



CANADA

Debates of the Senate

2nd SESSION

•

35th PARLIAMENT

•

VOLUME 136

•

NUMBER 53

OFFICIAL REPORT
(HANSARD)

Tuesday, November 26, 1996

—

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

CONTENTS

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

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

Published by the Senate

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

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

THE SENATE

Tuesday, November 26, 1996

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

Prayers.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to call your attention to the presence in the gallery of a delegation of the Parliament of Bangladesh. The leader of the delegation is Mr. Suranjit Sen Gupta, advisor to the Prime Minister on Parliamentary Affairs.

We welcome you to the Senate of Canada.

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, again this week we have an exchange of pages with the House of Commons, and I should like to introduce to you the two House of Commons pages who are with us.

[Translation]

Kelly McGuire, from Belle River, Ontario, is a student in the Faculty of Health Sciences at the University of Ottawa.

[English]

Kelly is majoring in human kinetics. Welcome to the Senate.

May I now introduce to you Jared Orynik, who is studying in the Faculty of Arts at the University of Ottawa. Jared's home town is Prince Albert, Saskatchewan. Welcome to the Senate.

THE SENATE

DEPUTY PRINCIPAL CLERKS—
CONGRATULATIONS ON APPOINTMENTS

The Hon. the Speaker: Honourable senators, you will have noticed, perhaps, that there is a new clerk sitting at the Table today. She is Heather Lank, whom some of you have known as the clerk of the Standing Senate Committee on Legal and Constitutional Affairs. Ms Lank is one of the three clerks who competed successfully in the recent competition to become a Deputy Principal Clerk.

[Translation]

In addition to her work at the Table of the Senate, Ms Lank will continue to work in Committees, where she has been since she joined the Senate in 1991. There, she will be working closely with Gary O'Brien, the Director.

[English]

Also working with them will be Mr. Blair Armitage, another of the new Deputy Principal Clerks. Mr. Armitage has been with the Senate since 1988. While he is now serving as a committee officer, many of us know him from the work he has done, and continues to do, with the parliamentary associations, as well as from the time he served as a Table Officer a few years ago.

[Translation]

The third new Deputy Principal Clerk is Charles Robert, currently the Executive Assistant to the Clerk and, for the past year, a Table Officer.

[English]

In his new role, Mr. Robert will also work with Richard Greene, the Clerk Assistant, under whom he will have responsibility for procedural research and the Journals office.

Ms Lank begins her duties as a Table Officer today. I am sure we all wish her well, and also Blair and Charles as they take up their new responsibilities.

Welcome again.

Hon. Senators: Hear, hear!

[Translation]

SENATORS' STATEMENTS

THE SENATE

COOPERATIVE STAFF EXCHANGES WITH HOUSE OF COMMONS

Hon. Marcel Prud'homme: Honourable senators, we have received today a letter from the Clerk of the Senate, Mr. Paul Bélisle, informing us that Robert Desramaux, Director General of the House of Commons Information Technologies Directorate, has accepted an assignment to the Senate as special advisor to the Clerk of the Senate until June 30, 1997.

It goes on to say that Robert Desramaux will be applying his skill and expertise to various special projects dealing with information technology.

This is described as a cooperative staff exchange between the House of Commons and the Senate. Mr. Bélisle assures us that Mr. Desramaux will make a useful contribution to Senate operations and that he is looking forward to working closely with him.

I would just like to add this. Having worked with Mr. Desramaux for many years at the other place, I think he will be an asset to the Senate. We will greatly benefit from his qualifications. On a more personal note, what many people do not know about Mr. Desramaux is that he is well known to the American Congress, because of his close involvement in the implementation of C-SPAN, which broadcasts the proceedings of the U.S. House of Representatives and Senate. He is indeed a welcome addition to Senate staff and I applaud this assignment announced in the letter sent to us by Mr. Bélisle.

[English]

NATIONAL CHILD DAY

Hon. Landon Pearson: Honourable senators, National Child Day occurred last week while we were away. Yesterday, other important statements were being made. I want to say a few words now about this significant celebration.

On November 20, 1959, the United Nations adopted the Declaration on the Rights of the Child. On November 20, 1989, 30 years later, it adopted the Convention on the Rights of the Child. To commemorate these events, in 1993 the Parliament of Canada designated November 20 as National Child Day.

The Minister of Health, the Honourable David Dingwall, sent a message to all members of the House of Commons and senators to mark the fourth anniversary of National Child Day. In his note, the minister mentioned that this is an important day to reflect upon children's needs, and how as a society we can ensure that those needs are met, not just on November 20, but on every other day of the year.

National Child Day is also a day to celebrate children just for being themselves. It is a day upon which to remind ourselves that children are small persons who deserve respect, and that respecting them means learning to listen to what they have to say. If we do that, one of the first things that happens is we get a fresh perspective on issues, learning to see them through their eyes. For we need them to tell us what is right or wrong with their lives so that we can learn how to respond in a way that they will respect and accept.

National Child Day exists to remind us every year to stop and think: What have we done in our homes and in our working lives to give children a voice? Have we insisted that schools and other institutions that directly affect their lives provide them with opportunities to participate in important decisions and give them help to carry out those decisions, thus nurturing their dignity and self-respect as well as honing their citizenship skills.

This week, when I am not attending in this chamber, I am participating in a remarkable national conference called "Canada's Children, Canada's Future." Of the 1,100 delegates, 160 are young people. We are struggling with a national vision for Canada's children and the contribution of the youth is extraordinary.

Last Sunday evening at the opening event, we heard an intergenerational choir sing a set of Canadian songs — a seniors'

chorus singing with a junior elementary school choir, accompanied by high school musicians and a group of young adults. The resulting sound was both powerful and moving. This is the way we should think about National Child Day — an intergenerational celebration that enriches us all.

Hon. Brenda M. Robertson: Honourable senators, last Wednesday, as Senator Pearson just mentioned, November 20, 1996 marked the fourth anniversary of National Child Day. The day was proclaimed by Canada in 1991 to recognize the two United Nations initiatives, the Declaration of the Rights of the Child in 1959 and the adoption of the Convention on the Rights of the Child in 1989.

In ratifying this convention, Canada was committed to ensuring that the needs of children — proper nutrition, access to decent health and educational services, and protection from harm and abuse — are a national priority. I am sure that all members of the chamber were saddened by the Campaign 2000 Report Card 1996 which described the bleak reality of poverty for one in five Canadian children, and reminded us that Canada has the second highest rate of child poverty in the industrialized world.

Report Card 1996 reveals that, in the past year, among other things, the federal government decreased its spending on children when it replaced the Canada Assistance Plan with the Canada Health and Social Transfer, and stalled on a child care policy.

Honourable senators, Report Card 1996 is a shocking reminder that time is running out on the all-party House of Commons resolution to end child poverty by the year 2000. This government's sad record is an indicator that there is no true dedication to helping children and families escape the terrible consequences of living in poverty.

January 1, 1997, marks the beginning of the Decade for the Eradication of Poverty, as declared by the United Nations. The war on poverty must be a priority for all Canadians. Living as we do in a country that the United Nations has announced has the best quality of life in the world, anything short of an all-out battle on child poverty in Canada would indeed be scandalous.

ABORIGINAL PEOPLES

REPORT OF ROYAL COMMISSION

Hon. Charlie Watt: Honourable senators, I would like to make a few remarks in relation to the report of the Royal Commission on Aboriginal Peoples that was tabled in the House of Commons on November 21, 1996, that commission having been in progress for the last four years. I would also say that work on the report itself was officially commenced about four years ago, but a great deal of work had already been carried out before that.

Honourable senators, I did not want this occasion to pass without remarking on the report in a substantial way. I decided to point out to honourable senators areas that I consider important; areas which should be taken seriously by all of us.

The report of the royal commission is an important body of work that makes recommendations on a very wide range of aboriginal issues. It contains 440 recommendations. This huge undertaking was commenced by the previous Conservative government. The study was then extended and carried out by the Liberal government when they assumed governmental responsibilities.

The report is a result of extensive consultation with aboriginal people and non-aboriginal Canadians. The aboriginal people have been fully involved in this process, taking part as designers and architects of this report. Many non-aboriginal people from a very wide range of professions were also involved. I am not sure whether anything such as the Royal Commission on Aboriginal Peoples has ever been undertaken by a Canadian government, knowing that the end result would include such a huge set of recommendations. One wonders whether those recommendations will ever become reality.

• (1420)

I would like to be optimistic and hopeful that the government will take this report seriously. I urge the government to quickly address critically important issues related to service requirements, housing, educational and health needs, as well as issues related to creating an atmosphere that will instill a better spirit in our youngsters, who, today, are victims of our society. This situation may not exist only within aboriginal society, but it is more noticeable within aboriginal society.

I do not want to speak on this issue for too long. I simply want to address the concerns of aboriginal people. To them, this is a high priority, which requires the attention of not only the government but the public as well.

I hope that one day we will be able to sit together in harmony and utilize the instrument that is available to every one of us today, the political process. The political process is a device that is available to you, and it should be available to aboriginal peoples.

Some people wonder if it is unrealistic to speak of "government within government" and "Parliament within Parliament." Some people think it cannot be done. However, if the people have the will to do it, it can be done. I believe that one day people in this country will come to realize that the way to address this problem is by sitting down and defining the model. What is missing in this country, when we speak about the desire to become self-sufficient and self-reliant, is that we quickly forget that if we do not define what that instrument will be, how it will be linked to the existing structures and things of that nature, no one will understand.

Some Hon. Senators: Hear, hear!

HEALTH

PROVISION OF FACILITIES FOR SMOKERS ON PARLIAMENT HILL

Hon. Consiglio Di Nino: Honourable senators, it is that time of year again when some Senate co-workers are banished to the cold outdoors to indulge in a perfectly legal act, the act of smoking.

The health hazards associated with smoking have been widely documented, and I support measures to reduce tobacco consumption. However, I am disturbed by the sight of our colleagues and co-workers who are forced to huddle outside buildings, banished there like pariahs, to suffer the discomfort of the cold Ottawa winters. I believe this is both unfair and inappropriate.

We should not punish or shame those among us who choose to use tobacco products. While we all agree that reasonable steps must be taken to reduce tobacco consumption, surely, these reasonable steps should include the provision of adequate, properly ventilated facilities for those who choose to smoke.

Hon. Philippe Deane Gigantès: Honourable Senator Di Nino, a person very close to me has just been operated on for lung cancer after having smoked for many years. He was told by his doctors that he should avoid second-hand smoke at all costs. Therefore, I wish to congratulate him for suggesting that we should find a particularly well-ventilated place for smokers to smoke and send their second-hand smoke out into the atmosphere.

ROUTINE PROCEEDINGS

ADJOURNMENT

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

That when the Senate adjourns today it do stand adjourned until tomorrow, Wednesday November 27, 1996 at 1:30 p.m.

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

Hon. Senators: Agreed.

Motion agreed to.

FOREIGN AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

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

That the Standing Senate Committee on Foreign Affairs have power to sit at 3:15 p.m. tomorrow, Wednesday, November 27, 1996, even though the Senate may then be sitting and that rule 95(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

Motion agreed to.

QUESTION PERIOD

NORTH AMERICAN FREE TRADE AGREEMENT

SOFTWOOD LUMBER—AGREEMENT WITH UNITED STATES ON
EXPORT QUOTAS—EFFECT ON JOBS IN PRODUCING
PROVINCES—GOVERNMENT POSITION

Hon. Gerry St. Germain: Honourable senators, my question is directed to the Leader of the Government in the Senate. It concerns the Canada-U.S. softwood lumber agreement. This agreement took effect in April of this year. Now, we learn that due to the quota restrictions on exports to the United States under this agreement, many lumber mills have been shutting down early. They have reached their quarterly quota and they are laying off thousands of workers. Also, the price of lumber has more than doubled under this agreement, causing the purchase price of the average home in Canada and the U.S. to increase by approximately \$3,000, if not more.

This particular agreement is destroying jobs. It will have an inflationary effect. The provinces of Quebec and mainly Ontario — I do not want to use the words that the head of the lumber association in Ontario used but in other words, they have been “had.” I do not think Alberta is happy, either.

Can the Leader of the Government in the Senate tell us if these results were what the government was expecting under this agreement? If not, is the government prepared to scrap this agreement that the federal government drew up with the United States?

• (1430)

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, as the honourable senator knows, the softwood lumber quotas were worked out very carefully in an attempt to have a fair and balanced system for the industry and the four provinces involved. The government has worked closely with the industry and with the provinces in establishing the allocation system, and the process is just beginning.

The Minister of Foreign Affairs answered some questions in the House of Commons last week, at which time he made reference to the fact that, once the quotas were allocated, many of the companies used up their allocations very quickly, almost anxiously, in order to take advantage of the market, and are now trying to find ways of increasing those quotas. He also indicated that there is a reserve system that is available for the use of companies through which they can, in effect, bank their quotas against next year's allocations.

I do not know if this in any way responds to the concerns of my honourable friend. I will certainly seek more information from the Minister of International Trade. I believe that this system was negotiated very carefully with the provinces involved. It would not be one that this government would wish to scrap, as the honourable senator puts it. However, I will try to obtain more detail for him on the other part of his question.

Senator St. Germain: Honourable senators, I think the Leader of the Government in the Senate is correct when she says that the

federal government has been dragged into this situation. From my observations and the information I have been able to garner, there is no question that they have consulted with the provinces and with the industry. However, in spite of that, I believe that there has been a lack of commitment to the terms of the free trade agreement.

Honourable senators, we should have stood our ground and not let the Americans push us around. They are now controlling the management of our resources. We should have stood our ground in spite of the pressure coming from my home province of British Columbia, which, together with the industry, put unfair pressure on the ministry responsible here in Ottawa in attempting to reach an agreement.

In effect, honourable senators, what is being established is the equivalent of a marketing board. Production is virtually controlled, and in theory prices will also be controlled.

The Prime Minister recently left the country after having signed an agreement with Chile in the spirit of free trade, and yet also having signed this agreement, which contradicts the principle of free trade. Does the Leader of the Government in the Senate not realize that this is an absolute contradiction in positions, on the one hand having allowed a marketing board to be set up in relation to the lumber industry while, at the same time, touting free trade out of the other side of your mouth?

Senator Fairbairn: Honourable senators, I was interested in the comments of my honourable friend, inasmuch as these negotiations have traditionally been carried on government to government. In this case, he is quite right: There was great pressure from the province of British Columbia, which in turn generated enormous pressure from the other provinces involved to have an active part in these negotiations. The agreement that was made at the time was certainly the very best that could be made under the circumstances.

I know that officials from the Department of International Trade met earlier this month with representatives from individual mills across the country, along with, as the honourable senator will know, the provincial industry associations, to explain the allocation methods that had been developed for each of the provinces.

However, I appreciate the honourable senator's concern and I will transmit it to the minister and find out whether I can give him a response that will lessen that concern.

ENERGY

ROUTE FOR OFFSHORE NATURAL GAS PIPELINE
FROM ATLANTIC CANADA—ROLE OF CABINET
IN DECISION—GOVERNMENT POSITION

Hon. Gerald J. Comeau: Honourable senators, my question is also directed to the minister. I would like to come back to the Sable Island natural gas pipeline route, which is of major concern to many Nova Scotians and should be of concern to all Canadians.

Can the minister please tell us whether or not any aspect of the decision-making process regarding the selection of the route to carry the natural gas will come before cabinet?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I cannot answer that question. The normal process undertaken is that projects receive the normal regulatory treatment from the federal agencies. Governing those federal agencies are the principles of fairness, equity and efficiency, which will be applied to all of the projects that may be involved. Ultimately, market forces will determine which project will succeed. That is the way business is done in Canada in those circumstances, and I have no reason to believe that that would not prevail in this instance.

Senator Comeau: Honourable senators, it is my understanding that the recommendations regarding the environmental assessment of the project will be brought before cabinet for acceptance or rejection. Surely, as a member of the cabinet, the minister would then agree that the entire process has indeed been compromised by the Prime Minister through his unacceptable statements, on not one but two occasions, that he favours one particular route over another.

How can the Leader of the Government in the Senate continue to defend a process that has been damaged in such a way by her own leader, the Prime Minister of this country?

Senator Fairbairn: Honourable senators, the honourable senator has raised this matter with me more than once. He has drawn attention to comments that were made by the Prime Minister, I believe in question-and-answer sessions in Atlantic Canada. However, in each case the Prime Minister qualified all his comments with the phrase that it would be market forces that would prevail.

[Translation]

NORTH AMERICAN FREE TRADE AGREEMENT

SOFTWOOD LUMBER—AGREEMENT WITH UNITED STATES
ON EXPORT QUOTAS —REASONS FOR FIVE-YEAR
TERM—GOVERNMENT POSITION

Hon. Roch Bolduc: Honourable senators, can the Leader of the Government in the Senate tell us why the government signed a five-year agreement in a sector as cyclical as softwood lumber production?

One can imagine that in 1994 there was rather strong pressure from the United States to sign and, although I was opposed, sign they did. Why was the agreement for five years, when it is known that at the time of signing, the price of housing in the United States had gone up by \$3,000 because of enormous pressure.

This obviously makes no sense. Why did they sign for five years? Why commit to five years?

[English]

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I cannot answer that question, but I will make inquiries.

POVERTY IN CANADA

EMERGENCE OF LATEST STATISTICS—GOVERNMENT POSITION

Hon. Brenda M. Robertson: Honourable senators, would the Honourable Leader of the Government in the Senate advise us of any specific measures contemplated by this government to adjust its policies, which, according to the National Anti-Poverty Organization, are increasing rather than decreasing poverty?

When in opposition, the Liberals were scandalized by the fact that, under the Conservative government, there were 4.2 million Canadians living in poverty. Now there are 4.9 million Canadians living below the poverty line. Over the same period, the percentage of children living in poverty has risen from 14 per cent to 19 per cent.

• (1440)

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, my honourable friend will know that great concern on this issue has been expressed by the Minister of National Health and Welfare, the Prime Minister and others. The Government of Canada is certainly not and has not been impervious to the concerns and the reality of what is an unacceptable situation in this country. I think everyone in this government and in this chamber would believe that.

The government is continuing its efforts to work with the provinces and territorial governments on measures that will help working families with children and low-income families break out of the poverty trap. As my honourable friend knows, in the last budget some measures were dedicated to this issue, including enhancing the working income supplement, new child support guidelines and new child support awards. These efforts have gone forward. There is much more to be done. The issue is of concern to federal ministers, particularly, I am sure, the Minister of Human Resources Development during his conversations that are taking place at this time with his provincial counterparts.

Senator Robertson: Honourable senators, Health Minister Dingwall is reported to have told a conference on child welfare yesterday that the situation of 1.4 million children living in poverty can be linked to worsening problems of youth crimes, drop-out rates, suicide and abuse. He said, "As a country, I fear we are not doing enough." I think in this chamber we would all have to agree with Minister Dingwall in that regard.

In today's paper is the announcement of the formulation of an interdepartmental review committee on this very issue. In view of the fact that we are not doing enough, and that therefore, the federal government is reviewing its spending on children, could the Honourable Leader of the Government in the Senate advise us to whom that interdepartmental review committee will report? What is its deadline? What is its mandate? Will it consult with the provinces, the advocacy groups and other interested parties?

Senator Fairbairn: Senator Robertson, I will be glad to get those details for you.

LITERACY

APPLICATION OF SAVINGS FROM EXCESS DEPARTMENTAL INVENTORIES TO REDUCTION OF GOODS AND SERVICES TAX ON READING MATERIAL—GOVERNMENT POSITION

Hon. Consiglio Di Nino: Honourable senators, whenever the Minister of Finance is asked about taking the GST off books, he usually says, "We do not have the money. Where do you propose that we get this money?"

Honourable senators, the Auditor General today said that the government last year wasted \$1.25 billion by holding too much inventory. Rocket science, folks! He said departments often do not know what they have in stock or where it is located.

My question to the Leader of the Government in the Senate is this: What action will the government take to bring this shameful problem under control? Will it commit to apply some of the savings to removing the GST from reading materials?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, the Auditor General and the government are concerned about that problem, which is not new-found. The Auditor General has been commenting on it for some time and is disappointed that it has not been proceeded with more rapidly over the years.

Honourable senators, this is a call to arms to our government to do better. I am sure the ministers will redouble their efforts to do better. Much progress has been made.

With respect to the latter part of my friend's question, I admire his spirit. I share his spirit of enthusiasm for expanding literacy opportunities wherever he can, and he will appreciate that I cannot answer that question.

Senator Di Nino: Honourable senators, I am disappointed that the minister cannot answer the question. I would have hoped that she would have suggested that she will bring an answer back to us at some later date.

By way of a supplementary question, as Minister Responsible for Literacy, has the honourable senator's department undertaken a review of government expenditures to assist her colleague the Minister of Finance with his task of finding enough money to remove the GST on reading material? Would she share with us what steps she has taken in that regard?

Senator Fairbairn: Honourable senators, as my honourable friend knows, when the Minister of Finance made his statement, he made a considerable move in the direction of making books and the price of books more accessible to a great many people in Canada through increasing the rebate for books in libraries, colleges, universities, school boards, literacy organizations and, of course, public libraries. He also has undertaken to continue, through discussions with myself and others, to find other ways in which the problems concerning Canadians who may not have

ready access to those institutions that I mentioned can be remedied. We want to work together to improve and advance measures for them. We will be talking about that in the weeks and months ahead.

ENERGY

ROUTE FOR OFFSHORE NATURAL GAS PIPELINE FROM ATLANTIC CANADA—PREFERENCE OF PRIME MINISTER—GOVERNMENT POSITION

Hon. J. Michael Forrestall: Honourable senators, I have a supplementary question to Senator Comeau's earlier questions. It has to do with the transmission of gas from Sable Island.

While there is much to be learned and understood about the mechanics of this project, my concern today is one I have had for some weeks. It has to do with the competency of the National Energy Board or the cabinet of this country to make a free and unimpaired decision under the circumstances, which have seen the Prime Minister of this country indicate, on two separate occasions, that he preferred Sable Island gas to go to Maine by way of Quebec. He may be right. He is entitled to his opinion. However, how can Nova Scotians expect to get an honourable decision, a fair decision, and a level-playing-field decision out of the National Energy Board, knowing the Prime Minister's preference?

I am not standing, honourable senators, to remind the minister of what goes on in cabinet, but she knows that cabinet must approve the environmental assessment first.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I will say to the honourable senator what I said to Senator Comeau, that in his comments during a question and answer session — more than one, I believe — the Prime Minister dealt with the questions he was asked. In the end, he made it quite clear that the regulatory body, which Canadians trust and which he trusts, is the National Energy Board. The National Energy Board will make this decision based on the market forces that will produce the very best benefits for Canadians. That is how the decision will be made, and that is what the Prime Minister has said.

Senator Forrestall: Honourable senators, I am appalled; I am startled; I am almost dumbfounded. How in the name of God can you expect an independent decision when the boss has said, "I want it to go this way"? Has he not at least impaired that ability? Has he taken these people and put them on a pedestal? Are they now to deny the country, and God, and the Prime Minister and everyone else?

• (1450)

The Prime Minister has told the National Energy Board how he wants this route to go. Is the minister suggesting to Nova Scotians that neither the National Energy Board nor cabinet will be guided by that?

Senator Fairbairn: Honourable senators, I do not know what happened in the previous administration, but I will say this: The Prime Minister has said that the decision that will ultimately be made is the economically feasible decision that the National Energy Board will make. That is the way it will be done. It will be done fairly, and with the competence for which that agency has become known all across this country. Their decision will not be impaired in any way and, no, the Prime Minister has not instructed them on what to do, Senator Forrestall.

CORPORATE GOVERNANCE

RESIGNATION OF BOARD OF DIRECTORS OF CANADIAN AIRLINES INTERNATIONAL—APPLICATION OF RECOMMENDATION OF BANKING COMMITTEE— GOVERNMENT POSITION

Hon. Donald H. Oliver: Honourable senators, I have a non-political question for the Leader of the Government in the Senate concerning Canadian Airlines International.

In May of 1996, the Standing Senate Committee on Banking, Trade and Commerce tabled its report on corporate governance. That report was compiled after a cross-Canada hearing, during which the committee met with CEOs, Chairs and members of boards of directors of most of the major corporations of Canada. The topic discussed most often before the committee was directors' liability. The committee recommended that the Canadian Business Corporations Act be amended to provide directors with a due-diligence defence.

On November 15, the entire board of directors of Canadian Airlines International resigned, fearing liability as the airline headed into troubled financial times. Why did the government not act promptly to implement the recommendations of the Standing Senate Committee on Banking, Trade and Commerce?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, obviously that is a non-political question for which I will try to seek a non-political answer.

ATOMIC ENERGY OF CANADA

SALE OF CANDU REACTORS TO CHINA—APPLICATION OF ENVIRONMENTAL AND SAFETY STANDARDS— GOVERNMENT POSITION

Hon. A. Raynell Andreychuk: Honourable senators, I should like to put a three-part question to the Leader of the Government in the Senate.

The Prime Minister has, to say the least, enthusiastically participated in the signing of an agreement to sell CANDU reactors to China. He has been heard to say that the Environmental Protection Act of Canada does not apply in any scrutiny of sales overseas, and he has indicated that there will be further sales to the Chinese.

In light of all of that, first, I should like to know what analysis of environmental protection the Prime Minister used in coming to the conclusion that it was environmentally safe to sell the CANDU reactor to China? As we are all aware, environmental issues are transboundary. However, my question is not what Chinese assessments of environmental issues were made, but what Canadian government assessments were made on that score?

Second, what security measures were taken, beyond pious indications in the agreement, to ensure that these CANDU reactors would be used for peaceful means and not military means?

Finally, if we are prepared to sell nuclear reactors without ensuring environmental and safety standards in a world situation, why do we feel that we must maintain different standards in Canada? Does this mean that we will now sell CANDU reactors without environmental concerns and without security concerns in other countries, or is there something unique and unusual in the Chinese situation?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I will take some of those questions as notice.

I wish to point out, however, that when Canada signed the nuclear cooperation agreement with China in November two years ago, China gave a legally binding commitment for a peaceful and non-explosive use of all materials supplied by Canada. That commitment covers methods of verification, as well as all questions concerning the reactors. The CANDU reactor will be designed, built and operated in accordance with Canadian codes and standards, including their adaptation to local conditions on site in China.

I am sure the honourable senator knows that it was the view of the government that the Canadian Environmental Assessment Act did not apply to this sale since EDC transactions are not covered by that legislation. As a matter of policy, AECL conducts environmental impact assessments of all of its projects and has worked with the Chinese authorities on preparing this one. However, I will seek further details for my honourable friend.

Senator Andreychuk: Honourable senators, the Canadian Environmental Assessment Act was put in place simply to have a more independent, arm's length inquiry of environmental issues. Why does the Canadian government feel that Atomic Energy's internal assessments are sufficient?

If we are concerned about the environment, as we seem to be by asking for such side agreements in our trade arrangements with Chile and in the NAFTA, why do we exclude China from the same category and the same scrutiny?

Senator Fairbairn: Honourable senators, I will add those questions to my list.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I have a delayed response to a question raised in the Senate on October 29, 1996 by the Honourable Senator Lynch-Staunton regarding referral of constitutional issues to the Supreme Court of Canada, and a response to a question raised in the Senate on October 31, 1996, by the Honourable Senator Forrestall regarding GST — harmonization with provincial sales taxes — effect on business.

NATIONAL UNITY

REFERRAL OF CONSTITUTIONAL ISSUES TO SUPREME COURT OF CANADA—GOVERNMENT POSITION

(Response to question raised by Hon. John Lynch-Staunton on October 29, 1996)

The three constitutional questions which pertain directly to Quebec were referred to the Supreme Court of Canada on September 30, 1996.

Here is the exact wording of the three constitutional questions referred to the Supreme Court on September 30, 1996:

1. Under the Constitution of Canada, can the National Assembly, legislature or government of Quebec effect the secession of Quebec from Canada unilaterally?

2. Does international law give the National Assembly, legislature or government of Quebec the right to effect the secession of Quebec from Canada unilaterally? In this regard, is there a right to self-determination under international law that would give the National Assembly, legislature or government of Quebec the right to effect the secession of Quebec from Canada unilaterally?

3. In the event of a conflict between domestic and international law on the right of the National Assembly, legislature or government of Quebec to effect the secession of Quebec from Canada unilaterally, which would take precedence in Canada?

GOODS AND SERVICES TAX

HARMONIZATION WITH PROVINCIAL SALES TAXES—EFFECT ON BUSINESS—GOVERNMENT POSITION

(Response to question raised by Hon. J. Michael Forrestall on October 31, 1996)

Canadians have expressed a strong preference to know the full price of goods and services in advance of their purchase. Tax-inclusive pricing under the harmonized sales

tax agreement with three Atlantic provinces responds directly to that preference. With tax-inclusive pricing, consumers in New Brunswick, Nova Scotia and Newfoundland and Labrador will know before they get to the cash register what their intended purchases will actually cost. As such, they will make better informed purchasing decisions.

The participating governments have consulted extensively and are continuing to consult extensively with business on matters of compliance. The governments recognise that tax-inclusive pricing will require some operational adjustments. Accordingly, rules have been developed which will minimise disruption for business, while still addressing the desires of consumers.

Moreover, removing imbedded provincial sales tax from business inputs and moving to a single administration will entail significant economic benefits for businesses in the participating provinces. The participating governments believe consumers should also benefit. That is why they have proposed tax-inclusive pricing.

ORDERS OF THE DAY

CANADA-ISRAEL FREE TRADE AGREEMENT IMPLEMENTATION BILL

SECOND READING—DEBATE ADJOURNED

Hon. Peter Stollery moved the second reading of Bill C-61, to implement the Canada-Israel Free Trade Agreement.

He said: Honourable senators, Canada is more dependent on trade to produce jobs and economic growth than any other developed country in the world. One in three Canadian jobs is dependent upon our exports. For every \$1 billion of exports, 11,000 jobs are either created or sustained. Thirty-seven per cent of our gross domestic product is generated through exports. Our choice, then, is between expanding and diversifying our trade or facing a stagnant or declining standard of living.

Canada is covering almost every region of the globe in its efforts to open up new markets and liberalize trade. Today, I am pleased to address the new agreement that Canada has reached with Israel.

For many years, Canada and Israel have actively pursued free trade around the globe. While Canada was establishing free trade with the United States through the North American Free Trade Agreement, Israel was also busy expanding its trade ties through free trade agreements with the United States, and, more recently, with the European Union, Turkey, the Czech Republic and Slovakia. However, trade between our two nations has remained stagnant.

In November of 1994, Prime Minister Jean Chrétien and Prime Minister Yitzhak Rabin decided to remedy this situation. The two leaders announced the beginning of negotiations of a Canada-Israel free trade agreement. By January of this year, Canada and Israel had reached a tentative agreement that both governments continued to refine. On July 31, Art Eggleton, Minister for International Trade, and Natan Sharansky, Israeli Minister for International Trade, signed the Canada-Israel Free Trade Agreement.

The Canada-Israel Free Trade Agreement will encourage both nations to become more competitive in the global marketplace and to increase bilateral trade.

• (1500)

This agreement is expected to generate significantly more business opportunities because, as of January 1, 1997, Canadian and Israeli companies will have immediate, direct, duty-free access to each other's markets for virtually all industrial goods. Also, both sides will benefit from the reduction or elimination of tariffs on agricultural products.

At the request of both countries, however, tariff reductions for dairy, poultry and egg products have been excluded from the agreement. So, too, have cultural industries and the Auto Pact.

Other areas of trade such as trade in services and government procurement will continue to be governed by the World Trade Organization rights and obligations.

The agreement also provides clear and straightforward rules of origin, a key component of any successful trading relationship. As well, to resolve any disputes that might arise under the agreement, both sides have agreed to be governed by a binding dispute settlement mechanism.

There are several sectors of the Israeli economy that are likely candidates for increased attention from Canadian firms. They include advanced electronics and communications systems, power and energy projects, oil and gas exploration, and the agri-food, fish products and environmental equipment sectors.

In the agri-food sector alone, the new deal with Israel will provide new market access for Canadian grains, oilseed and pulse crops, beef, maple syrup, alcoholic beverages and various processed food products. Every region in Canada will benefit to some extent from improved access to the Israeli market.

At present, trade between our two countries is modest but growing. In 1995, two-way trade was up 37 per cent to over \$450 million. I believe that figure is set to grow further as this agreement opens up our markets to one another.

Canada is now moving on various fronts to cement its bilateral ties and enjoy the economic rewards that such a strong relationship should bring. Once the agreement is implemented, Canadian exporters will finally be on an equal footing with their U.S. and European competitors who already benefit from free trade agreements with Israel.

Since Canadian business and the provinces know the value of trade, they support the Canada-Israel Free Trade Agreement. Israel, with its high standard of living and impressive economic growth, also presents a healthy expanding market for a variety of Canadian goods and services. In addition, Canadian exporters looking to sell goods or services in Israel can benefit from the full range of financial and risk management services offered by the Export Development Corporation through four lines of credit for buyer credit financing in Israel.

The new atmosphere of cooperation between Canada and Israel is already showing tangible results, even before the free trade agreement is implemented. For example, the Canada-Israel Industrial Research and Development Foundation was established in 1993 to promote industrial cooperation between Canadian and Israeli firms. The foundation supports specific bilateral projects by matching Canadian firms with ones in Israel. It also provides repayable grants for promising joint ventures. Canada is leading the way with this innovative project, which both our governments and private sector partners are cost sharing.

While this free trade agreement is between Canada and Israel, we have offered to extend its benefits to goods produced in the West Bank and Gaza, and Israel has accepted our offer. We are examining ways to best achieve this in cooperation with the Palestinian authorities.

We also stand ready to examine ways to enhance trade with other countries in the Middle East. The Middle East represents a rich market for Canada, and the signing of the free trade agreement with Israel represents a major step toward realizing that potential.

In the decades since the founding of the State of Israel, Canada has offered its friendship and support. Israel's well-being and security is of utmost importance to Canada. We believe that Israel's security, and indeed the security of all people in the region, can be best achieved through the continuation of the peace process.

Much has been achieved, from a formal peace treaty between Israel and Jordan to the interim agreements between Israel and the PLO on Palestinian self-rule in the West Bank and Gaza. It is when we step back and look at all that has been accomplished that we realize the seriousness of recent events and the challenges that lie before us. We are reassured by the pledges from Palestinian and Israeli leaders at the Washington Summit to renounce the use of violence and to immediately resume negotiations. Shattered confidence and trust can only be repaired through dialogue.

It is our profound hope that these negotiations will lead to the steady implementation of the Oslo agreements and, from there, to the resumption of final status negotiations. Unilateral actions of violence cannot resolve the difficult issues that face Israel and the Palestinians; only negotiation can. I believe our own active involvement in the peace process has helped to build trust and peace. For the past 50 years, Canada has participated in efforts to

secure peace in the region. Today, we continue in this tradition of dedication to the cause of peace. We have accepted the challenge of chairing the Refugee Working Group in the multilateral track of the peace process. We continue to support economic development in the region, including aid to the Palestinians. Our goal is just, comprehensive and lasting peace based on the principles laid out in UN Security Council resolutions 242 and 338.

Canada accepts its responsibilities regarding the peace process. We are ready to continue the struggle for peace, to speak out for the cause of peace and to stand by leaders in the region who are prepared to take risks for peace.

At the same time, let us not forget the important progress that has been made in building economic relations in the region. In 1994 and 1995, political and business leaders from the region and the international community met first in Casablanca and, last year, in Amman, Jordan. Later this month, Canada will join others as we meet again in Cairo. We are sending an unprecedented private sector delegation to this meeting, evidence not only of our interest in this area but of our conviction that significant business development is possible there.

The aim of these summits is to expand regional economic cooperation. In much the same spirit, the Middle East Development Bank has been established to create commercial activity. Canada is also supporting the Middle East and North Africa Summit scheduled for later this month in Cairo.

The Canada-Israel Free Trade Agreement will complement our efforts at trade expansion in other important markets. Since 1993, Canadian exports have seen close to a 30 per cent increase. The Canadian government is committed to doubling the number of companies exporting by the year 2000. We think that this will make a significant contribution to economic growth and job creation. Many of these new exporters will be small- and medium-sized businesses, the main job producers in Canada. We hope that some of them will choose to get their feet wet in the strong and expanding Israeli market.

The federal government is taking a "Team Canada" approach to its international business development endeavours involving all levels of government and the private sector. This partnership has improved exporting services and, as a result, exports have increased.

The federal government has pursued its jobs strategy, a strategy that addresses both immediate and long-term job creation needs and focuses on partnerships at all levels. The aim of the government's jobs strategy is to stimulate Canada's economy and, in turn, create jobs for Canadians. The government and Canadians themselves have worked hard over the past two and a half years and have made sacrifices to create a healthy environment in which businesses can expand and provide new job opportunities. The results are already evident. The number of jobs is increasing. Over 113,000 jobs have been created in the first half of 1996, and Canada is projected to have the highest job growth of all the G-7 countries, both this year and next.

The government's domestic initiatives to create jobs, combined with its international business development activities

and continued efforts to liberalize trade, will allow Canadians to succeed at home and abroad. The Canada-Israel Free Trade Agreement, besides expanding trade and creating jobs, sends the message that Canada is ready to trade with the world. It reinforces our position that free trade for us is not trading blocs but liberalized trade all around the world. It also sends the message that Canada believes in the Middle East peace process. We believe that prosperity helps lead to stability and that economic well-being is essential to an enduring peace in the region.

The world stands on the edge of an exciting new era — an era when markets and minds are opening up to the free exchange of goods, services and ideas. In this world, Canadians cannot and will not be passive observers. We must embrace these new challenges as just so many new opportunities.

Canadians have already demonstrated their ability to compete successfully in this new environment, so let us continue to open doors for Canadian entrepreneurs. Let us continue to seek out new markets and new opportunities. Let us know that this free trade agreement with Israel is another important step along the path to peace and prosperity.

• (1510)

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I will be brief since, at second reading, we are asked to vote on the principle of the bill.

There is no question where the Conservative Party stands on free trade. We, at least, have been consistent. Our position has been clear over the years. We maintain it today. Therefore, we welcome this legislation today. We look forward to sending it to committee where it will be examined.

Honourable senators, I cannot make these remarks today without pointing out that our position, while being consistent, is quite in contrast with that of the Liberals, who for many years denigrated free trade overall. They said one thing in opposition. Now, as we have heard, without the faintest of blushes, they take a diametrically opposite position as they must cope with the realities of a global economy and how best as a government to cope with it.

I quote from the Red Book because we are still being asked to believe in it. We were told only last month that it was 78 per cent successful. On page 23 of the Liberal Red Book it states:

In 1988, Liberals opposed the Canada-United States Free Trade Agreement because it was flawed; Canada did not get secure access to the United States market.

A little later on, the book goes on to state:

A Liberal government will renegotiate both the FTA and NAFTA...

This is the same book where you will find on another page that the Liberals will replace the GST.

The Liberal Red Book even threatened abrogation, "if satisfactory changes cannot be negotiated."

These were brave words indeed to which many Canadians listened very carefully. Many Canadians were influenced by these words to vote for the Liberal Party in October 1993.

Senator Murray: Senator Stollery was even more negative.

Senator Lynch-Staunton: I do not want to embarrass Senator Stollery by quoting some of the things he said. I am sure that even he would protest. He would raise a point of order, with reason, which I would support.

What are the results of all these strong pledges? Last May, the Minister for International Trade admitted most candidly in front of a Commons committee that negotiations had been largely fruitless and that no abrogation was envisaged. In fact, the trade deals had been largely successful even without the improvements.

Mr. Eggleton, like his predecessor, is never hesitant to quote the record export volumes that have resulted since the FTA came into force. As a matter of fact, the Liberals' enthusiasm for free trade now knows no bounds. The Prime Minister travels the world extolling its virtues, anxious to sign agreements with any regime, be it democratic or despotic. In Manila, he eliminates the words "human rights" from his vocabulary. In Shanghai, environmental concerns are dismissed as an irrelevant irritant. This is from the same person who tells Canadians to believe in the Red Book when it states that environmental reform requires government leadership on priority public issues.

This is the same government that passes regulations exempting CANDU nuclear reactors being sold to China from certain of the provisions in the Canadian Environmental Assessment Act. How does that meet the Red Book obligations? I think even its authors would have difficulty explaining it.

As for the Canada-Israel Free Trade Agreement itself, it does have a unique history which is worth relating. It was first proposed by Israel in 1988, but Canada did not pursue it at the time as the government had its hands full with the free trade agreement with the United States. The Clinton administration had convinced Congress to fast track both agreements. As a result, U.S. exports to Israel have risen dramatically over the past few years while Canadian exporters have faced tariffs as high as 20 per cent, at the same time that Israel benefits from preferential tariffs and is considered a developing country.

Those who are now presenting the agreement must take the blame for the delay in bringing this agreement before Parliament and the trouble that that has caused for our exporters. They are responsible for keeping Canadians at a disadvantage with the United States and Europe when exporting to Israel.

They are now promoting a free trade agreement between our two countries. They can rightfully claim — I give them credit — responsibility for finally pursuing this agreement despite what we are told are strong objections from an unsympathetic bureaucracy.

Prime Minister Rabin was the first foreign leader to visit Ottawa after the last election. It is understood that he was

hesitant to bring the matter up, owing to Canada's lack of interest in the past. In fact, it was Mr. Chrétien who, we are told, is said to have broached the subject with Mr. Rabin and pushed officials to the point where negotiations finally began one year later in November 1994. Therefore, the Prime Minister is to be commended for having committed his government to this agreement in the face of resistance by officials at the Department of Foreign Affairs, or so it is alleged.

Indeed, I hope that committee hearings will allow a full discussion of our overall policy toward the Middle East, as this is one area to which we give too little attention. This agreement will inevitably draw us closer to what is going on there.

As for the agreement itself, it has clauses that are unique to it and particular emphasis must be given to them. There is, for example, repeated use in the bill of the term "or another CIFTA beneficiary." Presumably this means Palestine, although clause 58.4(1) states:

The Governor in Council may make regulations defining the expressions "Israel or another CIFTA beneficiary" and "imported from Israel or another CIFTA beneficiary".

The question is obvious: Is this to be interpreted to mean that this free trade agreement can be extended without Parliament's consent?

I hope these and other questions relating to the agreement in particular, and to our policy in the Middle East in general, will be developed before the Foreign Affairs Committee. I, for one, look forward to its hearings on this most important legislation.

On motion of Senator Prud'homme, debate adjourned.

CODE OF CONDUCT

SPECIAL JOINT COMMITTEE AUTHORIZED
TO EXTEND FINAL REPORTING DATE

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I move:

That the Senate do unite with the House of Commons in extending the reporting date of the Special Joint Committee on a Code of Conduct to Friday, December 13, 1996;

That, notwithstanding usual practices, if the Senate is not sitting when the final report of the Committee is completed, the Committee shall deposit its report with the Clerk of the Senate, and said report shall thereupon be deemed to have been presented to the Senate; and

That a Message be sent to the House of Commons to acquaint that House accordingly.

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

Hon. Senators: Agreed.

Motion agreed to.

NEWFOUNDLAND

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

On the Order:

Resuming 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 (*amendment to the Constitution of Canada, Term 17 of the Terms of Union of Newfoundland with Canada*), 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,”;

And on the subamendment of the Honourable Senator Cogger, seconded by the Honourable Senator Bolduc, that the motion in amendment be amended by substituting for the words “with the following amendment:” the words “with the following amendments: (a)” and by removing the period at the end thereof and adding the following words:

; and

(b) Delete the words “to direct” in paragraph (c) of Term 17 and substitute therefor the words “to determine and to direct”.

Hon. Gérard-A. Beaudoin: Honourable senators, I should like to say a few words about the proposed amendment to the Constitution of Canada, Term 17 of the Terms of Union of Newfoundland with Canada.

[Translation]

The report of the Standing Senate Committee on Legal and Constitutional Affairs confirms the role played by Parliament, and particularly by the Senate, regarding the protection of minority and denominational rights. Several points of view were expressed to our committee in Ottawa and in Newfoundland. Hearings held in Newfoundland were particularly intense. I am pleased to have taken part in them. The debate was and still is rather emotional. This should not come as a surprise.

However, from a legal standpoint, the following points should be considered: first, this is a constitutional amendment, which

clearly falls under section 43 of the 1982 Constitution Act, dealing with the bilateral amending formula. Indeed, Newfoundland finds itself in a unique situation. Legal experts all agree on this. Second, there was no need, from a strictly legal point of view, to hold a referendum. Since a referendum in our system is a purely consultative process and is not part of the amending formula, it was not necessary to hold one. In Canada, there is a tendency to hold too many referenda. Third, by dealing with this issue, the Senate does not get involved in the education sector, which comes under the exclusive jurisdiction of the province. Rather, the Senate is merely fulfilling its duty under the Constitution, more specifically section 43 of the 1982 Constitution Act. Fourth, the Canadian Charter of Rights and Freedoms has no impact on the issue of denominational rights, as provided under section 29 of the 1982 Constitution Act, which reads as follows:

[English]

Nothing in this Charter abrogates or derogates from any rights or privileges guaranteed by or under the Constitution of Canada in respect of denominational, separate or dissentient schools.

[Translation]

Moreover, the Supreme Court of Canada already dealt with this issue in 1987, in the Reference on Ontario's Bill 30, in which Madam Justice Wilson says:

...the rights of privileges protected by section 93(1) are immune from Charter review under section 29 of the Charter. I think this is clear. ... It was never intended, in my opinion, that the Charter could be used to invalidate other provisions of the Constitution, particularly a provision such as section 93, which represented a fundamental part of the Confederation compromise.

[English]

Denominational rights referred to in section 93 are collective rights, so said the Privy Council and the Supreme Court. The rights enshrined in the Canadian Charter of Rights and Freedoms are individual rights, as affirmed by the Supreme Court of Canada. One section in the Constitution cannot contradict another section of the same Constitution. The Charter of 1982 does not set aside section 93. Section 93 is a code in itself. It is part of the compromise of 1867, to echo Sir Lyman Duff, one of Canada's greatest chief justices. Term 17 is part of the compromise of the 1949 agreement, when Newfoundland and Labrador joined Canada. Up to now, the Supreme Court has recognized two categories of collective rights: denominational rights and aboriginal rights.

• (1530)

Since 1867, our constitutional texts have declared that the provinces have jurisdiction over education, subject to existing denominational rights. This has been the case in Quebec and Ontario, for example, since 1867. Those two provinces are referred to in section 93 of the Constitution.

Newfoundland and Labrador now desire that the existing denominational rights enshrined in Term 17 be subject in the future to provincial laws of general application. In parliamentary democracies, no section is eternal. A system may be completely modified. It is a question of choice and philosophy.

[Translation]

In the case of the Newfoundland resolution now before us, we are given to understand that denominational schools will be protected, when all it will take to eliminate them is a provincial statute. In other words, a constitutional guarantee is being dropped. I do not think that this is the right way to proceed. Until now, the province had jurisdiction over matters of education, subject to constitutional guarantees. Henceforth, it will legislate without regard for any guarantee.

The amendment proposed by the Honourable Senator Doody deletes paragraph 1(b) of Term 17 and substitutes therefor the legal criterion "where numbers warrant." This is a very well-known criterion in Canadian constitutional law, which was used in section 23 of the 1982 Canadian Charter of Rights and Freedoms and which has already been the subject of Supreme Court rulings. Senator Cogger's amendment also strikes me as useful.

[English]

At the Legal and Constitutional Affairs Committee hearings in Newfoundland, a lawyer, Mr. Colin Irving, suggested an amendment: "where the numbers warrant." He convinced me. The expression may be used for denominational rights.

[Translation]

I should like to explain that the vote on the resolution on Term 17 must be placed in the context specific to Newfoundland. Other provinces might wish an amendment to section 93. Other provinces can be expected to follow suit. Thus, Quebec might wish to amend section 93 to structure its school system along language lines, rather than according to religion, as has been the case in Quebec since 1867. Personally, I could be favourable to such a request from Quebec, if, for example, the principle of denominational schools continued to obtain: "where the numbers warrant." In my view, this would be consistent with the major currents in the history of Quebec and of Canada.

When it comes to education and denominational rights, it is not true that everything can be sorted out with a "yes" or a "no." In countries where schools are, in principle, non-denominational, there are always agreements or compromises for free or denominational schools. Each country has its own constitutional history. Moreover, I have always been wary of simplistic solutions. They can lead to other problems. Education is a complex sector, and distinctions must be made, because this may be just the start of amendments to section 93. It is for this reason that I will be voting in favour of the amendments proposed by my colleagues Senators Doody and Cogger, and I urge you to do likewise.

[English]

Hon. Bill Rompkey: Honourable senators, I wish to make some remarks on the amendments to Term 17. My views are well known and are on the record on the resolution itself and on Term 17. I take the opposite view to my colleague Senator Beaudoin, and I urge my colleagues to vote against both of these amendments.

Senator Beaudoin and I were both in St. John's and we both heard testimony. Of course, he referred to the testimony of Colin Irving. However, Senator Beaudoin knows that there were other people from the legal profession in St. John's who counselled the opposite.

What is more important to me is the position of the Government of Newfoundland. The Minister of Education in speaking for the government made it quite clear that, if the amendment "where numbers warrant" passed, it would have the effect of preserving the status quo. In other words, there would be absolutely no change at all.

In essence, honourable senators, this comes down not to a question of minority rights, but to a question of who wields power over education in Newfoundland. This point was referred to yesterday in the debate, and I want to emphasize it again today as strongly as I can.

People still do not understand the uniqueness of the system in our province, what it has been like since 1949 and the kind of power that has been held by the churches. In some cases, church power is stronger than that of elected officials.

I cannot, as a democrat or as a liberal, accept the situation that elected officials should have to ask the leaders of the churches whether they have power over the administration of schools, including the power of the public purse. That does not happen anywhere else in Canada and it should not happen in Newfoundland. In a democracy in 1996, that should not be the case.

The legislature should be pre-eminent. That is clear in any democracy, whether it be a country or a province. What Term 17 will do is simply put our province on an equal footing with every other province in Canada. This is not a Catholic/Protestant issue, as some would have it described.

The fact is that, in Newfoundland, seven Christian denominations have held power. That is the reality. Many people have difficulty coming to grips with that; however, that is the reality. Seven Christian denominations have had power over the administration of education, including the power of the public purse and expenditures on schools.

• (1540)

This situation does not exist in Nova Scotia, New Brunswick, Ontario, Quebec or British Columbia or anywhere else in this country. To argue that there is some similarity between section 93 and Term 17 is not realistic either.

Section 93 was put in the original Constitution to protect Catholic and Protestant schools; that is quite true. However, Senator Beaudoin also knows that at the time Newfoundland came into Confederation, in 1949, it was agreed by both sides, by both the national and the provincial government, that Term 17 would be an alternative for section 93. Why? Because our system was unique. No other part of Canada had that same situation. Therefore, Term 17 was written as it was, giving entrenched powers that have been continuous and are still in place today; but should we allow them to remain for all eternity? I say no. Yes, it is a diminishing of rights that are entrenched in the Constitution, but should non-elected officials have that kind of power in Canada today — more power than the elected officials? I say no, and that is why I ask my colleagues to vote against both of these amendments.

The first amendment is really a minor one, and I am sure Senator Beaudoin would agree, following our hearings in Newfoundland, that it has been debated on both sides. I do not think there is a great deal of relevancy to the amendment to have included the phrase “determine and direct.” However, if the amendment regarding “where numbers warrant” were passed, it would have the effect of maintaining the status quo in Newfoundland, and I do not think that that is the way it should be in 1996 in Canada.

Let me simply say again what I have said before: We on this side, and I think all people who support this particular amendment to Term 17, do so not because there was a referendum in Newfoundland. The referendum need not have been held, and the referendum was not binding. It was held, and it came to certain conclusions, but what is more important than that is the following: The royal commission report, including its consultation process and its recommendations, the vote of the government, the unanimous vote of the legislature, are pieces of evidence, it seems to me, that we have to consider. Moreover, we have to consider one final piece of evidence, and that is the election itself. The present government of Newfoundland went through its last election campaign with Term 17 as part of its policy, and it was elected, overwhelmingly. That, it seems to me, is an important piece of evidence to consider.

In the final analysis, honourable senators, what is before us is the question of who will have control and power over education in Newfoundland. That is the question, and I urge my colleagues to vote against both of these amendments and to vote for Term 17 as originally amended.

After we have talked about minority rights and power, we must talk about what is important for the children of our province, who have gone through some serious economic difficulties, and who now face difficult possibilities for the future. I can mention things such as Voisey's Bay and a number of other possibilities for our province, but they are possible only if we have the social capital. The money that will be put into Voisey's Bay will be insignificant compared to the kind of social capital we have to invest. That means education. That is what we are voting on here. We are voting on the rights of children, not the rights of churches.

Hon. Jean B. Forest: Honourable senators, I would just like to make the point that the constitutionally guaranteed rights of minorities with respect to denominational schools, certainly in my province, are not subject to provincial legislation.

Some Hon. Senators: Hear, hear!

Hon. Marcel Prud'homme: Honourable senators, was that a question or a comment?

Honourable senators, I regret very much the aggressiveness of Mr. Tobin when he lashes out at the Senate. It does not help intelligent debate. To be frank, I resent it. It is almost blackmail to say, “You do not exist. I do not give a damn what you think, you old whatever. I have the Prime Minister in my pocket.” I must say I think it is the most ungracious kind of politics, but having sat with Premier Tobin for 15 years, I know how far he can go. I regret that. It is very ungracious, to say the least — I am trying to choose my words carefully in both French and English — that he would do that on the eve of a debate as important as this one. He could have conducted himself in a more intelligent fashion than to be provocative, as he was in the article I have been circulating since this morning, which, I am sure, puts a lot of the honourable senator's colleagues ill at ease. Anyway, such is life. I still ask the same question. Tomorrow, I may not make any further contribution.

I am a great fan of Sir Wilfrid Laurier's. If I may paraphrase, another article in one of the weekend papers said, “If so and so were here today, I know which microphone he would be on.” I am referring to Mr. Bouchard. That has nothing to do with the debate, but I do not like people using names of people whom I have known probably better than they have. I ask my colleagues: If Sir Wilfrid Laurier were here today, where do you think he would stand on an issue of such great importance to minority rights?

Senator Rompkey: Honourable senators, I do not know what Sir Wilfrid Laurier would say if he were here today, but I know that he would be for equality all across the country, and I have tried to point out that that is exactly what we are establishing. We are establishing equal opportunity, equal control, equal jurisdiction, and equal power all across Canada. No one should be more equal than any other. This simply puts Newfoundland on the same footing as every other province.

It is wrong to say that minority rights are being extinguished. It is true to say minority rights are being diminished, but I contend, and I contend again, that the right to the public purse is not a right that the churches should have in 1996. That is the right that has been diminished. The right to the teaching of religious education is there, enshrined in the Constitution. The right to religious practices in school is there, enshrined in the Constitution. That is clearly written in the new Term 17. The churches will continue to have those rights. Ministers of the Anglican church will be able to walk into a school in Newfoundland, and the Constitution will give them the right to religious practices, religious observances and religious teachings, and the same is true of other denominations. It may not be true for Jews, it may not be true for Muslims, but it is true for seven Christian denominations, enshrined in the Constitution, that they

will continue to have the right in Newfoundland to walk into a school and carry on religious practices. The Supreme Court, by the way, has ruled that that is the core of denominational rights. The core of denominational rights, it has said, therefore, does not include the right to an automatic draw on the public purse.

I do not know what Sir Wilfrid Laurier would have to say if he were here today. All I can do is speak for myself.

Senator Prud'homme: At the end of his comments, the honourable senator mentioned Muslims and Jews. There is nothing that prevents the government from adding rights. They came to ask us to add rights some years ago. There was not even a debate. Who would disagree to giving more rights? I listened to senators from Alberta and others who said we do not disagree to giving more rights. Where we disagree and where we have a debate is that, for the first time in my political life — 40 years as a Liberal, now an independent — I am not a Conservative — I see Liberals standing up and trying to convince us that we should diminish rights and not add to them. If you are talking about adding to the status quo, of course I am concerned that Buddhists or others may not have a chance to have a school, but they can go to the public school in Newfoundland. All these religious people who do not want to be protected will be what, *un je ne sais quoi*? They will be able to have a school system all to themselves. If the Anglicans do not wish to run their own school, which they have the right to do, that is all right with me. However, that does not say that those who have that right should lose it —

• (1550)

The Hon. the Speaker: Honourable senators, I regret to inform you that the 15-minute period for Senator Rompkey's speech and questions thereto has terminated, unless leave is granted to allow Senator Prud'homme to continue.

Hon. Eric Arthur Berntson (Deputy Leader of the Opposition): Honourable senators, when we began today, this item stood adjourned in my name. I should like to continue to have it stand in my name.

The Hon. the Speaker: Is it agreed, honourable senators, that this item on the Order Paper remain standing in the name of the Honourable Senator Berntson?

Hon. Senators: Agreed.

On motion of Senator Berntson, debate adjourned.

BROADCASTING ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Whelan, P.C., seconded by the Honourable Senator Losier-Cool, for the second reading of Bill C-216, to amend the Broadcasting Act (broadcasting policy).—(*Honourable Senator Gauthier*).

Hon. Noël A. Kinsella: Honourable senators, with reference to House of Commons Public Bill C-216, to amend the Broadcasting Act, the Order Paper indicates that that order stands in the name of the Honourable Senator Gauthier. I should like to say a few things about this bill.

The Hon. the Speaker: Honourable senator, I suppose I must ask whether Senator Gauthier has agreed that other senators may speak on this matter.

Hon. B. Alasdair Graham (Deputy Leader of the Government): Senator Gauthier indicated that any other senator wishing to speak on this particular item should feel free to do so.

The Hon. the Speaker: Very well, then. I recognize Senator Kinsella, and this item on the Order Paper will remain standing in the name of the Honourable Senator Gauthier.

Senator Kinsella: Honourable senators, it is important that the business of the house be conducted in as expeditious a manner as possible. Yet we must be mindful of the incapacities that time, space and illness very often cruelly impose upon us. However, this is a very important bill, and there are many technical ramifications to it. I will not comment on that at this moment.

As honourable senators know, the purpose of the bill, as explained by Senator Whelan, is to prevent cable companies from re-using an unpopular marketing technique known as negative-option billing. This legislation would prohibit cable companies from billing for a new package of services without the consumer's prior consent.

Honourable senators, I do not know of any senator who would be in opposition to this fundamental objective. However, several senators have expressed the concern that this bill, in its present form, could have serious and unintended consequences that would run perhaps even counter to the broad objectives of the Broadcasting Act.

The debate on second reading is adjourned in the name of our colleague and friend Senator Jean-Robert Gauthier who, as we know, regretfully is seriously ill in hospital. His return to the Senate may be delayed for an uncertain period of time. Because of this, honourable senators, recent press reports have resulted over the past several days in literally hundreds of calls to senators accusing this chamber of stalling progress on the bill, of alleging that we are opposed to the bill. For those honourable senators who watched the CBC program *Canadian Air Farce* on the weekend, that program contained an item to that effect. The message, although unjust, was to the effect that this chamber somehow is opposed to this principle of banning negative-option billing. That does not seem to be the message that I have from honourable senators.

Honourable senators, as far as I can ascertain, we are not adopting a strategy of allowing the bill to die on the Order Paper. Clearly, there are deeply held convictions, albeit totally false. We, honourable senators, must move this bill into committee so that the complexities of the bill may be fully examined through the prism of the evidence presented by the many witnesses available to us.

Honourable senators, let me make it perfectly clear so that there is no misunderstanding: We on this side are unequivocally in support of the spirit of the proposed amendment; we on this side are opposed to the negative option, and we wish to see this bill passed after we have examined any possible amendments that might prevent the consequences and the concerns that some honourable senators have expressed.

Given the situation in which we find ourselves, and taking into consideration all of the circumstances, what are we to do? One possibility would be for us to agree to refer the bill to committee for detailed examination, recognizing that our colleague Senator Gauthier would have the opportunity to speak on the matter at third reading. Another possibility would be that we could agree at this point not to take a decision on the principle of the bill, which is normally what is at stake when we take a decision at second reading. Some honourable senators feel that if we do not want to make a judgment on the principle of a bill, we have another option. That option would be not to give the bill second reading, but to refer the subject-matter of the bill to a committee.

Honourable senators, we must bring this matter to a head; we should do that either today or tomorrow; and we should do it quickly. Given that a government senator sponsored the bill, perhaps honourable senators could reflect upon this matter overnight. Perhaps we could have some indication tomorrow in favour either of sending the matter off to committee, having dealt with it on its principle, or of not giving it second reading but moving the subject-matter off to committee.

• (1600)

Senator Graham: Honourable senators, the points made by Senator Kinsella are well taken. There is no intention on this side to stall or sidetrack due process. Senator Losier-Cool wishes to speak to this bill, and it is her intention to do so on Thursday.

The sponsor of the bill, Senator Whelan, is unavoidably absent. I would suggest that we review the situation at the end of the week, or at the latest the beginning of next week, and that we determine at that time the position of Senator Gauthier, who, as has already been indicated, wishes to speak to this legislation. At that particular time, we can determine to what committee it should be referred and at what time.

I wish to assure all honourable senators and the public in general that it is not the intention of the Senate to delay due process or to stall the proper hearings on this bill.

Hon. Finlay MacDonald: Honourable senators, I have a question for the deputy leader. When the bill is sent to committee, perhaps some consideration could be given to whether or not it should have been discharged from the Order Paper, just to make it clear to the hundreds of people who have been calling — and I have taken approximately 40 calls myself from Nova Scotians — that the bill will not die on the Order Paper.

Senator Graham: Yes. I should like to give the assurances to all honourable senators that it is not our intention to allow the bill to die on the Order Paper.

The Hon. the Speaker: Honourable senators, is it agreed that the bill will remain standing in the name of the Honourable Senator Gauthier?

Hon. Senators: Agreed.

On motion of Senator Graham, for Senator Gauthier, debate adjourned.

POST-SECONDARY EDUCATION

REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE ADOPTED

The Senate proceeded to consideration of the eighth report of the Standing Senate Committee on Social Affairs, Science and Technology (*Budget - Study on Post-Secondary Education*), presented to the Senate on November 25, 1996.

Hon. Mabel M. DeWare, Chairman of the Standing Senate Committee on Social Affairs, Science and Technology, moved the adoption of the report.

Motion agreed to and report adopted.

THE ESTIMATES, 1996-97

REPORT OF NATIONAL FINANCE COMMITTEE ADOPTED

The Senate proceeded to consideration of the sixth report of the Standing Senate Committee on National Finance (*Supplementary Estimates (A)*), presented to the Senate on November 25, 1996.

Hon. Pierre De Bané, Deputy Chairman of the Standing Senate Committee on National Finance, moved the adoption of the report.

Motion agreed to and report adopted.

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZES TO MEET DURING SITTING OF THE SENATE

Hon. Sharon Carstairs, pursuant to notice of November 25, 1996, moved:

That the Standing Senate Committee on Legal and Constitutional Affairs have power to sit at 3:15 p.m. tomorrow, Wednesday, November 27, 1996, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

Motion agreed to.

The Senate adjourned until Wednesday, November 27, 1996, at 1:30 p.m.

CONTENTS

Tuesday, November 26, 1996

	PAGE		PAGE
Visitors in the Gallery		North American Free Trade Agreement	
The Hon. the Speaker	1167	Softwood Lumber—Agreement with United States on Export Quotas—Reasons for Five-Year Term—Government Position. Senator Bolduc	1171
Pages Exchange Program with House of Commons		Senator Fairbairn	1171
The Hon. the Speaker	1167	Poverty in Canada	
The Senate		Emergence of Latest Statistics—Government Position.	
Deputy Principal Clerks—Congratulations on Appointments.		Senator Robertson	1171
The Hon. the Speaker	1167	Senator Fairbairn	1171
<hr/>			
SENATORS' STATEMENTS		Literacy	
The Senate		Application of Savings from Excess Departmental Inventories to Reduction of Goods and Services Tax on Reading Material—Government Position. Senator Di Nino	1172
Cooperative Staff Exchanges with House of Commons.		Senator Fairbairn	1172
Senator Prud'homme	1167	Energy	
National Child Day		Route for Offshore Natural Gas Pipeline from Atlantic Canada—Preference of Prime Minister—Government Position. Senator Forrestall	1172
Senator Pearson	1168	Senator Fairbairn	1172
Senator Robertson	1168	Corporate Governance	
Aboriginal Peoples		Resignation of Board of Directors of Canadian Airlines International—Application of Recommendation of Banking Committee—Government Position. Senator Oliver	1173
Report of Royal Commission. Senator Watt	1168	Senator Fairbairn	1173
Health		Atomic Energy of Canada	
Provision of Facilities for Smokers on Parliament Hill.		Sale of CANDU Reactors to China—Application of Environmental and Safety Standards—Government Position.	
Senator Di Nino	1169	Senator Andreychuk	1173
Senator Gigantès	1169	Senator Fairbairn	1173
<hr/>			
ROUTINE PROCEEDINGS		Delayed Answers to Oral Questions	
Adjournment		Senator Graham	1174
Senator Graham	1169	National Unity	
Foreign Affairs		Referral of Constitutional Issues to Supreme Court of Canada—Government Position.	
Committee Authorized to Meet During Sitting of the Senate. Senator Stewart	1169	Question by Senator Lynch-Staunton.	
<hr/>			
QUESTION PERIOD		Senator Graham (Delayed Answer)	1174
North American Free Trade Agreement		Goods and Services Tax	
Softwood Lumber—Agreement with United States on Export Quotas—Effect on Jobs in Producing Provinces— Government Position. Senator St. Germain	1170	Harmonization with Provincial Sales Taxes—Effect on Business—Government Position. Question by Senator Forrestall.	
Senator Fairbairn	1170	Senator Graham (Delayed Answer)	1174
Energy		<hr/>	
Route for Offshore Natural Gas Pipeline from Atlantic Canada— Role of Cabinet in Decision—Government Position.		ORDERS OF THE DAY	
Senator Comeau	1170	Canada-Israel Free Trade Agreement Implementation Bill (Bill C-61)	
Senator Fairbairn	1171	Second Reading—Debate Adjourned. Senator Stollery	1174
		Senator Lynch-Staunton	1176
		Code of Conduct	
		Special Joint Committee—Authorized to Extend Final Reporting Date. Senator Graham	1177

Newfoundland

Changes to School System—Amendment to Term 17 of Constitution—Report of Committee—Motion in Amendment— Debate Continued. Senator Beaudoin	1178
Senator Rompkey	1179
Senator Forest	1180
Senator Prud'homme	1180
Senator Berntson	1181

Broadcasting Act (Bill C-216)

Bill to Amend—Second Reading—Debate Continued.	
Senator Kinsella	1181
Senator Graham	1181

Senator MacDonald	1182
-------------------------	------

Post-Secondary Education

Report of Social Affairs, Science and Technology Committee Adopted. Senator DeWare	1182
---	------

The Estimates, 1996-97

Report of National Finance Committee Adopted. Senator De Bané	1182
--	------

Legal and Constitutional Affairs

Motion to Authorize Committee to Meet During Sitting of the Senate. Senator Carstairs	1182
--	------



If undelivered, return COVER ONLY to:
Canada Communication Group — Publishing
Ottawa, Canada K1A 0S9