canada overturned that decision, ruling that the Manitoba government's legislative actions and its abolition of the denominational school system were unconstitutional and that the two statutes injured denominational rights. In his Supreme Court judgment, Mr. Justice Henri Taschereau quoted Alexandre-Antoin Taché, the Archbishop of St. Boniface, that:

The School, in the view of the Roman Catholics, is in a large measure the "Children's Church," and wholly incomplete and largely abortive if religious exercises be excluded from it. The church has always insisted upon its children receiving their education in schools conducted under the supervision of the Church, and upon them being trained in the doctrines and faith of the Church. In education, the Roman Catholic Church attaches very great importance to the spiritual culture of the child and regards all education unaccompanied by instruction in its religious aspect as possibly detrimental and not beneficial to the children.

That Supreme Court decision was appealed to the United Kingdom Judicial Committee of the Privy Council. The Judicial Committee agreed with the provincial government upholding the provincial government's right to legislate in this matter. The Imperial Privy Council found that the provincial statutes did not violate the Manitoba Act 1870, Section 22, for they did not compel public school attendance, and did not prevent the establishment and maintenance of denominational schools. In this era, the Imperial Privy Council supported the expansion of provincial powers at the expense of the dominion federal government's powers.

From the 1890s to 1930s, the Judicial Committee in the United Kingdom, in these appeal decisions, strongly supported provincial governments in such constitutional disputes. Many scholars believe that Canada's Constitution was re-moulded in those years by the Imperial Privy Council in favour of the provincial governments. Many scholars, including Arthur R.M. Lower, attributed this late 19th century constitutional shift to the influence of Mr. Judah P. Benjamin, a defeated Confederate. In the American Confederacy Government of Jefferson Davis, Mr. Benjamin had been Attorney-General of the Confederacy and also the Secretary of War. With the defeat of the American Confederacy in the U.S. Civil War, he returned to England, the land of his birth, where he was called to the bar in June of 1866. He became a renowned practitioner before the House of Lords and the Judicial Committee of the Privy Council. Mr. Benjamin was a powerful advocate and influence for the supremacy of provincial powers over dominion federal powers in the Imperial Privy Council's decisions and interpretation of Canada's Constitution.

I would like to share with honourable senators a quotation from Dr. Lower on Mr. Judah P. Benjamin. It says:

He took a number of Canadian cases and in all but one argued the provincial side, although only in two of them did he win his point. It is probable that through him there can be traced the stream of "states' rights" argument flowing through the London bar and Privy Council into the interpretation of the Canadian Constitution, for he was a most influential advocate, and no doubt had his disciples: at any rate, later judges such as Watson and Haldane took the provincial side vigorously.

Of note was Lord Haldane and Lord Watson's later roles in the expansion of Canadian provincial powers. This Manitoba Schools question and its consequences persisted into this century, and was only properly resolved in 1988. It took a century.

Honourable senators, we must consider the precedent created by this Term 17 resolution amendment before us. We must consider the impact on provincial educational systems and the rights of minorities therein. In 1949, Newfoundland entered Confederation. When the terms of union were negotiated by them, Newfoundland's politicians were mindful of the Manitoba Schools question, and were also aware at that time that appeals to the Judicial Committee of the Imperial Privy Council still

existed. It was abolished a few months later. There are good political, historical, and social reasons why the Newfoundland Terms of Union specifically protected the denominational school system in place in that province at that time, and were drafted the way they were.

Honourable senators, in recent months, the Roman Catholic Church and the Pentecostal Church have asserted that an easily frustrated right is no right at all, and wish that the current rights enjoyed by Newfoundlanders be protected. The Senate was constituted to be the known protector and guardian of minority rights in the regions of Canada. The Senate debated Newfoundland's entry into Confederation in 1949. On February 17, 1949 here in the Senate during second reading debate on Bill 11, an Act to approve the Terms of Union of Newfoundland with Canada, Government Leader in the Senate, Senator Wishart Robertson spoke. He tried to allay the fears of Newfoundland minorities, saying:

The fears of the minorities cover a wide range, but let me say at once that the whole history of Canada, particularly since Confederation, gives ample evidence that in the fields of religion, education and culture, and in all other phases of human activity, the people of Newfoundland have nothing whatsoever to fear. The almost universal experience of all parts of Canada is that in matters of this kind the greatest protection to minorities in Canada is the general good sense and broadmindedness of the majority.

...should, however, any majority in the future so far forget this fact as to attempt to act otherwise, there stands in its way the Senate of Canada. The protection of minorities, as one of the cardinal principles of Confederation, is embodied in the very composition and structure of the Senate... I am certain that the people of Newfoundland can enter Confederation with complete confidence so far as the future is concerned.

Honourable senators, today in 1996, we must respond to those fears of Newfoundland minorities. About management and control over educational facilities regarding minority language education rights, Chief Justice Dickson, in the *Mahe* decision previously mentioned, also said:

...management and control...is necessary because a variety of management issues in education, e.g., curricula, hiring, expenditures, can affect linguistic and cultural concerns. I think it incontrovertible that the health and survival of the minority language and culture can be affected in subtle but important ways by decisions relating to these issues.

Today, this is the position of the Canadian Conference of Catholic Bishops and the Pentecostal Assemblies of Newfoundland. These two churches, as well as the Anglican Church, the Presbyterian Church, the Salvation Army, the Evangelical Fellowship, the Seventh Day Adventist Church, and the United Church, have always been willing to negotiate educational reforms in Newfoundland without a constitutional amendment that would severely limit the exercise of any minority rights. Even in its support of the resolution amendment,

the Anglican Church is reserved on the issue of the necessity for such an amendment. Honourable senators must send a strong message to the Newfoundland government to negotiate with these denominations to their satisfaction. The Minister of Justice, Mr. Rock, and the Premier of Newfoundland, Mr. Tobin, inform us that we senators ought not to worry and acquiesce and adopt the resolution. However, as in 1894 and in 1949, the churches have come to the Senate again in 1996.

I commend the Legal and Constitutional Affairs Committee under the chairmanship of Senator Carstairs for its study of the matter and for having travelled to hear testimony from Newfoundlanders. I especially thank Senator Doody of Newfoundland for all his efforts, his initiatives and his courage. I commend the Senate committee's minority report, which proposes amendments to the resolution, and which more so expresses my view of the matter than the majority report.

Honourable senators, I cannot vote for the resolution as it is. I wish it amended. It is our duty to protect all minority rights. I would conclude my comments by citing from the Senate Committee on Legal and Constitutional Affairs' proceedings. The Most Reverend Francis J. Spence, Archbishop of Kingston and President of the Canadian Conference of Catholic Bishops, appeared before our committee on June 25, 1996.

In his testimony, His Grace said, quoting Britain's Chief Rabbi, Dr. Jonathan Sacks on education, that:

The whole process of education has a spiritual context. The pursuit of knowledge begins with a sense of awe at the mystery of existence. The very idea of universal education is rooted in our sense of the sanctity of the individual. Secularize education and you diminish it... you diminish the value of education as an end in itself... No culture can survive without faith. From today, and for the sake of our children, I hope that the voice of faith will speak more loudly in our culture.

Honourable senators, I hope that the Senate of Canada does not break faith with the voice of faith of senators past, and I hope that the voice of faith will speak in this chamber.

Honourable senators, I support Senator Doody's subamendment.

**Hon. Bill Rompkey:** Honourable senators, I have a question. Senator Cools suggests that indeed we must hear the voices of minorities who feel threatened, and she suggested that she was supporting Senator Doody's amendment because of that. I should like to ask the honourable senator if she had read the testimony that we heard in Newfoundland, some of which was underlined in Senator Carstairs' speech yesterday, in that a minority in our province would feel threatened by this amendment, that being the Seventh Day Adventists who do not have the numbers to establish schools if Senator Doody's amendment were to proceed. I wonder how Senator Cools would deal with that matter. This is clearly a minority who would see their rights eroded, abrogated and extinguished by the particular amendment of Senator Doody.

The honourable senator might want to define exactly what a minority is, and how we decide which minorities we support and which minorities we do not support, because it seems to me that we are now getting into the business of supporting some minorities and not others. Specifically, with respect to the case of the Seventh Day Adventists, which was very clear in the testimony that we heard in our province, I wonder how the honourable senator would deal with their rights under this amendment?

**Senator Cools:** Thank you for the question. With respect to the first part of that question, the answer is yes, I read the report. I read it very carefully. I can speculate as to how I would have dealt with some of these matters. First, I was not a member of that committee, and second, if I had been a member, I would have proposed a better amendment than the amendment I am currently supporting. However, Senator Doody's amendment is good enough for me to support it.

[Translation]

**The Hon. the Speaker:** Honourable senator, I do not wish to interrupt you, but I trust your question will be very brief. The 15 minutes allocated to Honourable Senator Cools is already up, and that period includes the questions. If you could, then, ask your question quickly, please.

[English]

**Hon. Noël A. Kinsella:** I am sure that leave would be granted to extend the time for Senator Cools if it were sought.

**Senator Cools:** I did not hear that exchange. His Honour was speaking in French, and I was not swift enough in switching on the translation. Perhaps the honourable senators would repeat their remarks.

**Hon. Marcel Prud'homme:** I am very happy to say that I will help everyone. I will keep my powder dry. I shall comment on Senator Cools's speech later and ask her at that time to comment. Otherwise, honourable senators may think that I want to take up too much time today.

I must say right away that I fully support her views, as I support the views of Senator Forest. However, I will exchange views with the honourable senator during the recess to enliven my speech when we come back.

On motion of Senator Stanbury, debate adjourned.

## THE SENATE AND HOUSE OF COMMONS

### TREATMENT OF SENATE PUBLIC BILLS REFERRED TO STANDING COMMITTEE ON PRIVILEGES, STANDING RULES AND ORDERS

**Hon. Sharon Carstairs,** pursuant to notice of Thursday, May 16, 1996, moved:

That a message be sent to the House of Commons expressing the Senate's concern with the treatment of Senate public bills by the House of Commons.

She said: Honourable senators, I undertook to move this motion following a discussion that took place in the Standing Senate Committee on Legal and Constitutional Affairs on how senators' private members' bills were dealt with in the other place.

Although a Senate private member's bill gets certain preferential treatment over Commons private members' bills in the procedure of the House of Commons, it does not receive the treatment that a private member's bill from the House receives in this chamber. While we may perhaps wish to re-examine how we deal with those bills in this chamber, it is my intention, at the end of my comments, to ask that this matter be referred to the Standing Committee on Privileges, Standing Rules and Orders for their review.

However, first I should like to quickly review for you the process for dealing with a Senate private member's bill in the other place, as I understand it. Once a private member's public bill has been passed by the Senate, a message is sent to the House of Commons requesting their concurrence. There, the bill is automatically placed on the Order Paper under "First Reading of Senate Public Bills," in Routine Proceedings. First reading stage is essentially a *pro forma* stage, as it is in the Senate, and the bill is automatically read the first time. However, the sponsor in the House of Commons of that bill can speak for one minute upon it, unlike our practice here in the Senate.

House of Commons private members' bills must go through a lottery system in order to get on to the order of precedence. However, Senate bills are automatically placed at the bottom of the order of precedence for all private members' bills and motions, and appear on the Order Paper under "Private Members' Business."

Private members' business is only dealt with for one hour during any given day in the House. After each draw establishing the order of precedence, the Subcommittee on Private Members' Business of the Standing Committee on Procedure and House Affairs meets to determine which items will be designated votable items. Non-votable items are debated, but do not proceed through second reading.

It is only by convention that Senate public members' bills are designated votable. The subcommittee is under no obligation to designate a Senate bill a votable item. During private members business, which is one hour a day, the items on the order of precedence are dealt with. Once a votable bill or motion reaches the top of the order of precedence, it is considered and if not disposed of, falls to the bottom of the order and will not be debated again until it reaches the top of the order. Only two hours and forty-five minutes are allotted for debate on any item on the order of precedence, after which time it must be disposed of. If it is a votable item, it will be voted on and, if passed at second reading, referred to committee. After reported back from committee, it is again placed on the bottom of the order of precedence.

Two separate private members business hours are allotted for debate at this stage. After the first hour, it again falls to the bottom of the order of precedence if not disposed of. However, with unanimous consent, the House may move report stage and third reading without the item falling to the bottom. If a bill is passed at third reading, a message is sent to the Senate stating that the bill has been passed.

**The Hon. the Acting Speaker:** I regret to interrupt the honourable senator. I see that at least six conversations are taking place in the chamber. The rules state that honourable senators who wish to converse should step outside the bar.

**Senator Carstairs:** Thank you, Your Honour.

Honourable senators, the way in which this procedure operates in the House of Commons concerning private members' bills from the Senate is what led me to the motion to send a message to the House regarding the Senate's concern about the way these bills are treated there.

For a bill to become law in Canada, it needs to pass three stages: the Senate, the House of Commons and Royal Assent. The question then is: Should a bill that has passed one of these stages not carry more weight than one that has not? Since a Senate private member's bill has already passed one of the Houses of Parliament, perhaps it should be treated differently than a bill that has not received that support.

Perhaps, honourable senators, the Senate's own rules should be reviewed in this regard. For example, Bill C-216 has been passed by the other place and sent here for the approval of this chamber. However, it will fall off the Order Paper if not debated again in 15 sitting days. Perhaps it should not be exposed to that threat and should be treated in a manner similar to that of government bills.

Honourable senators, as I indicated at the beginning of my remarks, it is my intention to move that this matter be referred to the Senate's Standing Committee on Privileges, Standing Rules and Orders so that they may study the issue and perhaps suggest wording for a message to the House on this matter.

#### MOTION IN AMENDMENT

**Hon. Sharon Carstairs:** Therefore, I move, seconded by the Honourable Senator Kinsella:

That the motion be not now adopted but that the subject-matter be referred to the Senate's Standing Committee on Privileges, Standing Rules and Orders for consideration.

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

**Hon. Senators:** Agreed.

Motion agreed to, as amended.

## EMPLOYMENT INSURANCE (FISHING) REGULATIONS

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY  
COMMITTEE AUTHORIZED TO CONDUCT STUDY

**Hon. Gerald J. Comeau,** pursuant to notice of October 2, 1996, moved:

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine the Employment Insurance (Fishing) Regulations made under section 153 of the Employment Insurance Act and approved on September 17, 1996, and any matter relating thereto; and

That the Committee present its report no later than November 30, 1996.

Motion agreed to.

[*Translation*]

## TRANSPORT AND COMMUNICATIONS

COMMITTEE AUTHORIZED TO MEET  
DURING SITTINGS OF THE SENATE

**Hon. Marie-P. Poulin,** for Senator Bacon and pursuant to the notice of motion given on October 1, 1996, moved:

That the Standing Senate Committee on Transport and Communications be authorized to sit at 3:30 p.m. on Wednesdays during its examination of Canada's competitive position internationally in the area of communications in general, and particularly the importance of communications in Canada at the economic, social and cultural levels, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

Motion agreed to.

[*English*]

## ADJOURNMENT

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

**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 Monday, October 21, 1996 at 8 p.m.

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

**Hon. Senators:** Agreed.

The Senate adjourned until Monday, October 21, 1996 at 8 p.m.

**THE SENATE OF CANADA**  
**PROGRESS OF LEGISLATION**  
**(2nd Session, 35th Parliament)**  
**Thursday, October 3, 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	95/05/29	12/96
C-4	An Act to amend the Standards Council of Canada Act	96/06/18	96/06/20	Banking Trade & Commerce	96/09/24	none	96/09/25		
C-7	An Act to establish the Department of Public Works and to amend and repeal certain Acts	96/03/27	96/03/28	National Finance	96/05/14	none	96/06/12	96/06/20	16/96
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	96/06/19	96/06/20	19/96
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	96/06/20	96/06/20	23/96
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	96/06/20	15/96
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



No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
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
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	96/06/20	17/96
C-20	An Act respecting the commercialization of civil air navigation services	96/06/05	96/06/10	Transport & Communications	96/06/19	one	96/06/19	96/06/20	20/96
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	defeated 96/06/19	96/06/20	18/96
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	96/06/18	96/06/20	18/96
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	96/06/20	14/96
C-36	An Act to amend the Income Tax Act, the Excise Act, the Excise Tax Act, the Office of the Superintendent of Financial Institutions Act, the Old Age Security Act and the Canada Shipping Act	96/06/18	96/06/19	Banking, Trade & Commerce	96/06/20	none	96/06/20	96/06/20	21/96
C-42	An Act to amend the Judges Act and to make consequential amendments to another Act	96/06/18	96/10/02	Legal & Constitutional Affairs	--	--	--	96/06/20	22/96
C-48	An Act to amend the Federal Court Act, the Judges Act and the Tax Court of Canada Act	96/06/18	96/06/20	--	--	--	96/06/20	96/06/20	22/96
C-56	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	96/09/24	96/09/26	--	--	--	96/10/01	--	--

**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-216	An Act to amend the Broadcasting Act (broadcasting policy)	96/09/24							
C-243	An Act to amend the Canada Elections Act (reimbursement of election expenses)	96/05/16	96/05/28	Legal & Constitutional Affairs	96/09/26	none	96/10/01		
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	95/05/29	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							
S-10	An Act to amend the Criminal Code (criminal organization) (Sen. Roberge)	96/06/18							
S-11	An Act to amend the Excise Tax Act (Sen. Di Nino)	96/06/20							

## PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
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	96/06/20	

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