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Wednesday, November 5, 1997

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

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THE SENATE

Wednesday , November 5, 1997

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

Prayers.

THE LATE HONOURABLE WALTER P. TWINN

TRIBUTES

Hon. John Lynch-Staunton (Leader of the Opposition):

Honourable senators, Walter Twinn was my first seatmate in the Senate, as we were summoned here within a few days of each other. Although our introduction to this place was memorable and not that pleasant, because of the long and seemingly endless sittings in the fall of 1990, these nonetheless allowed those who entered the Senate that year a unique opportunity to come to know each other in a way which would otherwise have been impossible.

I was little aware of Walter's achievements and ambitions at the time, as he spoke little of himself, was somewhat shy and quite reserved, except when he spoke of the Sawridge Band and the problems and difficulties facing it and so many other Indian bands. Then he would become animated and emotional, so deep were his concerns and feelings for them.

Walter was an astute businessman, and as Chief of the Sawridge Band, was never forgetful of the trust this position brings with it. The economic fortunes of his band are unusual, and Walter succeeded in seeing that they were used to the benefit of every member of it, despite pronounced resistance by many to some of his priorities. In time, they, too, came to recognize the wisdom of his objectives.

His main preoccupation, however, was his determination that Indian bands deserve a better status in Canadian society, and that their treatment as inferiors and wards of the government is a thing of past. He spent all his energies promoting these values, including introducing a bill along these lines in the Senate, a bill which, I hope, will not be allowed to die with him.

The First Nations Government Act bill, which Senator Twinn sponsored, would create, through statute, a method whereby first nation communities would become self-governing. This would be accomplished without the agonizingly slow process of constitutional amendment. Once self-government were attained under this act, a community would be recognized as having the power to make laws for peace, order and good government, and among other matters of self-government, the Indian community would control education.

It was a fundamental belief of Walter's that, through self-governance, the Indian people of Canada would gain the economic independence and self-respect which they so richly deserve and which has been denied them for too long. The greatest tribute we can pay Walter is to work toward the motives behind the bill and see them become law.

Walter was an affectionate husband, a loving father, a devoted chief and a conscientious senator. His loss leaves a great emptiness, one which will be difficult to fill, both in his band and in the Senate. I can only hope that his replacement in both places will share Walter's principles.

To his dear wife, Catherine, his children and family, and to his band members who were all his friends, I offer heartfelt condolences on their great loss in which, I know, all of us in this chamber share.

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

Honourable senators, I wish to associate myself with the eloquent words of the Leader of the Opposition in the Senate.

Anyone who knew the often shy, the sometimes flamboyant entrepreneurial chief of the Sawridge Band of Slave Lake in Alberta, known better to us in this chamber as Senator Walter Twinn, understood that one of his lifelong passions was boxing. "Not only do I knock them out, I pick the rounds," said once champion prize fighter Mohammed Ali. Senator Twinn would no doubt laugh to hear this, but those words pretty much epitomize a man whose sheer willpower, confidence and drive ensured that he picked the rounds in life.

He was born into poverty on a Cree reserve 62 years ago. He attended residential school. He hunted, trapped, fished and logged. He was poor, and he did not like it. He picked the round, and he delivered hardship and adversity a knock-out blow.

Oil was discovered on the Sawridge Reserve in 1966, two years after Walter Twinn became chief. That happy development provided the base for the band's investments for one enterprise after another, including hotels in Jasper and Fort McMurray and majority ownership of a Calgary-based firm that provides engineering services to the oil industry.

However, it is in his beloved Slave Lake that the Sawridge name is everywhere, as we saw yesterday. It is seen on an enclosed shopping mall, a truckstop and a sprawling hotel built off-reserve at the entrance to the town, a testament to Chief Twinn's scrappy negotiations with Indian Affairs officials at the time and a prelude to increased involvement of the band in when, where and how it would spend its oil royalties.

That was only one instance of Walter Twinn's very progressive sense of leadership for aboriginal people in this country. He knew that Canada's first nations had to learn to manage and govern their own affairs, and that meant increasing movement on the track to self-determination.

Settling land claims is vital to the future of first nations communities, Senator Twinn pointed out in his first speech in this chamber. It was something he pursued vigorously, both through his work in his community and within this chamber through his support of legislation to create a framework for comprehensive land claim settlements. Senator Twinn was a creative and innovative spirit. He was a giant among his people and a leader for his generation.

• (1340)

In company with the Honourable the Speaker, the Leader of the Opposition and some of our colleagues, I had the privilege of attending Senator Twinn's funeral in Slave Lake yesterday. I am very glad I had the opportunity to do so because it gave me a much better appreciation and understanding of what Senator Twinn meant to his people and to his community. You had to be there to feel the emotion, the respect, the love and the sense of loss in that community.

To his wife Catherine, their beautiful children, and to the entire community, I extend an expression of deepest sympathy on behalf of all of us here in the Senate.

Hon. Gerry St. Germain: Honourable senators, many of the details of the life of Chief Walter Twinn have been covered by both the Leader of the Government and the Leader of the Opposition in the Senate. I should like to speak today as one who knew this man as a friend, as a father, and as a leader in the aboriginal community.

Along with several others from both sides of the Senate, I attended yesterday services held in Slave Lake, Alberta for Walter Patrick Twinn, senator, Chief of the Sawridge Cree, husband, father, grandfather, entrepreneur and respected friend of many throughout the world.

Senator Twinn was called prematurely to his next life. However, his many contributions in all aspects of his life will not be fully appreciated by some of us until many more years have passed. For those of us who share his aboriginal roots, he was truly an inspiration and a hero. He was a man to be admired.

Senator Twinn bridged the gap between his aboriginal roots and what was best described at the service yesterday as the dominant society that has encircled our aboriginal people. Walter Twinn transcended all racial, business and political barriers without hesitation. I believe that the best example I can give of what the man really accomplished in some ways — and this is just a small way — is what happened when I decided to attend the services yesterday. For me, transportation was a problem. However, it did not stay a problem, because his family

decided that I should use their family aircraft; be picked up in Edmonton and flown to Slave Lake in order to participate in the service.

The contrast, honourable senators, is that while I was picked up in one of Walter's private corporate aircraft, when his casket was taken to the small Roman Catholic Church in Slave Lake, Alberta, it was placed on a simple wagon, which had been used for that purpose by Cree Indians for generations in this country. The wagon was drawn by a team of horses and driven by one of the elders, with an honour guard of aboriginals riding on horseback. That best epitomizes the world in which Chief Walter Twinn lived. He lived in the world of corporate jets, but he never forgot the world from which he came.

We were informed yesterday that perhaps Walter had never fully understood his aboriginal roots. However, he made it a point a few years back to study his aboriginal and ancestral traditions with some of the people who have focused on those aspects of Cree life. That indicates what Walter really thought of his people. In spite of his wealth and accomplishments in our materialistic world, Walter always recognized that there was much more to life than fame and the accumulation of wealth.

In spite of his incredible success, Walter Twinn took time to assist the less fortunate in the band system in Alberta — in fact, in all of Canada and North America. Yesterday, Chief Wayne Roan of the Smallboy Camp spoke without notes, and without the aid of any speech writer. He spoke of the great work that Chief Walter Twinn had done among the people of the Smallboy Camp who, I am sure, were under extreme duress before Chief Walter Twinn went to them.

Yes, honourable senators, he was a unique man, a wise leader and a chief with whom you could sit down and talk business. Yet, the dominant society in which he lived never overrode his commitment to his aboriginal values. For years in this place, he sat behind me, and the kindness and the humility were always at work.

I do not believe there is any way I can conjure up the words that would accurately describe the type of legacy that Chief Walter Twinn would have wanted to leave. I should like to read to honourable senators something that was read to us at the service by one of the elders. It is the elders who play a dominant role in aboriginal life. Elder Mary Kappo said:

I have left the eagle to soar in freedom. The time will soon be here when my grandchild will long for the cry of a loon, the flash of a salmon, the whisper of spruce needles or the screech of an eagle; but he will not make friends with any of these creatures, and when his heart aches with longing he will curse me. Have I done all to keep the air fresh? Have I cared enough about the water? Have I left the eagle to soar in freedom? Have I done everything I could to earn my grandchild's fondness?

Part of the legacy of Chief Walter Twinn will be that of caring, sharing, and making certain that there is a better life for those who follow.

I, too, should like to pay my deepest respects to his wife, Catherine, his nine children, the great family that he has out there, and the many friends that he has left behind.

Honourable senators, I feel humbled at having lost this great friend, and at being given the opportunity to say a few words about him here today.

Hon. Willie Adams: Honourable senators, I, too, attended Senator Twinn's funeral yesterday in Slave Lake. Senator Twinn was a very interesting man. I had not known him before he was appointed to the Senate. However, after having gone to his community yesterday, I realized how much he had accomplished before he was appointed to the Senate.

• (1350)

Senator Twinn became ill approximately two or three years ago. He had a chest X-ray and underwent an operation. The doctor told him that he could not do any more for him. He then went to his own people, who have looked after him for the past three years. It was approximately three years ago that he was diagnosed with having suffered a heart attack.

It was interesting to see all those who attended the funeral yesterday. As I walked into the church, the priest was walking down the hallway, and I recognized him immediately from when we met in 1945 in my home town in Northern Quebec. He first came to Canada from France and worked in some of the small communities in the territories at that time. I was rather surprised to see him there. He said, "I know you, Senator Watt." Some of my friends say that we all look the same, but he only forgot my name. I said, "I am Senator Adams, not Senator Watt," but I did not tell him that we all age and cannot recognize anyone any more.

I had always wanted to meet Walter Twinn before he came to the Senate. I had not realized his total involvement with the band and what he represented. When I arrived, I realized why he was concerned about it. I saw the smokestacks with fire coming out of the pipes, and the natural gas and oil in the area, as well as the forestry.

I know how concerned he was about his band having control of their own community. Senator Twinn attempted to have several bills pass through the last session of the Senate, one of which died with the call of the election last April. Senator Tkachuk is not here today, but I hope he will reintroduce the bill in the near future. Senator Twinn was concerned about all of the bands with which he worked.

It would have been nice if Senator Twinn, before he died, could have resolved the land claim settlements in his own community. He had strong feelings on the authority of chiefs, as we heard yesterday in the church. He strongly supported chiefs having control over their own communities.

The community itself is quite large, large enough to have an airstrip. However, in landing, you must approach the lake. If the captain misses the runway, you land in the water. When you take off, they must go right to the end of the runway before they let the brakes go. We fell back in our seats when he let the brakes go. Had he not done so, we would have fallen off the runway.

To Senator Twinn's family and friends, I acknowledge all the hard work that Senator Twinn did. As Senator Graham said, he has done a great deal of work for the community. However, we still have a lot to do to resolve the issue of self-government.

Hon. Len Marchand: Honourable senators, I regret that I was not able to go to Senator Twinn's funeral yesterday. I am pleased that there was such a good representation from this place at the funeral.

I stand today to associate myself with the words of the Leader of the Opposition and the Leader of the Government in the Senate and others who have spoken so eloquently about Walter's life. I did not know him well. Okanagans and Crees were quite a distance apart in geography, and perhaps in other areas. However, I got to know him as a colleague here in the house. I read about and understand the achievements that he accomplished on behalf of his people and our people, which are quite legendary.

I was quite shocked when I first heard of his death. He is too young to go to the Happy Hunting Ground. It made me think a bit, because he is only one year younger than me, and I think that is far too young to go. However, we have no control over these kinds of things.

In all of our cultures, certainly among the Okanagans, we have a Creator. In our culture, we talk about the Creator. We all hope that one day we will go to some Happy Hunting Ground. While I hope that Walter is there, I do not want to join him just yet.

To Catherine and the family, I extend my sympathies and prayers. I wish them well in the future.

Hon. Anne C. Cools: Honourable senators, I should like to join all those senators who are paying tribute to Senator Twinn and to associate myself with the sensitive remarks that have been uttered here today.

I met Senator Twinn and his wife several years ago when they both came before the Standing Senate Committee on Legal and Constitutional Affairs. The issue at the time was the Indian Act. Senator Twinn had strong feelings about those particular amendments. To my mind, Senator Twinn had enormous courage, because he certainly held a minority point of view at the time.

I should like to express my most sincere condolences to his wife, to his family members, to his council, to his tribe and to the first nations in general, because I do think they have lost a warrior.

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, I should like to introduce the two pages who are with us this week from the House of Commons on the exchange program.

[*Translation*]

Chantal Beaupré of Timmins, Ontario studies linguistics at the University of Ottawa's Faculty of Arts.

[*English*]

• (1400)

We also have Eric Stephenson from Guelph, Ontario. He also studies at the University of Ottawa in the Faculty of Social Sciences, specializing in political science.

On behalf of all honourable senators, welcome to the Senate.

SENATORS' STATEMENTS

CANADIAN PARLIAMENTARY ASSOCIATION FOR DEVELOPMENT AND POPULATION

Hon. Erminie J. Cohen: Honourable senators, I rise today to give a well-deserved endorsement to an organization which has been formed to raise awareness on the crucial role of population and development. The Canadian Association of Parliamentarians on Population and Development, chaired by our colleague Senator Losier-Cool and MP Jean Augustine, aims to recognize the role of population as a key factor in successful sustainable development.

As representatives of the Canadian people, we are in a position to raise and sustain awareness on all issues related to population and development such as reproductive health, child health, nutrition education and sanitation. We have the capacity to examine population policies and trends and to work in cooperation with other Canadian departments, foreign governments and international organizations. We can then assess how best Canada can make a contribution.

By 1998, the world population will reach 6 billion people. One of the speakers informed us that three babies are born in the world each minute. Approximately 95 per cent of the total population growth will occur in developing countries and over half of this growth will be in Africa and Asia, in countries least able to handle this increase. Rapid population growth, honourable senators, reduces the quality of life for all and especially for women and children. One speaker reminded us that population concerns are not exclusive to developing countries. For example, Canada must address the increasing problem of teenage pregnancy.

Population, sustained economic growth and sustainable development are all interrelated. International cooperation is integral to improving the quality of life of people around the world. Our participation in the Canadian Association of Parliamentarians on Population and Development is a critical step in ensuring universally recognized human rights.

Honourable senators, I hope that many of you will lend your time and support to this extremely worthwhile association.

DECLINE OF SOCIAL HEALTH

Hon. Lorna Milne: Honourable senators, I rise today to express my extreme concern as a result of the scientific affirmation of my own gut feelings about what has been happening to our society since the 1970s. My concerns arise from a report in the *Montreal Gazette* of November 3, 1997, about the fact that, while all the economic indices are rising in this country, the index of social health has been steadily in decline since the 1970s.

It is no coincidence that this decline in social well-being started at much the same time as the rise in governmental blind faith in the theory of trickle-down economics, so strongly espoused by "Thatcher-ism" in Britain and by "Reagan-ism" in the U.S.A. The terrifying charts in this article also follow along quite nicely with the rise in power and influence of strong, multinational megacompanies whose CEOs pay themselves obscene amounts of money while moving their manufacturing facilities around the world to whatever country happens to have the most lax human rights laws and the lowest wages.

This decline follows almost to a "T" the increasing gap between the haves and the have-nots in western society. This gap has always been present in Britain but has reached a frightening level in the last few years in the United States, where it is too often connected with the ghettoization of peoples of different racial backgrounds.

I see it happening here in Canada as well, to my despair. They expect there will be 9,000 homeless people on the streets of Toronto this winter.

This increasing gap in our society really amounts to the decline of the great middle class that has been the builder and the backbone of a democratic society. The western form of modern democracy began in the Middle Ages with the rise of the middle class. I believe that its continuation into the future depends on a strong middle class. Look around the world. Almost the only countries that enjoy the benefits of democracy, along with their companion benefits of peace, human rights and social security, are those with a thriving middle class.

Let me give you a taste of the facts reported in this article. Canada's own Human Resources Development Department has developed an index of social health which states:

The index suggests that since the late 1970s, improvements in the economy have not been matched by increases in the social well-being of Canadians. In fact, it shows that as the economy has grown, Canadians' social health has declined.

Referring to the recessions of the early 1980s and 1990s, the article goes on to quote the departmental report on social health:

But the key point to note is that a recovery in the GDP is not reflected in the (index) because unemployment continued to be high and real wages continued to slide.

When I see my gut concerns borne out by statistics in indices such as these, I despair. Most distressing are the specific references to children. The report suggests that children were worse off in 1995 than at any time in the 1970s. Moreover, children have been found to be particularly vulnerable to downturns in the economy. This report should be a clarion call to us all and to the government.

HUMAN RIGHTS

EXTENSION OF PROTECTION UNDER PROVINCIAL LEGISLATION ON BASIS OF SEXUAL ORIENTATION

Hon. Ron Gitter: Honourable senators, yesterday I had the opportunity to spend a day in the Supreme Court of Canada listening to the case of *Delwin Vriend v. Her Majesty the Queen in Right of Alberta*.

It is ironical, in a sense, that that case should be heard at the same time that many of my colleagues were in Slave Lake honouring an Albertan from a minority group who had achieved so much. We have heard about those achievements in the wonderful tributes to the late Senator Twinn.

Frankly, as an Albertan, I was embarrassed yesterday. Mr. Vriend, as you may recall, had his employment as a teacher at King's College in Edmonton terminated when he admitted to being a homosexual. When he endeavoured to file a complaint with the Alberta Human Rights Commission, he was advised he could not even make a complaint because sexual orientation was not included as a protected ground under the Individual's Rights Protection Act in the province of Alberta.

It should be noted that only in Alberta, the Northwest Territories and Prince Edward Island does such an omission exist in their human rights legislation. So it is that, in the province of Alberta, the government argued that it is acceptable to refuse a job, or accommodation, or benefits to citizens because of their sexual orientation. So it is that the Government of Alberta, once recognized as a leader in advancing the rights of minorities, has the effrontery to send its lawyers to Ottawa to argue that discrimination against a minority group can be conducted in Alberta with the government's blessing. So it is that, in Alberta, a group of Albertans are without a forum in which to seek relief from their plight, a group of people who have previously been described by the Supreme Court as follows:

...historic disadvantage suffered. Public harassment and verbal abuse of homosexual individuals is not uncommon.

That is commonly found in Alberta.

Homosexual women and men have been the victims of crimes of violence directed at them specifically because of their sexual orientation....They have been excluded from some aspects of public life solely because of their sexual orientation....The stigmatization of homosexual persons and the hatred which some members of the public have expressed towards them has forced many homosexuals to conceal their orientation.

• (1410)

This is not a question of whether or not one accepts the lifestyle of a gay man or a lesbian. It is not a question of creating special rights, as some poorly advised or ill-informed cabinet ministers in Alberta may allege. Nor is it a question of dogmatic interpretation of biblical lore by some evangelical groups and publications which pervert the values of their religion. This issue is about equality, compassion and fairness. It is about understanding and an acceptance of others that is not based on stereotyping, prejudice and ignorance.

As one intervenor suggested before the court yesterday, to be silent and neutral is to condone the intolerance. If today it is gay men or lesbians, then tomorrow could it be Sikhs, Muslims, Jews or aboriginals? Too often, silence has resulted in horrible consequences.

Yesterday, I must say that my pride and esteem for the judicial system and our legal process soared. My gratitude and respect knew no bounds for those in the legal profession who gave of their time and energies *pro bono* to advance a cause. My appreciation for the existence of the Charter of Rights and Freedoms is immense, but as an Albertan I was saddened and embarrassed. It was a black day, a day I would just as soon forget.

Hon. Senators: Hear, hear!

Hon. Jean B. Forest: Honourable senators, I should like to concur with the statements that have been expressed today by my honourable friend Senator Gitter. Senator Gitter introduced the legislation that became the Individual Rights Protection Act in the province of Alberta in 1972, and he has been a staunch defender of the rights of minorities in our province ever since.

I was a member of Alberta's first Human Rights Commission, and ever since that beginning, we have been recommending this change. I, too, feel saddened that the matter had to come before the Supreme Court of Canada. However, I am confident that, following their decision, Albertans who are disadvantaged will receive the fair treatment they deserve.

This is a matter of fundamental justice, and I commend Senator Gitter for the staunch way in which he has defended all disadvantaged people in our province for the last two and a half decades.

Hon. Senators: Hear, hear!

CANADA CAREER WEEK

Hon. Brenda M. Robertson: Honourable senators, considering that unemployment, particularly among young Canadians, is unacceptably high, I should like to recognize Canada Career Week, which runs from November 2 to November 8.

This year's theme is "Career Designs are Life Designs." The theme illustrates that whether one is a student trying to figure out what educational programs to pursue, a young person looking for work for the first time, an unemployed person thinking about retraining, or an older worker pondering the future, the decisions you make will affect your earnings, where you will live and your quality of life. In other words, the way one designs a career will also determine the design of one's life.

The world of work is changing constantly. This means that people will have many questions and choices to make in determining the ramifications of labour force trends, how to apply for an interview, and how to prepare for a job.

I highly recommend the Career Week information kit which has been developed in collaboration with the Canada Career Information Partnership. Both publications in the kit, "Canada Prospects — Canada's Guide to Career Planning" and "Career Showcase" are full of useful information and practical tips about possible career directions, work opportunities for the future and ideas to assist Canadians in tackling their career challenges.

I applaud the efforts of the Canada Career Information Partnership, and I commend it for its attempts to address the difficult and complex issues of building individual self-reliance and developing work-related skills that are so relevant to today's fast-paced society.

I trust that the documents produced by this group will be circulated to all educational institutions so that young people may take advantage of the wisdom that is to be found on these pages.

ROUTINE PROCEEDINGS

PENSION BENEFITS STANDARDS ACT, 1985 OFFICE OF THE SUPERINTENDENT OF FINANCIAL INSTITUTIONS ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Michael Kirby: Honourable senators, I have the honour to present the third report of the Standing Senate Committee on Banking, Trade and Commerce, which reports with seven amendments Bill S-3, to amend the Pension Benefits Standard Act, 1985 and the Office of the Superintendent of Financial Institutions Act.

I ask that the report be printed as part of the *Journals of the Senate* of this day.

(For text of report, see Journals of the Senate, p. 148.)

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

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

[Translation]

LIBRARY OF PARLIAMENT

FIRST REPORT OF STANDING JOINT COMMITTEE PRESENTED

Hon. Philippe Dean Gigantès: Honourable senators, I have the honour to present the first report of the Standing Joint Committee on the Library of Parliament.

Wednesday, November 5, 1997

The Standing Joint Committee on the Library of Parliament has the honour to present its

FIRST REPORT

Your Committee recommends that it be authorized to assist the Speaker of the Senate and the Speaker of the House of Commons in directing and controlling the Library of Parliament; and that it be authorized to make recommendations to the Speaker of the Senate and the Speaker of the House of Commons regarding the government of the Library and the proper expenditure of moneys voted by Parliament for the purchase of books, maps or other articles to be deposited therein.

Your Committee recommends that its quorum be fixed at seven (7) members, provided that both Houses are represented whenever a vote, resolution or other decision is taken, and that the Joint Chairmen be authorized to hold meetings to receive evidence and authorize the printing thereof so long as four (4) members are present, provided that both Houses are represented; and, that the Committee have the power to engage the services of such expert staff, and such stenographic and clerical staff as may be required.

Your Committee further recommends to the Senate that it be empowered to sit during sittings of the Senate.

A copy of the relevant Minutes of Proceedings (Meeting No. 1) is tabled in the House of Commons.

Respectfully submitted,

PHILIPPE DEANE GIGANTÈS
Co-Chair

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

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

[*English*]

PERSONS CASE NATIONAL HISTORIC PARK ACT

FIRST READING

Hon. Colin Kenny presented Bill S-6, to establish a National Historic Park to commemorate the “Persons Case.”

Bill read first time.

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

On motion of Senator Kenny, bill placed on the Orders of the Day for second reading on Tuesday, November 25, 1997.

[*Translation*]

INTERNATIONAL CONFERENCE ON GOVERNANCE FOR SUSTAINABLE GROWTH AND EQUITY

REPORT TABLED

Hon. Peter Bosa: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian section of the Inter-Parliamentary Union which represented Canada at the International Conference on Governance for Sustainable Growth and Equity, held at United Nations Headquarters in New York from July 28 to 30, 1997.

[*English*]

- (1420)

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

ORGANIZATION ON SECURITY AND COOPERATION IN EUROPE—
SIXTH ANNUAL MEETING OF PARLIAMENTARY ASSEMBLY,
WARSAW, POLAND—REPORT OF CANADIAN DELEGATION TABLED

Hon. William M. Kelly: Honourable senators, I have the honour to table the report of the Canada-Europe Parliamentary Association, which represented Canada at the sixth annual meeting of the Parliamentary Assembly of the Organization on Security and Cooperation in Europe, held in Warsaw, Poland, from July 5 to 9, 1997.

POST-SECONDARY EDUCATION

SPECIAL COMMITTEE AUTHORIZED TO ENGAGE SERVICES

Hon. M. Lorne Bonnell: Honourable senators, with leave of the Senate and notwithstanding Guideline 2:03 of the “Procedural Guidelines for the Financial Operation of Senate Committees,” Appendix II of the *Rules of the Senate*, I move:

That the Special Senate Committee on Post-Secondary Education have the 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 inquiry on the serious state of post-secondary education in Canada.

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

Hon. Senators: Agreed.

Motion agreed to.

INTERNATIONAL CONFERENCE ON GOVERNANCE FOR SUSTAINABLE GROWTH AND EQUITY

MEETING HELD AT NEW YORK—NOTICE OF INQUIRY

Hon. Peter Bosa: Honourable senators, I give notice that on Tuesday, November 18, 1997, I will call the attention of the Senate to the International Conference on Governance for Sustainable Growth and Equity, held at the United Nations Headquarters, New York, from July 28 to 30, 1997.

HEALTH

FAILURE TO PRODUCE REGULATIONS TO CONTROLLED DRUGS AND SUBSTANCES ACT TO PROCLAIM HEMP PROVISIONS— NOTICE OF INQUIRY

Hon. Lorna Milne: Honourable senators, I give notice that on Tuesday, November 18, 1997, I will call the attention of the Senate to the Controlled Drugs and Substances Act, in which Parliament expressed its approval of the cultivation of hemp in Canada; to hemp’s economic potential for Canadian farmers; and to the fact that sixteen months after Royal Assent, Department of Health officials charged with administering the Controlled Drugs and Substances Act have failed to produce a draft of the regulations required to proclaim the hemp provisions.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, before I call Question Period, I should like to draw your attention to some distinguished visitors in our visitors’ gallery. They are members of the Committee on the Environment and Natural Resources Protection from the National People’s Congress of the Republic of China.

Hon. Senators: Hear, hear!

The Hon. the Speaker: On behalf of all honourable senators, I wish you welcome to the Senate.

QUESTION PERIOD

JUSTICE

INVESTIGATION INTO SALE OF AIRBUS AIRCRAFT TO AIR CANADA—LETTER OF WITHDRAWAL AND APOLOGY TO SWISS AUTHORITIES—GOVERNMENT POSITION

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, on January 25, 1997, the Government of Canada and the RCMP announced that a settlement had been reached between them and former Prime Minister Mulroney to the effect that:

Some of the language contained in the Request for Assistance indicates, wrongly, that the RCMP had reached conclusions that Mr. Mulroney had engaged in criminal activity.

That is from Article 3 of the settlement agreement.

My question to the Leader of the Government in the Senate is: Does he agree that, as a result of this admission, the Swiss authorities, to which the request for assistance was addressed, should be advised to consider the letter null and void, with an apology from the government of which he is a member and the RCMP for the unprecedented damage done to the reputation not only of a distinguished Canadian but to the entire country?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, as promised earlier, I have made inquiries as to the status of the letter that was previously written, and I shall bring a complete answer to the attention of my honourable colleague in the future.

Senator Lynch-Staunton: Honourable senators, I was asking for the minister's personal opinion, and I should like to reinforce my request by reminding him that, as part of the settlement, the RCMP was obligated to pay legal fees and disbursements the total amount of which was determined by final binding arbitration by the Honourable Alan Gold, who, in his arbitration statement dated October 6, said:

I begin with a firm conviction that the intent and purpose of the settlement was to right the grievous wrong that claimant —

meaning Mr. Mulroney

— had suffered through no fault of his own. Simple justice and fair dealing required no less.

That is on page 4 of Mr. Justice Gold's decision. Here is a former chief justice of the Superior Court of Quebec, a member of the legal community who is respected right across the country, speaking of a grievous wrong done to Mr. Mulroney.

Does the Leader of the Government in the Senate not agree, given that his government had agreed that Mr. Mulroney had been wronged and given that former chief justice Gold had confirmed the wrong done to him by calling it a grievous wrong, that at least his name should be withdrawn from the request for assistance if the government maintains, for some inexplicable reason, that the letter as a whole should still be out there in the hands of the Swiss?

Can the minister not agree that at least Mr. Mulroney's name should be removed from the letter?

Senator Graham: Honourable senators, I sympathize with the position that has been put forward by the Leader of the Opposition. However, it would be very inappropriate for me to offer a personal opinion as a member of cabinet.

HUMAN RESOURCES DEVELOPMENT

CHANGES TO CANADA PENSION PLAN—EFFECT ON RETIREES OF DECREASE IN BENEFITS AND INCREASE IN PREMIUMS— GOVERNMENT POSITION

Hon. Donald H. Oliver: Honourable senators, my question is to the Leader of the Government in the Senate and it relates to proposed CPP reforms. Canada's retirement system is built on three pillars: first, minimum level of retirement income from general tax revenues as found in OAS and GIC programs; second, employment-based universal pension essentially designed to replace 25 per cent of earned income up to the average industrial wage as found in the Canada Pension Plan; and third, voluntary pension savings with tax deferral incentives such as found in the RRSP.

The Liberal government has chosen to decrease benefits in pillar number one under the new seniors benefits program; increase contributions and decrease benefits under pillar two, the CPP program; and reduce tax relief under pillar three by altering the conditions and reducing the age of withdrawals under the RRSP. Would the Leader of the Government in the Senate please explain how decreasing benefits while increasing premiums will secure retirement for Canadians?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, that is a three part question that will require some consideration. I would not even attempt to deliver an accurate response to any or all of the honourable senator's questions at the present time. I assure the honourable senator of my concern. I share it with him and I shall bring forth the proper answer in the very near future.

CHANGES TO CANADA PENSION PLAN—SOURCE OF FUNDS FOR TAXPAYERS TO MAXIMIZE REGISTERED RETIREMENT SAVINGS PLANS—GOVERNMENT POSITION

Hon. Donald H. Oliver: Honourable senators, in these times of slowing real incomes, increasing long-term interest rates, high personal taxes, increased CPP premiums, and ridiculously high EI premium rates, where does the Leader of the Government believe that Canadians, who will receive less benefit from public plans, will find money to put away in their RRSPs to secure their own retirements?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I have just one general comment. The economy itself is clearly on a path of higher growth and stronger job creation. This is attributable to the sharp decline in interest rates since early 1995, and the improvement in business and consumer confidence. Safeguarding this confidence and keeping the economy on a path of sustained growth is the surest way to ensure the continued growth in job gains, and therefore minimize the transition cost to higher CPP contributions.

The assumption that workers pay the full cost of CPP contributions is just that, an assumption. Of course, different assumptions can be made, as my honourable colleague has suggested, and so it is possible to arrive at different conclusions. We can debate that, as economists do, *ad infinitum* but, unfortunately, we do not have the luxury of time. If we are to restore confidence in our public pension system and prepare for the aging of the “baby boom” generation, we must act and we must act now.

THE ENVIRONMENT

SALE OF CANDU REACTORS TO TURKEY—IMPACT ASSESSMENT PRIOR TO CONCLUSION OF AGREEMENT—GOVERNMENT POSITION

Hon. Mira Spivak: Honourable senators, a recent secret cabinet memo obtained by the CBC reveals, first, that the Justice Department expects that the government may well lose the case brought against it by the Sierra Club of Canada for circumventing the Canadian Environmental Assessment Act in the sale of two CANDU reactors to China.

• (1430)

Second, the memo reveals that if the Federal Court of Canada rules in favour of the Sierra Club, that could place in jeopardy any sale of CANDU reactors to Turkey, a deal the government hopes to win soon, and has prepared for by approving another \$1.5-billion loan to Turkey to sweeten the CANDU bid.

The memo also reveals that the strategy presented to cabinet suggested that a “shadow” environmental assessment be conducted. Its findings would be made public if necessary, but would not necessarily be made public. Any shadow assessment under the CEAA completely violates the fundamental democratic principles of the law. Sections 21 to 24 allow for public comment, and require that a report on environmental impact be made public.

Cabinet circumvented those basic requirements of public disclosure a year ago when it approved the CEAA regulations for projects outside of Canada, and it apparently will do so again, although its own lawyers suggest that the court may find last year’s action *ultra vires* — again, a casual dismissal of Canadian law to clinch a deal.

My questions for the Leader of the Government in the Senate are: Is a shadow assessment of reactor sales to Turkey underway,

or has it been conducted? Will the government make public its assessment before concluding any deal sealed with Turkey?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, as a matter of policy, AECL conducts environmental impact assessments of all its projects. If AECL is successful in a bid to sell reactors to Turkey, they will comply with the environmental requirements of Turkey and Canada.

With respect to a shadow environmental examination, I have read the press reports as well, but I am not aware of any specific shadow opposition, or shadow examination.

At present, as my honourable friend knows, there is a case before the courts regarding the application of the Canadian Environmental Assessment Act on such transactions, and I do not think it would be appropriate for me to comment on the specifics.

Senator Spivak: I appreciate the honourable senator’s answer. However, I have a further question.

Should the court decide that the action was indeed *ultra vires* — the circumvention of the environmental assessment law one year ago — how would cabinet respond? Who would be asked to resign in such a situation, since the cabinet would be breaking Canadian law? This is Canada, not the Politboro.

Senator Lynch-Staunton: They will blame some clerk in the civil service.

Senator Graham: I regard that as a hypothetical question, and we must wait for events to evolve.

THE SENATE

APPOINTMENT OF USHER OF THE SENATE—CHANGES TO TRADITIONAL TITLE OF GENTLEMAN USHER OF THE BLACK ROD—GOVERNMENT POSITION

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, I have a question for the Leader of the Government in the Senate. A press release from the Office of the Prime Minister dated October 20, 1997, refers to the appointment of Usher of the Senate. Mindful of rules 19 and 20 of the *Rules of the Senate* that speak to strangers in the house, and considering the question that I raised with the Leader of the Government in the Senate some time ago, and given the fact that the appointment to which the press release refers has already taken place, I called the number on that press release to get more information. At the Prime Minister’s press office, they said, “Call these two numbers.” One number was the number of the Clerk of the Senate, and the other number was Senate Communications, so I did a quick circle.

I should like to come back to my question to the Honourable Leader of the Government in the Senate concerning this matter. Has my honourable friend been able to find out where we stand, given the fact that, in a week or so, the person who has been identified as occupying that new position will be arriving here? It is important that we alleviate any potential problems.

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, it is my understanding that the person referred to will be at her station when we return after the break.

I apologize to the honourable senator that I have not been able to get an answer to the question to which he referred earlier, but I am pursuing such an answer, and will bring it forward as soon as possible.

Senator Kinsella: Honourable senators, I have a supplementary question.

Would the Honourable Leader of the Government in the Senate consider that perhaps a committee or subcommittee of this place might address that matter — albeit with some urgency — to the extent that it might relate to a question of privilege? Perhaps the Standing Committee on Privileges, Standing Rules and Orders, or some other such body, might look at that matter in order to avoid any problems?

Senator Graham: Honourable senators, I would not want to make — or propose — an official reference to that committee, but it is a good suggestion. I think that perhaps the chairman of the committee and its members might take my honourable friend's suggestions under consideration.

CANADIAN HERITAGE

PROPOSED CHANGES TO CANADIAN WAR MUSEUM— ASSURANCE BY MINISTER OF INTENTION TO HONOUR VETERANS AND TRADITIONS—REQUEST FOR ANSWER

Hon. J. Michael Forrestall: Honourable senators, some time ago I asked the Leader of the Government in the Senate if he could take a look at the horrible state of payment and allowances for members of Canada's reserve forces. He undertook at that time to have a look at the situation.

He may well have had an opportunity to consider my ongoing concerns about the renaming of the Canadian War Museum, and the new charter of directions being fashioned for it. On his own authority, perhaps he might be able to assure us that the cannon adorning our walls here will not be taken away before Armistice Day.

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, with respect to wages, I am still pursuing that answer.

With respect to the possibility of changing the name of the Canadian War Museum, I assure my honourable friend that that will not be the case. However, we do have a delayed answer for Senator Forrestall today with respect to that particular question.

Senator Forrestall: The minister responsible for Canadian Heritage said in the other place that she was hoping that there would not be a change. Can the minister be any more affirmative than that?

Senator Graham: I can say definitively at this point in time that the Canadian Museum of Civilization board of trustees does not plan to change the name of the Canadian War Museum.

HUMAN RESOURCES DEVELOPMENT

CHANGES TO CANADA PENSION PLAN—ACTIONS OF NEW INVESTMENT BOARD OUTWITH AUDITING JURISDICTION OF AUDITOR GENERAL—GOVERNMENT POSITION

Hon. Terry Stratton: Honourable senators, my question is to the Leader of the Government in the Senate. He sounds a little tired today. Perhaps it was due to the long day and the long flight yesterday that started for him, I think, at about four o'clock in the morning. I can understand why he might sound a little quiet today. My question, honourable senators, is on behalf of Canadians who have for years looked to the Auditor General to warrant not only that the government's books add up, but also to ensure that programs are properly managed and that funds are not wasted.

The proposed changes to the Canada Pension Plan include an Investment Board to manage the CPP's investments. The Auditor General will continue to be the auditor of the CPP account, but not of the Investment Board.

Could the minister explain why the government thinks that it is necessary for the Canada Pension Plan to have two different auditors maintaining files in two separate places?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I do not know the specific answer to that question. The government wants the Investment Board to be totally independent of the government. The 12 members will be appointed on three-year staggered terms. A nominating committee has been formed, as I believe I indicated in an earlier answer to a question from my honourable friend. I also believe that that nominating committee is due to meet and make its final selections on or about November 20.

I do not know why it would not be the Auditor General, but I will ask specifically for an answer to that question.

Senator Stratton: Honourable senators, the Auditor General will only be able to perform a "value for money" audit, apparently, on the Canada Pension Plan Investment Board if the board asks for one. In short, the board and its members will be free to act however they wish, without ever having to worry about the Auditor General catching waste and mismanagement.

• (1440)

Could the Leader of the Government in the Senate report back on the following two things: First, why does the proposed legislation not authorize the Auditor General to perform "value for money" audits on this new board, particularly in light of the fact that it will soon be managing \$200 billion? Second, does the government have any intention of ever calling in the Auditor General to review the management of this new board?

Senator Graham: Honourable senators, it may be that in the future the government will want to call in the Auditor General. Many questions have been asked with respect to the CPP. The legislation is now before the other place. We hope to have it before us very soon. Indeed, there are discussions between the leadership on the two sides with respect to a pre-study of this very large and important bill. I believe it appropriate that questions pertinent to that legislation come before the committee.

Senator Stratton: Would the minister report to the Senate why the government has yet to name the firm that will audit the board, given that it will soon begin operations?

Senator Graham: Honourable senators, it could very well be that the government will wait for the board to be constituted, and then the board will choose the firm itself.

AGRICULTURE

CROSS-BORDER TRADE WITH UNITED STATES—IMPACT ON CANADIAN FARMERS OF PROPOSED U.S. RESTRICTIONS ON TARGETED PRODUCTS

Hon. Leonard J. Gustafson: Honourable senators, I have a question for the Leader of the Government in the Senate. The President of the United States has apparently sided with the Senate with regard to trade on agricultural products in particular; mainly beef and wheat. It seems that our government is standing by doing nothing. The fast-track aspect to the trade situation is good, but we must treat all commodities fairly.

I have here a newspaper article entitled "Clinton offers up Canada." It speaks of getting tough on cattle and grain going into the United States and of the trade-off of marketing board products that do not allow competitive products to come into Canada.

What is the government doing about this situation? This matter goes beyond the Minister of Agriculture or the Minister responsible for the Canadian Wheat Board and must be taken up by the cabinet.

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, this is a serious question. I saw the article to which Senator Gustafson is referring. Undoubtedly, there have been discussions between counterparts in Canada and the United States. I will attempt to bring a complete answer to my honourable friend.

Senator Gustafson: Honourable senators, it would be unfortunate if this matter were to escalate to the level of the dispute over the fishery, when the relationship between the United States and Canada became unacceptable to both countries.

Would the Leader of the Government take this question to cabinet and to the Prime Minister? This is a very serious issue. The cattlemen and grain producers in particular are very concerned

Senator Graham: When Honourable Senator Gustafson makes representations of this kind, he does so from a very knowledgeable background in this field. We take his representations seriously, and I will do just as he has suggested.

DELAYED ANSWER TO ORAL QUESTION

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I have the honour to present the response to a question raised in the Senate on October 23, 1997 by the Honourable Senator J. Michael Forrestall regarding the rumoured change to the name of the Canadian War Museum.

CANADIAN HERITAGE

RUMOURED CHANGE OF NAME FOR CANADIAN WAR MUSEUM— GOVERNMENT POSITION

(Response to question raised by Hon. J. Michael Forrestall on October 23, 1997)

The Canadian Museum of Civilization Board of Trustees does not plan to change the name of the Canadian War Museum.

ORDERS OF THE DAY

PARLIAMENT OF CANADA ACT

BILL TO AMEND—SECOND READING

Hon. Sharon Carstairs moved the second reading of Bill C-13, to amend the Parliament of Canada Act.

She said: Honourable senators, it is my pleasure to rise today to speak to second reading of Bill C-13, to amend the Parliament of Canada Act. I should like to take a few moments to outline the bill for honourable senators. The bill makes two amendments to the Parliament of Canada Act respecting the Board of Internal Economy of the House of Commons.

As honourable senators know, the Board of Internal Economy of the House of Commons is responsible for all financial and administrative matters respecting the House of Commons and its members. In effect, it is the equivalent of our Standing Committee on Internal Economy, Budgets and Administration.

The House of Commons Board of Internal Economy, or its equivalent, has existed since before Confederation. Until 1985, it was composed only of members of the Privy Council, which in practice meant only cabinet members. In 1984, the Special Committee on Reform of the House of Commons, known as the McGrath committee, made a series of recommendations for the restructuring of this board to ensure that it had representation from the government and opposition caucuses, as well as the Privy Council.

The McGrath committee proposed that the board be composed of the Speaker, the Deputy Speaker, two ministers of the Crown, the Leader of the Official Opposition or their designate, and four others — two members selected by government caucus and two selected by the opposition caucuses, including at least one from the official opposition. That is the current composition of the board.

In 1991, amendments were made to the Parliament of Canada Act which codified the changes recommended by the McGrath committee and clarified that a second opposition party would qualify for a seat on the board, provided that the party held at least 12 seats; in other words, official party status.

This formula worked well until the 1997 election. The current formula of the board does not make allowances for their being five official parties in the House of Commons, including four opposition parties.

Clause 1 of Bill C-13 would amend section 50(2) and (3) of the Parliament of Canada Act regarding the composition of the Board of Internal Economy of the House of Commons to allow representation by all officially recognized parties. The new section would provide that the board would consist of the Speaker, two members of the Privy Council and the Leader of the Opposition or a designate. If there is only one officially recognized opposition party, the opposition caucus would appoint two members, and the government caucus would appoint one member. If there is more than one officially recognized opposition party, each caucus could appoint one member, and the government caucus would appoint one less than the total number appointed by the opposition parties.

The current board has nine members. With Bill C-13 and given the current composition of the House, there would be 11 members; the Speaker, two cabinet ministers, the Leader of the Opposition — one each from the Reform, Bloc, Conservative and NDP caucuses — and three appointees from the government caucus. Therefore, there would always be an equal number of opposition and government members, plus the Speaker, who chairs the board.

Honourable senators, presently quorum, in the absence, disability or death of the Speaker, would consist of five members, including the Deputy Speaker, who would be the chair. However the Deputy Speaker is no longer a member of the board under the formula set out in clause 1 of the bill. Therefore, clause 2 of the bill makes provision for an acting Chair.

Clause 2 provides that five members constitute quorum, one of whom must be a member of the Privy Council. The board would then designate one of the members present to act as Chair.

Honourable senators, Bill C-13 is a relatively straightforward bill designed to reflect the current complexities of a House that now has five officially recognized parties.

Hon. C. William Doody: Honourable senators, would the sponsor of the bill permit a question?

Senator Carstairs: Yes.

Senator Doody: Is it the intention of the House of Commons to open the proceedings of the Board of Internal Economy of that place to public exposure? Will the press and public now be allowed in, as is the case in the Senate, or will it still conduct its business behind closed doors?

• (1450)

Senator Carstairs: Honourable senators, I cannot answer that question. However, I will seek to get that information for the honourable senator.

Hon. Philippe Deane Gigantès: Honourable senators, I also have a question for the Deputy Leader of the Government. When she is inquiring of someone in the other place with regard to Senator Doody's question, will she tell them that we will not pass the bill until they open up their proceedings?

Hon. Michel Cogger: Honourable senators, I have been asked to say a few words about Bill C-13. I will not entertain you for long, the simple reason being that I know very little about Bill C-13, other than what I just heard from our colleague Senator Carstairs. I make no apologies for that.

Although I cannot enlighten honourable senators further on Bill C-13, I should, nevertheless, take this occasion to underline a circumstance with which we are now having to live, one which, I hope, will not become too much of a habit and repeat itself. In the life of this new Parliament we have seen a couple of examples of the circumstance to which I refer. Bill C-13 appears to be one of them. That is to say, the government drags its feet on legislation and then, all of a sudden, wants to shove it through the following day or the following week, as though we were a sausage factory working at full speed.

What is this nonsense that we must now begin to operate under deadlines? We have received a deadline concerning both the Quebec resolution and the Newfoundland resolution. A bill which will be referred to the Standing Senate Committee on Legal and Constitutional Affairs and which is commonly referred to as the warrants bill is facing a deadline imposed by the Supreme Court of Canada which I believe to be November 22. Apparently, all hell will break loose if it is not adopted by November 22. The Government of Canada, the Minister of Justice, the PCO and all the officials have known about it. It is not something that has been sprung upon them.

As yet, the Senate has not received the warrants bill, an important bill which calls into question constitutional matters and matters having to do with the Charter. At best, honourable senators, we might receive it tomorrow. However, I gather that it is hardly a possibility. The Senate is not scheduled to sit next week. When we reconvene on the following Tuesday, the Government of Canada will be holding a gun to our heads, telling us, "Adopt this bill by November 22 because there is a deadline and, if it is not met, all hell will break loose."

Honourable senators, I realize that my comments have little to do with Bill C-13. What they have to do with is the pattern under which Bill C-13 arrived in this chamber.

I wish that the leadership on the government side in the Senate would alert their colleagues in the House that this chamber — and certainly Tory members of this chamber — will not operate under deadlines.

The constitutional amendment concerning Quebec is a serious matter deserving of the attention and study it is receiving. We ought not to apologize for taking our time and doing our duty. Frankly, with regard to the constitutional amendment concerning schools in Newfoundland, if someone were to come to me and say, “We need it by such and such a day because we made a deal with the Government of Newfoundland,” I would reply, “It is your deal, not mine.”

Our responsibility is to devote the proper time and attention to matters which come before us. Please take notice.

Senator Gigantès: Honourable senators, I wish to ask a question of Senator Cogger. Does he not remember our side making the same complaints when it was his party that was in government?

Senator Cogger: Honourable senators, I was here then, and I remember the great cooperation we received from the other side. Is that what the honourable senator would like?

Senator Gigantès: Why not? It was more fun!

[*Translation*]

Hon. Pierre Claude Nolin: Honourable senators, I have a question for my colleague Senator Cogger. Did I rightly understand that you support the bill?

Senator Cogger: I do not know how to answer. I have not seen it.

[*English*]

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

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

NEWFOUNDLAND

CHANGES TO SCHOOL SYSTEM—AMENDMENT TO TERM 17
OF CONSTITUTION—APPOINTMENT OF SPECIAL JOINT
COMMITTEE—MOTION ADOPTED

Hon. William J. Petten, for Senator Carstairs, pursuant to notice of October 29, 1997, moved:

That the Senate do unite with the House of Commons in the appointment of a Special Joint Committee of the Senate and the House of Commons to consider matters related to the proposed resolution respecting a proposed Amendment to Term 17 of the Terms of Union of Newfoundland with Canada concerning the Newfoundland school system;

That seven Members of the Senate and sixteen Members of the House of Commons be members of the Committee;

That the Committee be directed to consult broadly and review such information as it deems appropriate with respect to this issue;

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

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

That the Committee have the power to hear witnesses via video conferencing;

That the Committee have the power to retain the services of expert, professional technical and clerical staff;

That the quorum of the Committee be twelve members, whenever a vote, resolution or other decision is taken, so long as both Houses are represented, and that the Joint Chairpersons be authorized to hold meetings, to receive evidence and authorize the printing thereof, whenever six members are present, so long as both Houses are represented;

That the Committee have the power to appoint, from among its members, such sub-committees as may be deemed advisable, and to delegate to such sub-committees all or any of its powers except the power to report to the Senate and the House of Commons;

That the Committee have the power to authorize television and radio broadcasting of any or all of its proceedings;

That the Committee present its final report no later than December 5, 1997;

That, notwithstanding usual practices, if the House or the Senate are not sitting when the final report of the Committee is completed, the report may be deposited with the Clerk of the House which is not sitting, and or the Clerks of both Houses if neither House is then sitting, and the report shall thereupon be deemed to have been presented in that House, or both Houses, as the case may be, and;

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

The Hon. the Speaker: Honourable senators, before I call on the Honourable Senator Petten, I believe there is an understanding on this proposal that the mover of the motion and the second person speaking will be allowed 45 minutes even though it is not a bill. Is that the understanding on both sides?

Hon. Senators: Agreed.

Senator Petten: Honourable senators, Senator Rompkey had intended to deliver this speech. However, he had to go to our province of Newfoundland to attend a public release of an agreement in principle concerning a land claims agreement for the Labrador Inuit with which he has been involved for many years.

Honourable senators, I am pleased to speak to this motion. It would establish a special joint committee of the Senate and the House of Commons to review the proposal to amend the Constitution so that Newfoundland and Labrador can replace the present denominational school system with a single non-denominational one.

As honourable senators are well aware, the Province of Newfoundland and Labrador has been trying for many years to reform its school system which truly is unique in Canada. Unlike any other province, in Newfoundland and Labrador the entire school system is denominational. Students attend schools run by the Roman Catholic Church, the Pentecostal Assembly, the Seventh-day Adventist Church or by a coalition of Anglican, Presbyterian, Salvation Army and United churches. Except for a single school for deaf children, there is simply no non-denominational public school in Newfoundland and Labrador. As many of you are aware, this system has resulted over the years in a great deal of duplication, inefficiencies and high costs unrelated to the actual education of our children.

I will not take the time now to elaborate on the problems experienced by this system. However, many Newfoundlanders felt that it was simply wrong today to spend money to pay the high cost of maintaining several school systems. The economic difficulties in my province are well known. We have a small population, roughly half a million people spread over a large area. We need to be able to focus our economic resources and to channel them into providing the very best education for our

children, and not dilute their impact by spreading these limited financial resources among several systems.

There have been other issues as well. For example, Newfoundlanders who do not espouse one of the seven protected faiths have found themselves without a voice in their children's education. They have been compelled to send their children to be educated in a school run by a faith not their own, but paid for out of their tax dollars. Religion has been a factor in the hiring and firing of teachers, something many Newfoundlanders feel simply should not happen today.

• (1500)

There have been many attempts over the years to reform the school system. In 1992, a royal commission completed an extensive study of the school system and recommended the creation of a single interdenominational system that would encompass the separate denominational system then operating. Extensive negotiations with the churches then took place to try to reform the system without amending the Constitution. Unfortunately, these attempts were unsuccessful.

Finally, the province sought and obtained agreement to amend Term 17. That amendment itself represented a compromise. It would not have eliminated the so-called unidenominational schools in the province. All schools will remain denominational schools. The Newfoundland House of Assembly have had the power to organize the schools into a system of interdenominational schools with continued rights of the protected groups, notably the Roman Catholics and Pentecostals, to unidenominational schools under certain conditions to be established in the provincial legislature, equally applicable to all schools.

However, the legislation passed to bring about these reforms was successfully challenged in the Newfoundland Supreme Court. Representatives of the Roman Catholic Church and the Pentecostal Assemblies sought, and were granted, an injunction halting the entire educational reform process. In essence, Mr. Justice Leo Barry found that the new Schools Act favoured interdenominational over unidenominational schools. He held that a trial judge would likely find that the legislation was contrary to the amended Term 17 and, therefore, unconstitutional. Accordingly, he granted the injunction.

This resulted, as Mr. Justice Barry recognized in his decision, in a "significant disruption" for teachers, principals and students who were already reassigned to different schools. Some schools had to be reopened. Some teachers who had been laid off had to be rehired. The education debate, which the people of my province thought was finally behind them, was reopened.

I was struck by a number of passages in the court decision. Mr. Justice Barry acknowledged that he was constrained to uphold and enforce the denominational system enshrined in the current Term 17. Nevertheless, he observed several times that:

Parliament and the Legislature, in maintaining a denominational system of education by Term 17 —

73 per cent. The proposal was carried by 47 out of Newfoundland's 48 electoral districts.

That is, the revised Term 17 —

— must have known this would result in less than the maximum educational opportunities for the children in this Province.

The analyses of the vote which I have seen further support the conclusion that the minorities who feel themselves particularly affected by the proposed reform support the proposed amendment. In heavily Roman Catholic areas, the proposal received solid majority support. In the St. George's Bay region, which is 74 per cent Roman Catholic, 59 per cent voted yes in the referendum. In the Burin Peninsula, which is 48.5 per cent Roman Catholic, 72 per cent voted yes. In the Avalon Peninsula, which is 48.5 per cent Roman Catholic and also the province's most heavily populated area — as I know well because I live there — fully 72 per cent voted yes. Honourable senators, these are compelling figures.

After referring to some of the inefficiencies of the former denominational system he continued:

So one may reasonably conclude that the Legislature has accepted a less than optimal standard of education by opting to preserve at least some of the denominational system of education.

The four districts where the Pentecostal vote is most concentrated also supported the referendum. There, the proposal carried with majorities of 57 to 64 per cent. Moreover, on September 5, all of the members of the House of Assembly of Newfoundland and Labrador joined together unanimously to support the resolution to amend Term 17. These included the four Pentecostal members who represented districts with significant Pentecostal populations, as well as all Catholic and Pentecostal members who had actively campaigned for the no side.

It would seem that the Government of Newfoundland and Labrador and the people of that province have come to agree with Mr. Justice Barry. If the objective is to provide the children of the province with the best possible education opportunities, then it is necessary to do away with the denominational system of education altogether.

In other words, honourable senators, the evidence is that there is a clear consensus in Newfoundland and Labrador in support of the proposed amendment to Term 17.

While the government filed an appeal against the decision, ultimately it did not pursue the matter. Instead, it decided to hold a second referendum. This issue was very simple and straightforward. The question put to the citizens of my province of Newfoundland was:

Do you support a single school system where all children, regardless of their religious affiliation, attend the same schools where opportunities for religious education and observances are permitted?

I also want to point out that the proposed Term 17 would not do away with religious education and observance in the public schools. On the contrary, it would require the legislature to provide for courses in religion which are not specific to a religious denomination. In addition, the proposed Term 17 would stipulate that religious observance shall be permitted in schools where requested by parents.

This question — and I believe everyone agrees on this point — was clear and straightforward.

As the former Conservative member of Parliament and minister of the Crown, the Honourable John Crosbie said, in legal opinion provided to the Government of Newfoundland and Labrador, since the requirement to provide for courses in religion is contained in Term 17, such courses are constitutionally guaranteed. I contacted Mr. Crosbie yesterday by phone and asked him to confirm that this statement was contained in his report, and he confirmed it.

The vote was held on September 2, the day after Labour Day, when children all across the province returned to school after the summer. In other words, it was the day when education was at the forefront of every parent's mind, an excellent day to register one's view on the appropriate future course of education in the province. The results, honourable senators, were equally clear and straightforward. Seventy-three per cent of voters supported the proposed reform. Seventy-three per cent of voters said that they wanted one single school system where all children, regardless of their religious affiliation, attended the same schools.

However, the real purpose of the amendment, as Premier Tobin said in his province-wide address announcing the referendum, is to end the system of education that separates children on the basis of religion and replace it with:

Last year a number of senators and others were concerned that the affected minorities may not have approved the amendment of Term 17. This time, it is clear that those fears were without foundation. It was not a narrow majority that voted in favour of this proposed reform but an overwhelming majority of

...just one school system for everybody, where everyone goes to the same classes, are taught by the same teachers, where everyone rides the same bus...a school system where all our children learn together.

We know that this proposal has received overwhelming support in the Province of Newfoundland and Labrador, but of course the Parliament of Canada is not, and must not be, a rubber stamp for constitutional amendment proposals from any province. We must consider each proposed amendment on its merits, and with the intention and deliberation that it deserves. I believe that the proposed special joint committee will provide an excellent forum to allow members of both Houses to consider the proposed amendment on its merit and to decide for ourselves whether it is good for the province in question and whether it has enough support, including minorities affected by the proposed amendment.

• (1510)

Honourable senators, I am pleased to support the motion to establish such a joint committee, since it will provide an important forum for Newfoundlanders to express their views for or against the proposal.

For these reasons, I hope honourable senators will join me in supporting the establishment of the special joint committee to study the proposed amendments.

Hon. C. William Doody: Honourable senators, first, I thank the Senate for setting aside the rules of this place so that we can participate in this debate within a reasonable time-frame today.

Approximately one year ago, I brought to the attention of the Senate that dealing with a resolution is treated differently from dealing with a normal piece of legislation. I hope that this particular instance will cause the rules committee to bring in a change in that surely a constitutional amendment deserves at least as much attention as an amendment to the Highway Traffic Act or some other piece of legislation.

As Senator Petten has so eloquently explained, this particular motion is to join the House of Commons in setting up a joint committee to study this most recent incarnation of Newfoundland's attempt to change Term 17 of the Terms of Union between Newfoundland and Canada.

I must say at the beginning that I have some serious reservations about joint committees. The idea of a joint committee looks fine in terms of parliamentary togetherness but the fact of the matter is that seven senators and 16 members of the House of Commons do not protect the interests of the Senate in any great way. We are completely overpowered and overwhelmed, and if you break it down by party, it becomes even more difficult to try to defend. The three Conservative senators and possibly one Conservative from the other place will be a small minority representing the political parties of this place. There seems to be an alarming tendency for more and more joint committees which, in effect, suggests to me some sort of intention to cut back the authority, power and influence of the Senate as an independent chamber.

Nevertheless, a joint committee is far better than the House of Commons' response to the last attempt to change Term 17. At that time they had no committee. They held two or three hours of

debate and then sent it here. This house, to its credit, referred the matter to our own Standing Senate Committee on Legal and Constitutional Affairs. Comprehensive hearings were held in Ottawa and in St. John's.

There are those of us who would question the final report that was prepared by the staff of that very well run and ably chaired committee. It was not accepted by the majority of the people on the committee. The government side of the committee mysteriously and magically produced a brand new report the next day, which stands as an example of efficiency that has been completely unmatched in any parliamentary record that I have ever witnessed. Nevertheless, they managed to bring forth a full-blown, brand new report, which they endorsed enthusiastically and sent on as the committee's recommendation. It was not the committee's recommendation, it was the recommendation of a bunch of magicians on the government side of the committee. I suspect that the gnomes are busy right now preparing the new report, although the committee is yet to be struck.

The Senate wisely amended the original proposed amendment that was put before us, and we sent it back to the House of Commons with a sensible suggestion that, where numbers warrant, denominational schools be accepted and that the denominational education authorities have input into the direction of the programming of the schools.

These two amendments were ignored by the House of Commons and the original amendment was rubber-stamped and sent back to St. John's. The courts in Newfoundland eventually struck it down. We had told them that that would happen from the beginning but they persevered and pressed on and made themselves look ridiculous in the process.

That is the story of what happened. We are back again. We have another incarnation of the amendment to Term 17 of the terms of union.

Senator Kinsella: Did they support the last one?

Senator Doody: Unfortunately, they were not convinced of the righteousness and justice of our side's argument, but it is not uncommon that that happens.

Another problem with a joint committee is that it is structured in a far more formal way than we are used to in the Senate. I suppose that is inevitable. If you have 23 members on a committee, you must set a time limit. Member A will be allowed one minute for a question and half a minute for a supplementary and then they are cut off and someone else is allowed to ask a question. There is no follow-up and none of the interchange that we are used to in this place which is far more informative and useful in terms of investigating the heart of a matter.

Nevertheless, that is what I am afraid will probably happen in this case. With the majority of members emanating from the House of Commons, the House of Commons format will be the established one and that worries me.

This committee is also expected to report to this house by December 5. December 5 is hardly a month away. If the weekends are removed, and I presume we are not going to sit during Armistice week — we have not since I have been in this chamber — that leaves very few days for actual hearings for a joint committee that deals with a constitutional amendment.

The Constitution of Canada has played such a central role in all of the activities of this country over the past few years that to deal frivolously, expeditiously or thoughtlessly with an amendment seems to me to debase or demean the whole process. If meaningful hearings are not to be held and representations from as broad a spectrum of interested people as possible not to be heard, then we are debasing the system.

There is no authority for travel in this request to join the House of Commons. This motion suggests that teleconferencing is the order of the day. We will thus appear as faceless people talking from Ottawa to the peasantry in Newfoundland whose lifestyle, historic way of life, morals, mores and traditions will be changed forever if this legislation passes. Newfoundlanders will be asked to speak into a box and the lords of creation in Ottawa will listen to them and decide what is good for them and what is not. I do not think that is right. I hope I am wrong. I hope that there will be authority to travel.

The big wheels can find their way to Ottawa. They will arrive here and present their cases. We will not have to worry about them. However, the people whose lives will be directly affected, the parents of school-age children in Newfoundland will be left out of this whole process. That will be a tragedy, not only for them, but for Parliament, for Canada and for the reputation of Parliament around the country. However, perhaps, I misunderstand and travel will be allowed. Indeed, it should be encouraged.

Minority rights are really the crux of this matter.

• (1520)

I have mentioned minorities rights several times, as I mentioned minority rights *ad nauseam* during the previous debate on the same amendment, and others in this place have as well. I recognize that many of my colleagues across the way, and friends and relations, relatives and colleagues elsewhere have all said that this is not a minority rights problem; that this is a problem that affects education, and only education. Well, honourable senators, I contend that they are wrong, that this definitely is a minority rights problem, and that is why the protection was put in Term 17 in the first place. It was to protect the minorities who enjoyed certain rights and privileges, in terms of denominational education prior to Confederation with Canada.

If honourable senators will permit me to demonstrate what I am trying to say, I should like to read part of a letter I received on August 18 from a lady in Botwood, Newfoundland. It reads as follows:

Dear Mr. Doody,

I belong to a class of persons currently recognized and protected by Term 17 of the Terms of Union with Canada.

On Sept. 2, 1997, a referendum was held in Newfoundland, which effectively asked the people of this province to give permission to eliminate Term 17, as it now stands, from the Canadian Constitution.

The results of the referendum was that 72 per cent of the people who voted agreed to do just that.

I am a Pentecostal, and I belong to a class of people that represent a minority of only 8 per cent of the population. Since minorities never have numbers great enough to out-vote the general population, it would be impossible for us as Pentecostals to vote to retain a right that was guaranteed to us in the Canadian Constitution.

It is with this in mind that I respectfully ask you to consider minority rights when asked to vote in Parliament. Can the rights of a minority be eliminated by the vote of a majority? If this is so, whose rights may be the next to go?

I refer you to Section 93(1) of the Canadian Constitution which states: In and for each province, the Legislature may exclusively make Laws in relation to Education, subject and according to the following: Nothing in any such Law shall prejudicially affect any Right or Privilege with respect to denominational schools which any class of persons have by law in the province at the union.

I ask the question, therefore, is the proposed amendment legal and does it violate section 93(1) of the Canadian Constitution? We as Pentecostals have no desire to force denominational education on the majority of the people in this province. We only wish to have our own rights retained separate from the majority. I respectfully ask you to vote no to the proposed amendment to Term 17.

Honourable senators, it seems to me that there is a minority crying in the wilderness. Here is a member of a minority — she says 8 per cent in her letter, my statistics say 7 per cent; the principle is the same. To take the right away from these people, guaranteed to them at the time of the entry of Newfoundland into Confederation with Canada, is clearly wrong. It is the vote of a majority taking away a minority right.

In 1982, these Pentecostal Assemblies people in Newfoundland applied to the Legislative Assembly of the Province of Newfoundland and Labrador, as well as to the Parliament of Canada, to both houses, for inclusion under Term 17 of the Terms of Union, which protects the minority rights of various classes of people as they existed prior to Confederation. The Pentecostal Assemblies were not included in that group at the time of Confederation, so they made special

application, which was, of course, speedily dealt with and they were wholeheartedly and enthusiastically accepted as a members of these groups or classes of people.

Let me quote from the proceedings in the Senate on that day. I had the honour of introducing the resolution on the government side, and Senator Lewis, my good friend from Newfoundland, spoke on behalf of the then opposition and said:

Honourable senators, I have much pleasure in rising to support this motion which proposes the adoption of the first amendment to the Terms of Union between Newfoundland and Canada.

He then went on to describe the constitutional implications and the mechanics of changing the Constitution to accommodate the Pentecostal Assemblies. Again I quote Senator Lewis:

The Pentecostal Assemblies have for some time been anxious to be in a position similar to other recognized school-operating denominations. Despite the situation, the Pentecostal Assemblies have continued to operate and expand their educational system and today operate some of the most modern, effective and progressive educational facilities in the province. They are to be commended for the very valuable service they have provided to society and to the provincial denominational education system, in particular.

Senator Lewis went on say:

This system is very important to the fabric of the distinct society that is the Province of Newfoundland. Surely it is the time to rectify the situation as desired by the Pentecostal Assemblies and to enshrine their rights in the Constitution. As Senator Doody said in introducing this motion, the Government of Newfoundland has requested this amendment and a resolution to this effect was, on April 10, adopted by the House of Assembly of Newfoundland. The resolution was similarly agreed to in the House of Commons on June 23. Honourable senators, in the circumstances, I would strongly suggest the adoption of the motion today without the necessity of its being referred to committee.

Now, honourable senators, here we are in 1997, 15 years later. In 1982, the Pentecostal Assemblies were welcomed with open arms into the Canadian constitutional protection, and today we are asked to expel them again. What have they done? Honourable senators, they now find themselves in the unfortunate position of being just 7 or 8 per cent of the population of the province. That is what they have done.

This change, clearly, is being brought in without the consent of the Pentecostal people. The majority of the Pentecostal people,

despite the numbers that my friend Senator Petten quoted, voted against this resolution, and anyone with any knowledge of the demographics of the population in Newfoundland will be able to examine the polls and show that up to 80 per cent of the Pentecostal people voted against losing their right to denominational education.

The problem with this resolution, quite clearly, is that a right is being taken away from a group of people without their consent. If the people of Pentecostal persuasion, or of the Roman Catholic persuasion, had voted to get rid of their rights of protection, then there would be no problem with this thing. Other denominations in Newfoundland have done so. They have said, as Senator Petten pointed out, "We can operate quite comfortably in an integrated system. We do not need our own particular brand of religion to be taught in the schools." That is fine. There is no quarrel with that. That is their right. They have every right to do that. However, those people who do not feel that way also have rights, and these rights are in the process of being extinguished.

Honourable senators, earlier this year, the Province of Newfoundland directed the population, the parents, to register their children for the coming school year in the various schools. They were given the choice of registering for a denominational school or for what was called a multi-denominational school, which is code for a public school. Some 24,000 Roman Catholic children are registered for the Roman Catholic system. They were given that choice by the provincial government and they took advantage of it. That fact, that 24,000 people expressed their desire to be educated in a Roman Catholic venue, was completely ignored. The registrations were torn up, the Ayatollahs on the eighth floor said no, that they had changed their minds, and there would be no denominational schools. They would have a system in which there would be no denominational instruction of any sort in the schools of Newfoundland.

I refer my honourable friends to a brief that was prepared by the Roman Catholic Education Committee and presented to the Prime Minister of Canada and members of the Parliament of Canada on October 17 of this year, in which five different scenarios are presented which offer numbers based on certain assumptions, and which demonstrate that anywhere from 50.1 to approximately 62 per cent of the Roman Catholics who voted, voted against this resolution. I would ask senators and others interested to dig out this report, to look at it, and to ask their own experts to analyze the numbers, in order to see whether there is any accuracy and validity to them. I think there is because they were done by independent analysts at Memorial University at the request of the Roman Catholic denominational authorities. Therefore, I have to give them credence.

• (1530)

These things themselves are enough to give us pause that before the rights of the minorities whose religious education rights were protected under Term 17 are taken away, a great deal of care and attention must be given to the process. Part of that process is the joint committee which has been suggested.

I wish to make it perfectly clear that this joint committee may not be the answer to the responsibility that we have in this place and it might very well be that our own Legal and Constitutional Affairs Committee or some other such committee will be asked to look at this matter on its own. The Senate has both a peculiar and a special responsibility in terms of the Constitution and in terms of minority rights. If we are to be submerged in the House of Commons committee and do not agree either that the matter has been done properly or with the process with which that joint committee will conduct itself, then we should think seriously about referring this subject-matter to our own committee. That is the very least that the minorities in Newfoundland deserve.

On the referendum itself, there are some serious questions that must be answered as well. I hope that the committees will explore this area as well. First, there is the question that Senator Petten mentioned a while ago. He said that the question is very clear. It reads as follows:

Do you support a single school system where all children regardless of their religious affiliation attend the same schools where opportunities for religious education and observances are provided?

Reading that question one can say, as Senator Petten has said, "Yes, I can send my children to the same school as my neighbours. They will all be given opportunity for religious instruction. I suppose my child will get an opportunity to be educated in the Pentecostal system and some other children will be entitled to be educated under the Roman Catholic catechism, and similarly with other denominations." That is what one can easily infer from that question.

The actual wording that will be before us shortly, and will be before the committee — and this is the proposed amendment to Term 17 — states:

In lieu of section 93 of the Constitution Act, 1867, this section shall apply in respect to the province of Newfoundland.

2. In and for the province of Newfoundland the legislature shall have exclusive authority to make laws in relation to education but shall provide for courses in religion that are not specific religious denomination.

Senator Kinsella: State religions!

Senator Doody: This is incredible. Section 3 says that "religious observations shall be permitted in a school where requested by parents," whatever that means. The Ayatollahs will decide what that means.

That is quite specific. It absolutely outlaws denominational religious instruction. This is unheard of. This is completely

different from what many of those people of the various denominations thought they were voting for when they voted in the referendum.

Imagine, honourable senators, the state, the legislature — the state in Newfoundland — will decide on the forum and the subject-matter of religious instruction in schools. This is a big leap backwards! This is something that Chairman Mao would embrace! This is what is going on in Afghanistan now. The state is deciding what the religion will be — the state! I am the state.

I should add, honourable senators, that the 24,000 students registered by Roman Catholics for the Roman Catholic system, which they thought they were going to get, represented about 60 per cent of the Roman Catholic school population throughout the province at that time. Some of the remaining 40 per cent of the Roman Catholic students registered for interdenominational schools simply because their numbers were not viable. That is to say, there were not enough of them to justify a Roman Catholic school in their community or in their area. For the remainder, in larger communities like St. John's, some of them are simply exercising their choice for other than Roman Catholic schools.

There is no quarrel with that. That is their right. They can go to any school that they want to attend — at least they could. However, we do have a quarrel with the fact that the referendum and the resolution to amend Term 17 expresses the government's intent to deny parents a choice in their children's education. The tragedy of this whole thing is quite obvious. The fact is that the whole thing is completely unnecessary.

Honourable senators will recall not so long ago when we debated this Term 17 matter before in this place, there were 27 school boards in Newfoundland. There was much outcry about that. They were subsequently reduced and there are now 10 school boards in the whole province. These school boards had examined closely the number of schools in the various communities, the denominations of schools, and decided which were viable and which were not.

By the end of July past, the Roman Catholic and Pentecostal committees had advised boards which Roman Catholic and Pentecostal schools they would consent to close or designate as "interdenominational." The result was a significant number of closures of schools. Approximately 30 separate Roman Catholic and 13 separate Pentecostal schools were closed. Many more Roman Catholic and Pentecostal schools have been established at joint service schools — that is, interdenominational schools. All classes are taught the curriculum as defined by the Department of Education in Newfoundland but they have the right to separate religious instruction.

The process is working its way through the system. Reform is happening. The system was compressing; money was being saved. However, now we have this new Draconian approach which is inconceivable.

In conclusion, I wish to address the referendum itself. There are many people in Newfoundland who are quite unhappy with the way this affair was packaged. I have already described the difference between the question and the referendum and the proposed amendment which will be referred to committee or committees. The question of fairness is examined in detail in this brief that was presented to the government on October 17 and was reasonably commented upon. The government refused outright to provide any funding for the "No" forces, who spent upwards to \$500,000 in trying to convince the public to vote "Yes."

When we talk about the 73 per cent who voted "Yes," you must remember that 75 per cent of the school population of Newfoundland are already in mixed denominational schools. Thus, the majority of the people were voting for the status quo. It is only in places like St. John's and Cornerbrook, the larger communities, where there are many unidenominational schools. It is far more complex than the numbers would suggest. The Government of Newfoundland spent in excess of \$500,000 to convince the public to vote "Yes."

I told you that the Roman Catholic and Pentecostal committees have worked diligently to present a plan to the government which includes the closing of a number of schools and establishing various others as multi-denominational. Even the Government of Newfoundland publicly admitted that the task was responsibly discharged.

With no preparation, the announcement came on July 31 by Premier Tobin that his government would seek a mandate from the general population in the form of a referendum to close all Roman Catholic and Pentecostal schools. No mention was made at that time of the absolute banning of denominational education courses in these schools. That came later. The time-frame in which this referendum question was to be considered was approximately 32 days — that is, August, which is holiday time. There is not a great deal of enthusiasm or interest in matters of education at that time in the province of Newfoundland, a place that is not renowned for its long, lazy summers. When you get a few nice days in August, you take advantage of them.

As in the 1995 referendum, the voting day was to be the first day of school. That was widely criticized the last time because people had not had an opportunity to acquaint themselves with the various complexities of the issue, but they went ahead and chose the same day for the 1997 referendum.

• (1540)

As I said, funds were requested from the government by representatives of the no side. That was refused. Wording of the proposed amendment itself was released on August 25, the eve of the advanced poll. The day before the advanced poll, they published the wording of the amendment, and that was seven days before polling day. One had to be a quick study to keep up with that process. It was not a very good way to run things.

Senator Lynch-Staunton: When was the question known?

Senator Doody: The question had been published 32 days prior to polling day. The amendment itself was known seven days prior to polling day.

Then there was the matter of scrutineers. I do not know of what significance this is, but there was a major outcry in the province about the fact that the no side applied for the right to have scrutineers at the polling booths, and they were denied. I do not know if that has ever happened before in Canada. Even in small local elections or in a social club, a scrutineer is usually invited to be in the room when the ballots are counted. This is passing strange. I do not understand the significance of this, but it is one of the questions I am sure will be raised by the committee.

Honourable senators, I merely raise these problems. I do not expect you to believe this is an exhaustive analysis of the situation as it exists. There has not been a great deal of time to get into that, nor will there be if we are tied to this crazy December 5 deadline.

In any event, honourable senators, I reluctantly support the joint committee proposal. I do not think it is the best way to go about this, but at this point it appears to be the only way. I will reserve judgment until later.

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): I invite honourable senators to look at today's *Order Paper and Notice Paper* under "Orders of the Day" and "Motions" on page 3. You have there the text of the amendment to Term 17 to which we are speaking and to which Senator Doody drew our attention a few moments ago. I would invite you to read very carefully the exact words, particularly around subsection 17(2), which states:

In and for the Province of Newfoundland, the Legislature shall...provide for courses in religion...

It is with regard to that subsection that I wish to share my reflections on the proposal to join with the House of Commons in a joint committee examining this question. I would be interested in joining in that study if that committee gave careful analysis to this issue.

Honourable senators, freedom of religion is one of the most fundamental civil and political rights. The Canadian Charter of Rights and Freedoms provides for the recognition of freedom of conscience and religion in section subsection 2(a).

The International Covenant on Civil and Political Rights was ratified by Canada in 1976, with the support of every jurisdiction in Canada. Every province and territory, as well as the federal government, agreed that Canada ought to ratify the United Nations International Covenant on Civil and Political Rights. Therefore, the Province of Newfoundland was in agreement that Canada should undertake the obligations of that covenant pursuant to international treaty law.

Honourable senators, I want to draw your attention to article 18 of the covenant, to which we are obligated as a country. It is so critical and articulates so well the right of freedom of religion. Article 18 reads as follows:

(1) Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others, and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

(2) No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

(3) Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

Subsection (4) is very important, and it reads:

4. The States Parties to the present Covenant —

— meaning Canada —

— undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Honourable senators, the wording of the proposed Term 17 amendment presents a very dangerous threat to the right of freedom of religion. Subsection 17(2), to which I have drawn your attention in the proposed text, contains the following words:

In and for the Province of Newfoundland, the Legislature shall... provide for courses in religion...

It is the legislature which "must" — the word is "shall" — teach courses in religion. It is the legislature which will determine the content and objectives of teaching religion, not the students and not the parents. However, it is not the state that has the right to freedom of religion; it is the people who have that right against the power of the state.

I read to you from the international covenant:

(4) The States Parties to the present covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

In other words, the parents have the liberty to determine the provision of religious education for their children. The state is

not given the right to determine the religious education of the children.

Further, honourable senators, the human right that is recognized under freedom of religion is the right of the parents to have their children receive religious education in conformity with the convictions of the parents. There is no recognized right of the state to give religious education in conformity with the religious convictions of the state. This is unprecedented. The exact wording in proposed Term 17 is a terrible attack on freedom of religion, even if the intention of the drafters was something else. Quite frankly, I believe that the intent of the drafters was something else. They wanted to defend themselves from an allegation that their proposal was to get God out of the schools. However, what has been written down there, as you can see very clearly, makes this the only place in North America where a state is determining religious education and providing religious education, when that right belongs with the parents.

This particular proposition must be changed. The committee, whether it is the joint committee proposed in this motion, or a special committee or standing committee of this house, must consider this issue carefully. It is very dangerous.

• (1550)

To analyze a little further this issue of non-denominational versus non-specific religious courses, the new Term 17 requires the government to provide courses in religion that are not specific to a religious denomination. It is important to consider the distinction between non-denominational courses in religion and what Term 17 will require: namely, courses in religion not specific to a religious denomination.

Upon considering this distinction, an important point becomes apparent. A course in religion not specific to a religious denomination need only involve teaching more than one denomination. What of the rights of those whose denominations are not taught? What right do they have when section 15 of the Charter guarantees, before and under the law, no discrimination because of religion?

Further, do non-denominational religious courses violate other rights under the Charter? Even were the schools to design and teach a completely non-denominational course in religion, they would have to ensure that such a course did not privilege, either by virtue of the course content or by the way in which the course was delivered or taught, one religion over any other.

On this point, it is worth noting the following judicial precedent in the case of *Canadian Civil Liberties v. Ontario (Education Minister)* which concluded in the Ontario Court of Appeal. That court struck down the entire religious education curriculum of Ontario because it was, in practice, Christian indoctrination. The court went further than necessary in deciding that the legislation in question violated section 2(a) of the Charter. The legislation itself was religiously neutral, but put into practice by a school board in a manner which constituted indoctrination into Christianity.

The Court of Appeal arrived at this decision because of the precedent set in the *Big M Drug Mart* case where the Supreme Court held that legislation can be held unconstitutional because it violates the Charter, either in purpose or effect. Legislation must, therefore, pass both the purpose test and the effects test. If it fails the first, it cannot be saved, no matter how laudatory the effects. If either the purpose or the effect of the new Term 17 is found to be the teaching of a Christian religion by the province, it would be a violation of the Charter.

It is well worth noting that in the case of *Canadian Civil Liberties v. Ontario (Education Minister)*, the Court of Appeal makes a crucial distinction between education designed to teach about religion and to foster moral values without indoctrination in a particular religion, and indoctrination into a particular faith. The latter would be held to be in violation of a person's rights under sections 2 and 15 of the Charter.

On this point one might ask — and I would hope that the committee would — the following kinds of questions: If the government were to design a course in the sociology of world religions, would such a course not have much more in common with some religious outlooks and perspectives than others: Unitarianism more than the Pentecostal religion, for example?

Were one to design and deliver, in a non-denominational fashion, a course in religion, could it not still be argued that such a course was promulgating a particular view of the idea of religion that was in violation of religious belief? In this case, it would not be any particular tenet or doctrine of faith, but the overall conception of what religious belief is. Were one to teach the humanist view that religion is for the most part a projection of our human alienation, or the psychological view that religion is the product of various complexes, would this not also violate a person's right to freedom of religion?

Here, Christopher Richter makes an excellent observation in his book regarding the provision of a strictly neutral religious education course. A program of comparative religious instruction would be free of moral authority and, therefore, not impinge upon the student's religious freedom. The aim of such a program would be to encourage understanding of various religions rather than to teach any one religion. The distinction is that rather than providing a moral and religious education, a comparative course may be taken as endorsing moral relativism.

The price of a common school acceptable to all is that parents who want their children to receive moral and religious instruction can no longer look to the common school system to provide it unless they belong to a minority protected by section 93. Given that the right to choose the moral and religious education of one's child is recognized in international law, this would seem to be a significant failing of the public education system.

In the proposal before us, section 17(3) speaks to religious observances. This one is interesting, because here a right is given to the parents:

Religious observances shall be permitted in a school where requested by parents.

This seems to me to be the more typical model that one would look for in the area of rights being protected from the authority of the state, the rights being held by the citizens. Therefore, here the province may or shall be able to permit such observances if it is requested by the parents.

However, even that is not without some serious difficulties. The new Term 17, at section 17(3), makes provisions for religious observances in the public schools. It seems likely that such religious observances will be interpreted by some as violations of sections 2, 15(1) and 27 of the Charter, and will be challenged in the courts.

Such a court challenge has already taken place in this area in the province of Ontario, where the Court of Appeal found that provision for such observances did, in fact, constitute a violation of the Charter. This case is known as the *Zylberberg* case. In that case, on the point regarding religious observances in public schools, the Ontario Court of Appeal held that religious exercises used to open the school day violated subsection 2(a), even where students were allowed to exempt themselves. This is what is known as indirect or unintentional burden. Having to exempt oneself from a religious exercise practised by a majority constitutes such a burden and falls within the ambit of section 2(a) of the Charter.

Honourable senators, there are some very serious Charter right questions that must be examined carefully by either the joint committee or our own committee. With regard to the joint committee, Senator Doody outlined for us very clearly the difficulty that a 23-person committee has in dealing with detail. Perhaps our Senate committees have been so effective because there is more give and take with our witnesses, and we are able to deal with detail with greater flexibility. Like Senator Doody, I am prepared to support the idea of the Senate joining with the House of Commons to examine this resolution. However, if the joint committee does not address the very fundamental human rights issues, and I have outlined just a few, that speak to the freedom and the history of freedom that is so central to our way of life —

• (1600)

The Hon. the Speaker: I must interrupt the Honourable Senator Kinsella to indicate that his 15-minute time limit has expired.

Honourable senators, is leave granted for the honourable senator to continue?

Hon. Senators: Agreed.

Senator Kinsella: If I could table my notes, honourable senators, I would. However, I know that it is not the practice in this place. I would do so because I have a chapter on the issue of the effect of what is happening here: that is, abolishing rights in the resolution that is before us. Senator Doody alluded to the fact

that this matter has been examined at least twice before. Obviously, it was examined in 1949. It was examined again when the Pentecostal amendment was put forward. Only a year or so ago it was examined here. Each time there was no question of abolishing the rights of classes of persons. This time, however, that is exactly what we are being asked to do.

I have heard the arguments that were advanced, and repeated, by Senator Petten this afternoon around the issue of whether or not the classes of persons who have these rights have consented to their rights being abrogated by this process. I have not arrived yet at my own conclusion on the minority rights issue. I will want to learn from the experience that we gain in the committees.

I wish to concentrate more on the text of what is being proposed. Not to distract the attention of honourable senators from that point I wanted to make, I shall take my seat.

Hon. John G. Bryden: Honourable senators, would the honourable senator entertain a question or two?

Senator Kinsella: I would be happy to answer any questions the senator may have.

Senator Bryden: I did not involve myself in the discussion the first time the matter of Term 17 came up. I certainly did not involve myself in the discussion around the amendment to the Constitution affecting Quebec. I did not do so because I know how personal and visceral religion and religious beliefs are to many people. However, I sat through those discussions and those debates and heard the minority arguments that have been put forward. I think I understand them.

However, what bothers me is that the minority being affected in both instances involves children. The child is affected by a particular religious structure by a simple accident of birth. In trying to understand that, I put forward the following example.

Let us say that a young Roman Catholic couple are married and conceive a child. Four months later, that couple goes to a revival tent where an evangelist is preaching honestly and sincerely, and they are converted. They have become "born again" Christians, and they join the Pentecostal Church; they are immersed in a baptism, and some months later a child is born.

As I understand the Roman Catholic doctrine, when that child was conceived life began for that unborn child, and it began as a Roman Catholic. As I understand the Protestant doctrine, life begins at birth, and the baby was born a Pentecostal.

Who gets to claim this child? Which hierarchy has the right to claim this child? That is my question.

Some Hon. Senators: The parents.

Senator Kinsella: I am afraid I am not astute enough in world theologies to be able to give a comprehensive answer to my colleague. Perhaps his colleague Sister Peggy might be able to help him.

Senator Bryden: If the issue were to be decided, which court would decide it? Is it the Roman Catholic court which does that? I assume there is a college of deacons, as there is in other Protestant religions, in the Pentecostal Church which would decide. Or is it that the state will have to step in here and decide on behalf of this child? It might be that the state will decide that this child also has a right to have a little Roman Catholicism, a little Pentecostalism, a little Judaism, a little bit of Muslimism, and when he gets to the age of majority he will have the right to decide for himself.

Senator Kinsella: I find the honourable senator's supplementary more straightforward to deal with because, from a human rights point of view, everyone has the right to freedom of conscience and religion. Parents of children, or their guardians, have the right to have their children receive the religious education which accords to their convictions.

Senator Bryden: I appreciate that. Does the honourable senator mean the convictions at the time the child was conceived, or at the time it was born?

Senator Kinsella: I can share this with honourable senators. From a human rights perspective, freedom of religion in our system is predicative of everyone. One of the interesting things about our Charter of Rights and Freedoms is that there are only three which are limited to Canadian citizens. All the other rights in our Charter are predicative of everyone.

In many other countries, constitutional charter rights are limited to citizens. In Canada, we only limit to citizens the right to vote, the right to return to Canada, and minority education language rights.

During the grand debate on the Universal Declaration on Human Rights, the representative of Lebanon, a great Thomist philosopher, wanted it defined as to which persons have these human rights and when they obtain them. He argued a view that is held by some Catholics that persons are persons from the moment of conception. The United Nations and its commission, when it adopted the universal declaration, did not accept that definition — they did not exclude it. Rather, they avoided the question.

• (1610)

Everyone has the right to freedom of religion. The parents have a right to determine the religious education to be given to their children in conformity with the parents' religious convictions. It is not the state which has the right to freedom of religion. It is not the state which has certain religious convictions which it will impose upon the children.

What is written in this Term 17(2) is exactly that. It is extremely dangerous. It must be amended.

To read again what is being proposed:

In and for the Province of Newfoundland, the Legislature shall...provide for courses in religion...

They should have put a full stop there because the best I can say about that paragraph is that the rest of it is redundant. To give a constitutional, mandatory obligation to the Province of Newfoundland to provide for courses in religion, in contrast to the right held by parents and children to honour their own convictions, is tantamount to letting the state authority tell you what you will believe. More than that, it may not be specific to a particular confession.

One of many solutions which I hope the committee will examine is to add, under section 3, that religious observances and religious education, even of a denominational character, shall be permitted in a school where requested by parents or a group of parents. That is where they should have put it.

Hon. Philippe Deane Gigantès: Honourable senators, I would like to ask a question of Senator Kinsella.

Senator Kinsella, there are members of some Muslim sects in this country who say that their religion prescribes death by lapidation of adulterous women and who claim that genital mutilation of young female children is prescribed by their religion. Yet we deny them these rights. We passed a bill last year denying them the right to perform sexual mutilation, despite the fact that it is part of their religion. I claim that the state has involved itself in such matters and interdicted certain practices even though people of a particular religion claim those practices are their own and are religious ones.

The Hon. the Speaker: It was moved by the Honourable Senator Petten, for Senator Carstairs, seconded by the Honourable Senator Forrest:

That the Senate do unite with the House of Commons in the appointment of the Special Joint Committee of the Senate and the House of Commons to consider matters related to the proposed resolution respecting a proposed Amendment to Term 17 —

Some Hon. Senators: Dispense.

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

Hon. Senators: Agreed.

Motion agreed to.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

THIRD REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the third report of the Standing Senate Committee on Internal Economy, Budgets and Administration (*witnesses expenses*), presented in the Senate on October 30, 1997.

Hon. Pierre Claude Nolin moved the adoption of the report.

He said: Honourable senators, the report before you today dealing with two recommendations: first, that we revert to our previous practice of charging witnesses' expenses to a central budget in the Senate, specifically the budget of the Committees Directorate, rather than charging them to individual committee budgets; and, second, that we establish a guideline requiring witnesses who appear before committees to submit their travel claims within 60 days.

[*Translation*]

Honourable senators, the Standing Committee on Internal Economy, Budgets and Administration decided on February 7, 1996 to transfer on a trial basis the credits for witnesses' expenses from a central budget to the individual committees. We hoped at the time that this would make each committee more accountable for the expenses of its witnesses. The budgets of the committees for the Second Session of the Thirty-fifth Parliament were prepared accordingly.

Until this decision was made in 1996, witnesses' expenses were charged to a central budget that was the responsibility of the committees directorate, according to the provisions of rule 102, which provides:

The Clerk of the Senate is authorized to pay every witness invited or summoned to attend before a select committee a reasonable sum for living and travelling expenses of the witness, upon the certificate of the clerk of the committee attesting to the fact that the witness attended before the committee by invitation or summons.

Going back to the old way offers two advantages: first, by giving the responsibility for budget preparation back to the committees directorate, we are minimizing the risk of a lapse of funds at the end of each fiscal year. Indeed, at the end of the last fiscal period, \$100,000 could not be allocated to other budget items, because each committee had estimated its witnesses' expenses, and, if all the expenses provided for but not incurred are added up, there is a lapse of \$100,000, which could properly have been spent on other budget items.

Second, transparency and accountability will be maintained, because the committees will indicate the amount spent on witnesses' expenses but charged to another administrative budget in their report of expenses to the Senate under rule 104.

[*English*]

Therefore, the Internal Economy Committee recommends that the budget for witnesses' expenses be set at the Committees Directorate level. In their reports on sessional expenses, pursuant to rule 104, committees will report how much was spent on witnesses' expenses but they will be charged elsewhere in the Senate administrative budget.

We then have the proposal requiring witnesses to submit travel claims within 60 days. Honourable senators are familiar with that rule because that is the same time limit for submission of your own claims. There are no time limits at the present time on witnesses' claims, while senators are held to the 60-day time limit.

From a budget point of view, it is difficult to commit funds to expenses. That makes forecasting inaccurate. Administratively, it would be more efficient if witnesses were told of a specific deadline by which they must make their claims.

We therefore recommend that witnesses have 60 days from the date of their appearance to submit travel claims for payment. Failure to submit such claims within 60 days will result in non-payment. However, in exceptional circumstances, the chair of a committee will be empowered to extend the deadline.

Honourable senators, I recommend that we adopt this report.

The Hon. the Speaker: If no other honourable senator wishes to speak, I will put the question. Is it your pleasure to adopt the motion?

Motion agreed to and report adopted.

[Translation]

ADOPTION OF SECOND REPORT OF COMMITTEE

The Senate proceeded to consideration of the second report of the Standing Committee on Internal Economy, Budgets and Administration (*Supplementary Estimate*) presented to the Senate on October 30, 1997.

Hon. Pierre Claude Nolin: Honourable senators, I move the adoption of this report.

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

Senator Nolin: Honourable senators, this supplementary estimate is requested in order to meet operational shortfalls and one-time expenditures in 1997-98.

The second report of our committee, presented to the Senate last Thursday, describes the headings under which additional funds are necessary. These are: first, committees; second, security and fire prevention; third, furniture and equipment purchases for the newly renovated committee rooms and to meet health and safety requirements; fourth, the Senate's share of Parliamentary Associations administered jointly with the House of Commons; fifth, the purchase of informatics equipment and computer software to ensure continued compatibility between the Senate and the House of Commons and Library of Parliament.

[English]

The point has been made often in this chamber that a significant part of the Senate's role is to study public policy

issues in committee. While the House of Commons devotes much of its time to constituency work, we devote our time to committee work.

A number of special studies must be funded this year by Supplementary Estimates as they were not anticipated at the time of the Main Estimates. These studies include the present state of the financial system in Canada, the state of post-secondary education, a study on the Cape Breton Development Corporation, the growing importance of the Asia-Pacific region for Canada, transportation safety and security, and parenting arrangements after separation and divorce. That these studies are important to Canadians is without question. We expect that an additional \$900,000 is required to complete this work.

[Translation]

With respect to security and fire prevention, the shortfall is primarily attributable to additional expenditures made when the Senate's security service assumed responsibility for all security measures in the East Block, in accordance with an agreement with the House of Commons. As our report shows, this measure, which is in its second year, will lead to net savings of \$80,000 annually, after an initial payback period of three years, which is considerably shorter than the reference period used in similar cases by Treasury Board. The Senate has installed specialized surveillance equipment, which has reduced the number of foot patrols and led to salary savings for taxpayers. We have also centralized security operations in the East Block and reduced staff by two person-years. The funds requested for security and fire prevention in the supplementary estimates come to \$627,000.

With respect to parliamentary associations, the costs of which are shared on a 30-70 basis with the House of Commons, additional funding of \$125,000 is requested. This request was submitted to the internal economy committee by the joint interparliamentary committee and was approved by the House of Commons Board of Internal Economy. The request was submitted to us for two reasons: first, in 1997 Canada agreed to chair the Association internationale des parlementaires de langue française. I am pleased to point out that this honour falls to our colleague, Senator Gauthier. On behalf of all senators, I congratulate him on his election as chairman of this association. Second, we must pay the additional cost of the activities of parliamentary associations this year.

[English]

The total required for the other issues I mentioned — that is, informatics, communications, and health and safety requirements — is about \$2.5 million. In 1996, under the leadership of Senator De Bané and with the help of colleagues including Senator Carstairs, Senator Milne, Senator Comeau and myself, we undertook a complete review of the outdated informatics infrastructure of the Senate. While the basic infrastructure has now been installed, not all recommended projects have been implemented, and additional funds are required.

Additional money is also needed to complete parliamentary committee rooms. In order to compensate for the loss of rooms due to renovations by the Department of Public Works and to meet the needs of increased committee activity, a number of replacement parliamentary committee rooms are required. Last year, two committee rooms were completed, and another two will be operational this year. These rooms require appropriate furniture and simultaneous translation equipment to meet requirements under the Official Languages Act.

Finally — and this is an important point — I should like to note that in 1993, the Treasury Board initiated a “carry forward” policy which allows departments to access a portion of unspent funds from previous years; that is, lapsed money. Under this policy, the Senate can access up to \$1.14 million this year. Given this carry forward, the real net requirement for fiscal year 1997-98 for Supplementary Estimates is \$3.14 million.

Honourable senators, I ask the Senate to adopt this report. However, if you have questions, I am prepared to answer them.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

NEWFOUNDLAND

CHANGES TO SCHOOL SYSTEM—AMENDMENT TO TERM 17 OF CONSTITUTION— MEMBERSHIP OF SPECIAL JOINT COMMITTEE APPOINTED

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

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 85(1)(b), I move:

That the Members to act on behalf of the Senate on the Special Joint Committee to study the proposed Newfoundland constitutional amendment be the Honourable Senators Doody, Fairbairn, Gigantès, Kinsella, Murray, Pearson and Rompkey; 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.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

COMMITTEE AUTHORIZED TO MONITOR IMPLEMENTATION AND APPLICATION OF FEDERAL CHILD SUPPORT GUIDELINES

Hon. Lowell Murray, pursuant to notice of October 30, 1997, moved:

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to monitor the implementation and application of Chapter 1, *An Act to amend the Divorce Act, the Family Orders and Agreements Enforcement Assistance Act, the Garnishment, Attachment and Pension Diversion Act and the Canada Shipping Act*, and the associated Federal Child Support Guidelines.

He said: Honourable senators, this motion is almost identical to one which was approved in this chamber during the Thirty-fifth Parliament — on March 12, 1997, to be exact — on the initiative of our colleague Senator DeWaele. That motion, like this one, arose out of parliamentary debate during the Thirty-fifth Parliament on Bill C-41, to amend the Divorce Act, the Family Orders and Agreements Enforcement Assistance Act, the Garnishment, Attachment and Pension Diversion Act and the Canada Shipping Act.

• (1630)

Honourable senators may recall that this was quite a controversial piece of government legislation. It attracted strong representations at the committee stage and lively debate in this House of Parliament. The bill was eventually voted into law, but not before the government, under considerable pressure from parliamentarians, made two important accommodations. One was to agree to the creation of a joint committee of the Senate and the House of Commons to examine the issues of custody of and access to children in Canadian society. Colleagues will be aware that this motion is now in the parliamentary mill somewhere. It was here last week, and I think it was returned amended to the other place. The first accommodation was agreed to by the then justice minister, Mr. Rock.

The second accommodation by the government was made by the then leader of the government in this place, Senator Fairbairn, in a letter to the committee agreeing that the Standing Senate Committee on Social Affairs, Science and Technology ought to monitor the child support guidelines under this act. I may say that these so-called guidelines are really more than guidelines. They are mandatory for the calculation of support.

During the last Parliament, the committee expressed some concern about the growing trend in the use of regulations to set out important elements of laws that will govern the lives of Canadians, thereby closing off the opportunity for parliamentary intervention. The committee went so far as to describe this trend as a disturbing one, and the immediate solution to the problem was to give the standing committee an order of reference to monitor the application of these guidelines.

As honourable senators are aware, this Parliament and the Standing Senate Committee on Social Affairs, Science and Technology are not bound by the decision of the previous Parliament. However, I consulted members of the committee last week. They were of the view that out of respect for those who made strong representations to the committee, and out of respect for the accommodation and the understanding that was arrived at in order to expedite passage of the bill, we ought to take upon ourselves the task that was envisaged for us in the last Parliament.

Honourable senators, I was authorized by the committee at our last meeting to present this order of reference to you, and I commend it to you for your support.

The Hon. the Speaker: Honourable senators, if no other honourable senator wishes to speak, is it your pleasure to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

COMMITTEE AUTHORIZED TO STUDY HEALTH CARE SERVICES
AVAILABLE TO VETERANS

Hon. M. Lorne Bonnell, pursuant to notice of October 30, 1997, moved:

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine and report on the state of health care in Canada concerning veterans of war and Canadian Service persons; that the study concern itself with the availability, quality and standards of health care available to those veterans and Service persons;

That the Committee have power to authorize television and radio broadcasting, as it deems appropriate, of any of its proceedings; and

That the Committee submit its report no later than June 30, 1998.

He said: Honourable senators, next week, we shall remember them. Next week, we will remember that 52 years ago this year the Second World War ended, and 80 years ago the First World War ended. I cannot think of a better time to be striking a committee to study the services for veterans than this week of Veterans Week.

Hon. Orville H. Phillips: Honourable senators, I am happy to support the motion. During the past summer, there were several reports of rather unfortunate incidents in veterans' care. We would like to have a look at that issue and medical care in general.

There is a particular reason I should like to see the motion passed at this time. There is a rumour that the Honourable Senator Bonnell is taking early retirement, and we would like to deal with the health care aspect of this motion before he takes leave of the Senate. We wish to take advantage of his expertise.

The Hon. the Speaker: If no other senator wishes to speak, is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until tomorrow at 2 p.m.

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