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Thursday, December 11, 1997

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

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THE SENATE

Thursday, December 11, 1997

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

Prayers.

BUSINESS OF THE SENATE

AGREEMENT TO CONSIDER QUEBEC CONSTITUTIONAL AMENDMENT IN COMMITTEE OF THE WHOLE

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I understand that there is agreement on both sides that, regardless of whatever proceedings we are engaged in at three o'clock this afternoon, those proceedings will be interrupted for the Senate to move into Committee of the Whole in order to hear from the Honourable Stéphane Dion, Minister of Intergovernmental Affairs, on the Quebec resolution.

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, are we to understand that Mr. Dion will be the only witness from whom the Committee of the Whole will hear and, after hearing from Minister Dion, the Committee of the Whole will be suspended?

Senator Carstairs: That is my understanding.

The Hon. the Speaker: Honourable senators, am I to understand that it is an agreement of the Senate that at 3 p.m., I shall interrupt whatever proceeding is before the Senate to convene the Committee of the Whole to hear from the Honourable Stéphane Dion?

Hon. Senators: Agreed.

MOTIONS TO ADJOURN UNDER RULE 60 TO CONSIDER MATTERS OF URGENT PUBLIC IMPORTANCE

The Hon. the Speaker: Honourable senators, this morning the Clerk of the Senate received eight notices for the Senate to adjourn for the purpose of raising matters of urgent public importance, along with two notices of questions of privilege to be raised.

These were received at the following hours. The first notice was received from the Honourable Senator Doyle at 9:26 a.m.; the second from the Honourable Senator Nolin at 9:39 a.m.; the third from the Honourable Senator Phillips at 10:49 a.m.; the fourth from the Honourable Senator Forrestall at 10:49 a.m.; the fifth from the Honourable Senator Ghitter at 10:40 a.m.; the sixth from the Honourable Senator Cohen at 10:49 a.m.; the seventh from the Honourable Senator Tkachuk at 10:49 a.m.; the eighth from the Honourable Senator Oliver at 10:49 a.m.

Pursuant to rule 60(4) of the Senate, I must proceed with these notices to debate matters of urgent public importance prior to calling Senators' Statements.

Therefore, I call on the Honourable Senator Doyle.

SAFETY OF BLOOD SYSTEM

MOTION TO ADJOURN UNDER RULE 60 TO CONSIDER MATTER OF URGENT PUBLIC IMPORTANCE

Hon. Richard J. Doyle: Honourable senators, I rise to speak on a matter of urgent public importance. More than a week has passed since three senators put questions to the Leader of the Government in the Senate having to do with responses the government should make to Mr. Justice Horace Krever's final report on the Commission of Inquiry on the Blood System in Canada.

By now, thanks to the media, Canadians are aware of the full measure of the problems that must be dealt with. At the very outset of his report, Judge Krever reminded us of the depth of our difficulties. He said:

> A nationwide public health calamity occurred in Canada during the late 1970s and the 1980s. The national blood supply was contaminated with two infectious viruses... They were HIV and AIDS and the hepatitis C virus.
>
> By the early 1990s, several hundred Canadians infected with HIV had developed AIDS. Many had already died. Others who had received a blood transfusion in the early 1980s were learning that they were infected with HIV. There was a growing recognition of the extent and gravity of the contamination...

•(1410)

Honourable senators, take careful note of the plain language the judge uses. The fifth word in the report is "calamity." Words like "infectious, "contaminated" and "death" tumble afterwards. The story of the progress of the plague is told in sombre passages through the three volumes, telling how slow this country was in responding to the spread of infections and the callous attitude of health guardians to warnings. The evidence points out how we ignored the cautions taken in the United States.

Judge Krever has provided the country's health keepers with the boldest of arguments for immediate and extensive change in protection of the blood supply. I found in the answers given to the questioners in the Senate last week a genuine sympathy for the victims of national neglect. The minister said, "The government will be providing a very full response." We can only hope that the government's issuance of press releases on how much it had already done was not a part of that "full response."

The government, according to its leader in the Senate, "...accepts the conclusions in their entirety and without reservation." So far, however, there have been few early signals of the shape of things to come. There should be no postponement of this phase of treating the calamity.

The public, and particularly the agencies representing those at risk, should have the opportunity to publicly state their cases for change. They should not be told to wait until sometime in February when the governments concerned set up programs that cannot be changed.

Only a great and continuing debate launched in this chamber will prod public participation into a field where failure has prevailed for too long.

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I will have something to say shortly with respect to whether or not the motion should be entertained at the moment.

I take the concerns of the honourable senator very seriously, as I always do, particularly when he raises questions with respect to the Krever inquiry. I think we all agree that Justice Krever has done remarkable work. He has made an enormous contribution to the health and safety of Canadians.

The tainted blood scandal devastated the lives of thousands of Canadians. That is well recognized. It raised very real and legitimate fears about the safety of the national blood system. No one could help but be moved by the plight of those affected, the victims. As indicated earlier in this place, when Senator Doyle raised this very important question, the conclusions in Justice Krever's report on the federal role in what happened are fully accepted by the Government of Canada. We accept those conclusions without reservation. We accept them in their entirety. The federal government also accepts its share of responsibility for past shortcomings in the system. The government has expressed its sorrow at the devastating effects of what has happened and will be providing a full response to Canadians as soon as possible.

In that respect, I wish to refer honourable senators to the *Rules of the Senate of Canada*, in particular, Part VII, page 64, dealing with "Motions." Rule 60(1) states:

> A Senator wishing to move "That the Senate do now adjourn" for the purpose of raising a matter of urgent public importance, shall seek leave by providing a written notice, at least three hours prior to the time provided for the meeting of the Senate...

That has been done. Having said that, rule 60(1)(*a*) states that it:

> must relate to a genuine emergency, calling for urgent consideration by the Senate;

Rule 60(6)(*b*), which is found on page 66, states that the senator must:

> give reasons why the Senate will not likely have another opportunity to consider the matter within a reasonable period of time.

I submit, honourable senators — as I indicated in my remarks earlier — that there will be other occasions. There will be reasonable time.

I have indicated that the government accepts its share of the responsibility and the government will respond to the very legitimate concerns, as enunciated in Justice Krever's report. Honourable senators, having said that, I do not view this as a motion that would be in order at this particular time.

Hon. Consiglio Di Nino: Honourable senators, I should like to support Senator Doyle's motion and make a few comments with regard to it.

On the issue of the problems which were discovered through the Krever commission, the Quebec National Assembly is urging Ottawa and other provinces to follow its lead. Last week, it introduced a resolution calling for a compensation program that would include all victims of hepatitis C and their families. Quebec is acting on a recommendation from Justice Horace Krever's report that says victims of hepatitis C should be compensated for what happened to them. Those infected with blood tainted with the HIV virus are already being compensated under the government program set up in 1993.

I should like to add here, on a personal note, honourable colleagues, that the first person who died with the HIV virus through a blood infection was the husband of a friend of mine. I know how tragic that event was.

Justice Krever pointed out that it is a blatant injustice to provide money to one infected group without offering similar compensation to the other. Presently, some federal cabinet ministers are resisting the proposed plan because of the large amount of money involved. Once again, it is a matter of money, money, money. Federal ministers are not accepting reality. They wonder how they can justify using taxpayers' money for compensation. Honourable senators, public sympathy is with victims of the tainted blood scandal — innocent people who were infected through no fault of their own. Taxpayers are willing to pay because other taxpayers who were led to believe that the blood system was safe are now suffering from illness, pain and horrible fear. This could have happened to anyone, and taxpayers feel a responsibility to help these people.

Honourable senators, the facts are that, in the 1980s, the Red Cross decided not to use the surrogate test that could have screened out tainted blood. The test had been used for four years in the United States before it was introduced here. Instead, Canadians were used as human guinea pigs in a study where half the people received surrogate tested blood while others were receiving blood that had not been screened, even though they knew the disease was prevalent.

I am sure you are interested in the inexcusable justification for this study. I will quote from official documents submitted to the Krever inquiry from the Canadian blood committee conference called on August 22, 1989.

•(1420)

> The two-year delay in finalizing the research project has delayed implementation of surrogate testing, potentially saving $20 million.

This is how this government valued the lives of Canadians. The document goes on to state:

> If the research project were not carried out the Red Cross would feel obliged to recommend the introduction of surrogate testing on the basis of current scientific evidence and the fact that all U.S. blood (and most European blood) is tested for Non-A Non-B hepatitis.

That is the name formerly given to hepatitis C.

Clearly, honourable senators, when innocent people have been made to suffer from others' wrongdoing, compensation is the right approach. The federal government must create a national compensation program like the one outlined in the Quebec resolution. That is the least we can do for the thousands of people who have been infected and whose lives have been ruined, as well as the lives of their children and loved ones, because of something that is no fault of their own. This is an issue of great importance, and I think Senator Doyle's motion deserves your support.

Hon. Jerahmiel S. Grafstein: Honourable senators, I would ask the honourable senator whether he has any evidence to suggest that blood being offered to patients today is infected.

Senator Di Nino: I do not think anyone has that evidence, senator. I do not believe anyone could give an answer which would satisfy those who have need of blood. A tremendous doubt out there has left people afraid to have transfusions. I personally do not believe we have an answer to that.

Hon. Philippe Deane Gigantès: If there is no answer, what is the debate about?

Hon. David Tkachuk: I strongly support Senator Doyle's motion. This is a matter of great public importance because news reports over the last while suggest that there is difficulty obtaining blood because of the transition taking place between the Red Cross and the Government of Canada. The Government of Canada has undertaken to assure the blood supply. However, the subject of how this will be achieved has never been debated either here or in the House of Commons.

For victims who are dying of hepatitis C or AIDS because of what has happened, a "reasonable amount of time" does not mean much. It is of public importance that we discuss this issue so that we can have some input and make some recommendations as to how quickly these matters should be resolved. Perhaps it is the intention of the government to wait until all of those who were transfused with tainted blood products pass away so that no compensation will be paid.

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, the burden of proof on this particular use of rule 60 lies with the senator who proposes the motion who must prove that there is a genuine emergency. He must prove that it requires urgent consideration. He must also prove that there is no other time during which the Senate can consider this matter.

There is no doubt in my mind that the issue raised by Senator Doyle today is an important one. It is certainly important to the people who have suffered as a result of action taken outside of their control when they subjected themselves, in good faith, to receiving blood which they thought was pure, and which we have since discovered was not.

However, with the greatest respect to Senator Doyle, I do not think that it can be interpreted as a genuine emergency for urgent consideration by this chamber. It is under active consideration by not only the federal government and the federal Department of Health, but also by 10 other governments in this country, all of which are seeking a fair and just solution to what can only be described as the greatest medical debacle in Canada.

While it is significant, while it is important, I would strenuously argue that it is not urgent, that it is not a genuine emergency at this moment of time at 2:28.50 this afternoon, and that —

Some Hon. Senators: Shame, shame.

Senator Carstairs: Honourable senators, it has not been proven that this in fact is the case.

The Hon. the Speaker: Honourable senators, I regret I must interrupt the debate. Under rule 60(8), the time has expired.

Honourable senators are aware that the request of the Honourable Senator Doyle to adjourn the Senate on a matter of urgent public importance must be judged according to rule 60(1)(*a*), (*b*), (*c*), and (*d*), and 60(6)(*a*) and (*b*). There is no question that the matter is important. I am convinced of that. However, I am not convinced that there are not, under our rules, other fora where this matter can be discussed fully within a reasonable time.

I regret that I cannot accept the motion as being urgent.

Senator Lynch-Staunton: I challenge the ruling.

The Hon. the Speaker: My ruling is being challenged. Call in the senators. How long shall the bells ring?

Senator DeWare: Under the *Rules of the Senate of Canada*, they will ring for one hour.

The Hon. the Speaker: in that case, the vote will be taken at 3:30 p.m.

Senator Carstairs: Honourable senators, I have no difficulty with the bells ringing for one hour. However, we do have an agreement of the house that we shall go into Committee of the Whole between 3 p.m. and 4:30 p.m. That being so, perhaps we could ring the bell for one half-hour between 2:30 p.m. and 3 p.m. and one half-hour from 4:30 p.m. to 5:00 p.m.?

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, I agree with the principle which underlies the suggestion made by the Deputy Leader of the Government. I would clarify that, when the bells begin to ring, they will ring for one hour. When the minister arrives, which we have agreed will be at three o'clock, whatever time has elapsed up to three o'clock will be calculated. After the minister leaves, and we are not sure exactly what time that will be, and after the Committee of the Whole rises, the bells will continue until the hour has expired. Is that our agreement?

Senator Carstairs: That is our agreement.

The Hon. the Speaker: Honourable senators, may I assume that Senators Carstairs and Kinsella are acting whips on this occasion? The rules clearly state that I must take my instructions from the whips.

Senator Graham: Senator Carstairs is the acting whip on our side at the present time.

The Hon. the Speaker: Honourable Senator Lynch-Staunton, may I assume that the Honourable Senator Kinsella is acting as whip?

Senator Lynch-Staunton: Yes, and he has been since yesterday, and doing an excellent job.

•(1500)

The Hon. the Speaker: That having been clarified, the bells will start ringing now and will ring until three o'clock. At three o'clock, the bells will cease to ring at which time we will reconvene, I will come back to the Chair to declare the session resumed, and we will resolve ourselves into a Committee of the Whole. When the Committee of the Whole is concluded, the bell will ring again for another half hour.

Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Very well. Call in the senators.

QUEBEC

LINGUISTIC SCHOOL BOARDS— MOTION TO AMEND SECTION 93 OF CONSTITUTION

On the Order:

Resuming debate on the motion of the Honourable Senator Graham, P.C., seconded by the Honourable Senator Mercier:

Whereas the Government of Quebec has indicated that it intends to establish French and English linguistic school boards in Quebec;

And whereas the National Assembly of Quebec has passed a resolution authorizing an amendment to the Constitution of Canada;

And whereas the National Assembly of Quebec has reaffirmed the established rights of the English-speaking community of Quebec, specifically the right, in accordance with the law of Quebec, of members of that community to have their children receive their instruction in English language educational facilities that are under the management and control of that community and are financed through public funds;

And whereas section 23 of the *Canadian Charter of Rights and Freedoms* guarantees to citizens throughout Canada rights to minority language instruction and minority language educational facilities under the management and control of linguistic minorities and provided out of public funds;

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

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

SCHEDULE

AMENDMENT TO THE CONSTITUTION OF CANADA

CONSTITUTION ACT, 1867

1. The *Constitution Act*, 1867, is amended by adding, immediately after section 93, the following:

"93A. Paragraphs (1) to (4) of section 93 do not apply to Quebec."

CITATION

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

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I move that we resolve into Committee of the Whole.

Hon. Senators: Agreed.

CONSIDERATION IN COMMITTEE OF THE WHOLE

The Senate was accordingly adjourned during pleasure and put into a Committee of the Whole on the motion, the Honourable Eymard G. Corbin in the Chair.

Senator Carstairs: Honourable senators, I ask that the Honourable Stéphane Dion, Minister of Intergovernmental Affairs, be invited to participate in the deliberations of the Committee of the Whole.

Hon. Senators: Agreed.

Pursuant to rule 21 of the *Rules of the Senate*, the Honourable Stéphane Dion, Minister of Intergovernmental Affairs, was escorted to a seat in the Senate Chamber.

Senator Carstairs: Honourable senators, I present to the Senate the Honourable Stéphane Dion. He is accompanied this afternoon by Yves de Montigny and Dahlia Stein from the Privy Council Office.

[*Translation*]

The Chairman: At this stage, if the honourable minister wishes to make a statement, he may do so; if not, the honourable senators will put questions to him.

Hon. Stéphane Dion (President of the Queen's Privy Council for Canada and Minister of Intergovernmental Affairs): Honourable senators, on April 15, 1997, the National Assembly voted unanimously in favour of a constitutional amendment which would essentially put an end to the educational rights and privileges enjoyed by that province's Catholics and Protestants. It would mean that Quebec could reorganize its school board system along linguistic rather than denominational lines. Then, a joint committee of the Senate and the House of Commons was struck.

On November 18, the resolution was passed 204 to 50 in the House of Commons. There is no doubt that such an amendment can be made bilaterally. I am open to discussion, but I think this was clearly stated.

In my opinion, the need for change was very clearly established in committee. Otherwise, given the demographics of Montreal, keeping linguistic and confessional school boards would have created six school systems in Montreal and Quebec City, and greatly increased the number of regional schools, resulting in the scattering of resources. The committee heard rather convincing evidence to that effect.

Is this change required by January 1? Absolutely. In an unequivocal opinion, the Justice Department of Canada stated that the Government of Quebec would be forced to implement the transitory scheme if the constitutional amendment were not passed before January 1, 1998.

[*English*]

It is the view of the Department of Justice that, unless the amendment to the Constitution Act, 1867 is not only proclaimed but also published before January 1, 1998, the provisional regime governing denominational rights will come into force, and this provisional governance system will operate from July 1, 1998 until June 30, 1999. This would be the case even if the constitutional amendment is proclaimed and published on January 1, 1998, or shortly thereafter.

[*Translation*]

Section 93 as drafted offers very limited protection. Whatever protection it offers has been weakened by one judgement after another. Today, it does not play much of a role in terms of protecting rights.

This was clearly demonstrated in committee. For instance, it is solely in Montreal and Quebec City that section 93 guarantees Catholics and Protestants the right to school boards. You have heard that, over time and because of one judgement after another, the rights guaranteed under section 93 have been diminished. In *CEPGM v. Québec*, the highest court in the land first ruled that the Government of Quebec could virtually determine every aspect of the curriculum that did not relate directly to religious or moral education both in dissentient schools and in schools under the jurisdiction of the Montreal and Quebec City Catholic and Protestant school boards.

In 1993, the highest court in the land further reduced the scope of confessional rights entrenched in the Constitution by specifying that section 93 guarantees the Catholic and Protestant minorities outside of Montreal and Quebec City the right of dissent per se, but not the right to school boards. In Montreal and Quebec City, section 93 guarantees the right to have two denominational school systems: one Catholic and one Protestant. It is solely within the territory of these two cities that their jurisdiction is protected under the Constitution. In addition, enrolment in denominational schools could be limited to Catholics and Protestants everywhere in Quebec.

It is probably because the protection it affords has shrunk so much that there is a consensus in Quebec to repeal section 93.

[*English*]

We were told by Mr. Hilton in the committee hearings that there is no longer any control over the curriculum, literally no management and control at the local level, and no degree of control over financing at all, so we are speaking about rights which existed a century ago but do not exist at all any more.

[*Translation*]

I could continue to provide similar examples. However, I would like to conclude, because we must still discuss the issue together and I must go to 24 Sussex at 3:50 p.m. There is also the issue of section 23, dealing with linguistic rights.

Members of Quebec's English-speaking community — at least some of them — asked that section 23 be fully implemented, while others argued that this was an altogether different issue. The Provincial Association of Protestant Teachers of Quebec, the Provincial Association of Catholic Teachers of Quebec, the Quebec Board of Educators and Forum-Action Québec came to explain to you that full implementation of section 23 is, in their view, an objective which should definitely not delay the adoption of the constitutional amendment submitted to your review, so that the English-language community can finally merge its Catholic and Protestant components.

Finally, support for the agreement is obvious, given that the bishops do not oppose it. They may not necessarily approve this change, but they do not oppose it. We also have a letter from an Anglican bishop who does not oppose the change.

The Provincial Association of Protestant Teachers and a great many other groups have supported Quebec's request for several weeks. I hope the Senate will also support this constitutional amendment, and the sooner the better.

The Chairman: Minister, I understand you must leave around 3:50 p.m.?

Mr. Dion: Yes, Mr. Chairman.

Senator Bolduc: Minister, am I right in saying that, in 1999, if the Quebec National Assembly does not adopt the notwithstanding clause, the guarantee that religious education will be provided in the schools will not disappear?

Mr. Dion: The notwithstanding clause is currently in effect. It is provided in the legislation. If the government does not extend it, then there could be legal proceedings. It would be up to those who would take such action to convince the court that they are right. The court could well rule that it is not the case, for example under section 1 of the Constitution, and validate the act.

Should the court invalidate the act, as it recently did in the *Liebman* case, it would normally suggest amendments to the act, to make it valid again. If it were to go further, it would then be possible to use the notwithstanding clause as a last resort.

Senator Bolduc: The Quebec government has already said it would probably not invoke the notwithstanding clause again in 1999. If the clause expires, it would leave the Education Act, which deals with denominational education, and also section 41 of the Quebec Charter of Rights, which provides, among other things, that parents or tutors have the right to request that their children receive religious or moral education in keeping with their convictions in the public educational institutions.

Do you feel this would be upheld by the Supreme Court, given the Canadian Charter of Rights and Freedoms?

Mr. Dion: I cannot guarantee you that, without the notwithstanding clause, the Supreme Court would rule it discriminatory. Court rulings cannot be predicted. It could find it acceptable under section 1 of the Charter. It could suggest certain amendments that would make it possible to maintain protection for Catholics and Protestants, as it did in *Liebman* regarding the maintenance of the Yes and No umbrella groups, while still allowing freedom of expression. The court usually tries to find a way that will not usurp the role of the lawmaker. If ever the court were to go further than that, there would always be the notwithstanding clause.

My provincial counterpart, the minister of education, Mr. Brassard, has not excluded the possibility of using the notwithstanding clause as a last resort. It should always be a last resort. In the case before us, it could be justified by saying that an historic compromise is involved, especially if public opinion is strongly in favour of maintaining these privileges for Protestants and Catholics. That is a possibility. The debate is one that will have to be held within Quebec society. We are familiar with the positions of the various political parties and stakeholders in this regard.

Senator Bolduc: We have to trust that they will hold a public debate. The bishops have stopped commenting, so one could assume there will be a debate in Quebec. The majority will decide. If that is the case, what will happen to Protestant francophones?

Mr. Dion: Protestant francophones?

Senator Bolduc: In their brief, they say they do not support the amendment. They have, if I am not mistaken, 15,000 children in the schools. That is a fair number. I will tell you frankly that I have my reservations about rolling right over 15,000 children.

Mr. Dion: The Constitution talks about Protestants, not Protestant francophones.

Senator Bolduc: This is nitpicking, Minister. I do not wish to be critical of those who signed the joint committee's report, but they said the two majorities supported it. They were not just there for the majority. There was a very specific group, Protestant francophones, that opposed it. I wonder how it is that they are being ignored. I admit that this bothers me. I was trained in traditional politics. I have a terrible time ignoring anyone. If that is not what constitutions are for, why do they exist?

Mr. Dion: Constitutions exist in order to protect a certain number of rights, but also to enable a society to evolve. In the case at hand, there is very clear Protestant support, but not unanimous support. If you seek unanimity, there will never be any changes made, whether in legislation, regulations or the Constitution. I cannot tell you that the francophone Protestants are in favour of the amendment. I do know that there is reasonable support among Protestants, anglophones, francophones, and Catholics. There are certainly some elements of society that are not in agreement. Overall, however, there is a strong consensus in favour of this change in Quebec. It will make it possible for Quebec to modernize before moving into the 21st century. The National Assembly, and all of the Quebec MPs in the House except one, have been unanimous on this. The overall package must be taken in context. I must admit that I am not convinced the majority of francophone Protestants are for it.

[*English*]

Senator Wood: Minister Dion, I have two questions for you: First, the reorganization of school boards to make them linguistic instead of denominational makes this issue one of language as well as denomination. A recent newspaper article stated that most French-speaking individuals are not affected by the change; it is English-speaking Quebecers who are most affected.

Why are we not insisting that section 23(1)(*a*) be enacted to ensure that the English-speaking minority in Quebec enjoy the same rights as French-speaking minorities outside of the province?

Mr. Dion: Section 59 of the Constitution directs that section 23(1)(*a*) of the Charter of Rights and Freedoms will apply in Quebec, whether or not the Government of Quebec decides that it applies. This section was drafted to address the pressures on the French language which do not exist for the English language in North America. The French language needs protection in Quebec. When there is a sense in Quebec society that this protection is no longer necessary, then section 59 will allow the authorities in Quebec to apply 23(1)(*a*) in Quebec.

We hope that this debate will occur in Quebec society. Quebec society may not be in good shape to have this debate today, for reasons that everyone knows. However, we hope that this time will come. We also hope that English-speaking provinces will see the opportunity to increase the rights of the francophone minorities more than they are at present. In British Columbia, for example, francophones have been forced to make three court applications in order to have control of their schools. We hope that this situation will improve. We welcome a debate in Quebec on this issue.

What we are discussing today is another debate. We do not think it is good to mix the two issues. This will be a positive change for the anglophone minority in Quebec because it will give the anglophone community the opportunity to pull together its Protestant and Catholic components, at a time when the number of students is decreasing and the resources are less. It will be good for the English-speaking community of Quebec, and that is why there is support among this community for the change.

Senator Wood: Mr. Dion, I wrote to you on December 3, 1997, and you responded on December 4. My question then was: Why are we now hearing from groups who have changed their minds, such as the Catholic Committee of the Superior Council of Education? I sent you a full copy of their report, which was a report issued after the report of the committee.

Is it not significant that people are now realizing the possible ramifications of this constitutional amendment? Should we not give the people of Quebec the opportunity to debate the question before denominational rights are forever removed from the Constitution?

I do not know if your department has heard about this, but I certainly have. I have in my possession over 4,000 letters from people who obviously have read about what has happened in committee. I have a petition which I will submit today containing 245,000 signatures.

These people are obviously upset. It would be beneficial if we could give them some time — which I understand you are not willing to do — and let them investigate the consequences involved.

Mr. Dion: I agree that you have people who have strong concerns; who are not in agreement and are not part of the consensus that we seek in Quebec. I understand that. They will have the opportunity to make their case, even when section 93 of the Constitution is removed. Section 93 is a poor protection anyway.

As Senator Bolduc said, the debate will come. Most of the Quebec population is Catholic, so the legislators must take that into account when they discuss the changes they will have to make, or not make.

The point is, we do not think that section 93 is necessary, at this time in the evolution of Quebec society. Having linguistic school boards makes sense in order to modernize Quebec society at the beginning of the coming century. The study of religion in school will be a debate for that society, and the Catholics, who are a strong majority in Quebec society, will be able to make their point clear.

Senator Wood: Are you saying the debate will take place in 1999, then?

Mr. Dion: The debate will be there in the next months, and perhaps at the next election. If a political party is saying that they do not want to see any more religion in school, this political party may have some difficulty with voters in Quebec. You have a committee which will soon release its report. However, this will not end the story.

Society is now ready to have this debate without constitutional provisions which are no longer helpful, and which prevent a change that is desired by a strong majority.

[*Translation*]

Senator Lynch-Staunton: Minister, thank you for coming. I am not the only one sharing the concerns referred to by Senator Bolduc relating to the future of the two minorities, the francophone Protestants and the anglophone Catholics, who do indeed feel abandoned as far as the possibility of preserving a school system that is dear to their hearts is concerned. Unanimity being impossible, at a certain point you have to stop. Unfortunately, the majority must rule, and a minority is affected, even if a very tiny one. However, to tell that minority they can go all the way to the Supreme Court is, in my opinion, imposing a rather heavy financial and tax burden.

Are there no other solutions? The other solution, in my opinion, is to extend the notwithstanding clause relied upon by the Catholic bishops and the Anglican bishop, directly in the one case, and indirectly in the other. We do know that when that clause was voted on in the National Assembly, most Liberal members voted in favour while Parti Québ.cois members voted against it.

Assuming that the present government is still in power two years from now, nothing leads us to believe that it will be prepared to extend the clause. In my opinion, it would be prepared to abandon it eventually and do away with religion in the schools. I am not arguing for or against religion in the schools. I am arguing on behalf of maintaining rights that have been in place for 130 years. In supporting the resolution, we are opening the door two or three years down the road to the potential elimination of any religious content in Quebec's public schools. Is that what we want, or are my concerns unjustified?

Mr. Dion: Senator Lynch-Staunton, you know that in many Protestant schools they are not currently teaching the Protestant religion.

Senator Lynch-Staunton: I agree. I have said so often.

Mr. Dion: If I recall correctly, only 30 per cent of the students in Protestant schools are Protestant. Under such conditions, the Protestant religion can no longer be taught and imposed on 70 per cent of the students. This approach to teaching religion in Quebec today is out of date, given the province's sociological reality.

When you say rights acquired over the past 130 years must not be reviewed, if such had been the Constitution's intent, it would have prevented constitutional amendments. It would have provided that the rights in section 93 could not be touched by any constitutional amendment. However, it provides for bilateral amendment. As parliamentarians, you have the authority to determine whether it may be done or not. It seems to me that it may.

It is not a fundamental right. We are not talking of freedom of religion. Rather, at issue is the right of certain religious denominations to control school boards. Not every democracy in the world provides this. Most do not have such rights. We should look to see if we can. The government considers that we can if we think it is good for the children of Quebec, if it leads to a better school system and if there is reasonable support among the minorities affected.

We do not consider the minorities to be an element of the minorities. We are talking about all minorities. Among francophone Protestants, I do not think there is majority support. There is reasonable support among the Protestants, clearly.

The PQ government renewed the notwithstanding clause in 1994. It may well be renewed again. Minister Brassard has said it could be renewed as a last resort. So that is another possibility. It will be debated in Quebec society, which should decide the issue of renewing it. We have already said that section 93 is a permanent notwithstanding clause. It was seen as such.

Quebec society may feel that a permanent notwithstanding clause may be required to ensure the continuance of these traditional Protestant and Catholic rights and privileges. Other political forces will speak out. The Quebec association of Muslim teachers and parents has said no, that it does not want this protection maintained because it amounts to discrimination. One could readily defend the viewpoint that this is an established practice and that it could be renewed even if it were no longer to be done under section 93.

Senator Lynch-Staunton: You have given a great deal of weight to the two letters attached to the report, one from the Quebec bishops and the other signed by the Anglican bishop. The Quebec bishops raise no objection to the amendment provided the denominational guarantees afforded by Bill 107 be maintained, and the Protestant bishop says the same thing although his words are more vague.

How much weight do you give these letters in convincing yourself and us that these arguments are valid? They are from the official spokespersons of the two religious communities.

Mr. Dion: I think they are very important. Quebec bishops are not opposed to the amendment. It is difficult to speak in their name, unless you are the pope. In my opinion, the reason they are not opposed is that they want to serve the Catholic faith well. As clergy officials, they are under the impression that, by standing in the way of a change that a large portion of the population wants, they would not be serving Catholicism and Catholic values in Quebec. They figure they better go with the flow and try to infuse society with their values instead of stubbornly resisting change, which might get in the way of the message they want to convey to these people. I believe this is their line of thinking.

Senator Lynch-Staunton: If the bishops had opposed the amendment, would the federal government have accepted the position of the National Assembly?

Mr. Dion: This is a hypothetical question, but it would have been more complicated to do so.

Senator Lynch-Staunton: I do not want to start to discuss another resolution we will soon be debating, but the position of the Canadian bishops on Term 17 is just the opposite of the one held by Quebec bishops on the Quebec resolution. Therefore, if the Quebec bishops' decision carries a lot of weight in this particular case, so should the views of the Canadian Catholic bishops regarding Newfoundland's request.

Mr. Dion: We have to look at a whole set of factors. I cannot compare Quebec's resolution with Term 17.

Senator Lynch-Staunton: The two resolutions cannot be compared. I am asking you if the bishops' position, regardless of the question, can have the same weight in both cases?

Mr. Dion: We must look at the merits of each case. If the bishops in Quebec were opposed, if the opposition party were opposed, if there were not a whole list of groups —

Senator Lynch-Staunton: I am referring only to the bishops.

Mr. Dion: That was a very important element. Not the decisive one, but a very important one. I would refer you to the debate in the House of Commons, when the Bloc Québécois accused me of being a bad Quebecer, opposed to democracy, without respect for Quebec institutions, because I said the National Assembly is not the only one that can decide. We need to know whether there is also support among the public.

There was a referendum in another province. In Quebec there was none. It was very important to know if there was support. It was very important for us to know what the bishops thought. They were not just one of many pressure groups. You will recall that the Prime Minister himself had called for it on two occasions. *Le Devoir* had a headline that read: Why is Chrétien insisting so? The spokesman for the bishops seemed a bit annoyed. He said: We gave an answer once, so why is he asking again? You will recall that I required a letter, which I tabled in committee. Great importance was attached to the bishops' opinion within the body of considerations, and this enabled us to conclude that there was a reasonable consensus within Quebec society for this change.

In another province, the conclusion was based on a number of considerations specific to the context of that province.

[*English*]

Senator Kinsella: I should like to continue with the line of questioning that has just concluded with Senator Lynch-Staunton. Is it your testimony that the letter from the Assembly of Quebec bishops as to the right affecting Catholic schools that is currently protected by the Constitution weighed heavy in your determination that the Catholic community is in agreement with this change? That is your testimony, that it weighed heavy, that it was an important factor? There were others but this was an important one?

Mr. Dion: The question is whether I think that the Catholic community is in agreement because the Catholic bishops are not against it. It is part of the assessment that helped us to say that there is support. However, the bishops are not alone. A lot of associations, Catholic and others, support the change. I have a full list here. It is also a debate that we have had in Quebec society for a long time.

Senator Kinsella: In your assessment, did you read the letter from the Assembly of Quebec bishops to be conditional or contingent, that it was dependent upon some kind of understanding or expectation that Catholic education would be continued through a different vehicle?

Mr. Dion: The bishops had discussions with the Minister of Education and received some reassurance about it. They fully understand — and have said so — that the guarantee of the notwithstanding clause may be necessary, and it is in full awareness of this fact that they said they do not object to the change.

Senator Kinsella: Therefore, when we vote on this resolution, we can do so in the knowledge that their expectation is that Roman Catholic education will continue in the schools? We can be assured that this is an up-front, reasonable expectation?

Mr. Dion: There is certainly an expectation that debate will occur on that point. The bishops have received some indication from the Minister of Education about it, and the opposition party has said also where it stands on the issue. Beyond that, however, I cannot give you a guarantee that they will use the notwithstanding clause or that they will need it. We do not know if they will need to use it.

I do know that in 1994 they re-applied the notwithstanding clause, which has existed since 1988 in relation to this law.

Honourable senators, there is strong support in Quebec to teach Catholic religion in schools.

Senator Kinsella: Thank you for that clarification, minister, because it weighs heavily in my assessment of the resolution. When I compare it to the explicit, unequivocal, categorical, personal testimony before the joint committee examining Term 17, the Roman Catholic Archbishop, speaking on behalf of all the Catholic bishops of Newfoundland and Labrador, stated explicitly that the Roman Catholic Church in Newfoundland does not agree to the ceding of their present constitutional right. Would you agree that the two levels of testimony before us must be evaluated, one being direct, explicit, categorical and non-contingent, and the other one, from the bishops of Quebec, being somewhat conditional on an expectation that an undertaking will be fulfilled by the Government of Quebec in the future?

Mr. Dion: What is written is this:

[*Translation*]

> Our Assembly, however, did not object to the proposal to amend section 93.

[*English*]

They do not object. It would be different to use that point of view in order to object. They do not object in Quebec. This is part of a context. Other aspects in Quebec society lead us to say that there is a consensus. In another province, the context is different. The assessment must be adapted to the other context.

Senator Kinsella: The last paragraph in the letter from Bishop Morrisette states:

[*Translation*]

> There has always been a condition attached to our agreeing to the change in status of school boards: that the denominational guarantees afforded by Bill 107 be maintained.

Could you explain that paragraph?

[*English*]

Mr. Dion: The bishops were asked if they had changed their position following the work of the committee, and they did not speak out. They had not changed their position. They are fully aware of the debate, and yet they have not said that they object to the change.

[*Translation*]

Senator Lavoie-Roux: Minister, when you talk about a broad consensus for the creation of linguistic school boards in the Protestant community, as well as other communities, would you say that there is as broad a consensus on the amending formula, that is to say repealing section 93 to be able to establish linguistic school boards?

Second, have you been able to demonstrate that the amending formula selected to establish linguistic school boards under Mr. Ryan's Bill 107, whose legitimacy has been recognized by the Supreme Court, was impracticable, as the Government of Quebec claims? I suggest that it was practicable. It has never been proven otherwise. The Government of Quebec asked that this kind of formula be used. You could have said: "Yes, we are prepared to accommodate you." There may be a formula that does not affect minority rights. Let us not forget that our primary role in the Senate is to protect the rights of the minorities.

Mr. Dion: You protect minority rights by ensuring that a change does not take place without reasonable support from the minority, and by ensuring that such change applies to all the provinces. As for the need to make this change, it was abundantly demonstrated to the committee of which you were a member.

The Quebec Federation of Catholic School Commissions said that by stacking linguistic and denominational structures, it would become much more complicated and burdensome to carry out yearly activities related to student enrolment, assignment of personnel, distribution of resources, establishing voting lists and sharing the tax base. Many testimonies were made to that effect.

Senator Lavoie-Roux: For the minister's information, the sharing of the tax base, in Montreal among other places, was done in 1970 or 1973, when a large part of the school restructuring process had already been completed on the island of Montreal. There were some inequalities or inequities, but most of them were corrected at the time.

Is the consensus to which you are referring as broad regarding the formula used to amend the school system, not just the linguistic divisions, but the deletion of the whole section 93?

Mr. Dion: There is almost complete unanimity as regards the establishment of school boards. As for using the Constitution to achieve this result, there is a consensus. It is not quite as broad, but it is still a consensus. The current Quebec government hesitated a long time before going the constitutional route, for reasons not necessarily related to the effectiveness of the school system but, rather, for other political considerations which you can guess. The Quebec government was forced by the stakeholders to opt for the constitutional solution. This is why it even agreed, somewhat reluctantly, to come here to defend its proposed constitutional change.

Senator Lavoie-Roux: I want to come back to a subject that has been raised several times. There is neither consensus nor unanimity in the Protestant francophone community. Educators, dissentient school boards and parents came to tell us so. I asked you this question when you appeared before the committee on November 4. Perhaps you have changed your mind since then. Have you given further thought to Mr. Whoerling's proposal not to repeal section 93, but to amend it in order to maintain the Protestant francophone minority's dissentient right in this case. We heard from certain Protestant francophone schools in regions far away from Montreal, excellent schools that parents are very involved in. They have worked very hard to get them. Now we are all but turning our backs on them.

Mr. Dion: With respect to Protestant francophones, I have to say that is true: We really do not have an assurance that this minority is for the amendment. The question is whether there must be unanimity in a society to effect a change for which there is a very strong demand from the very great majority of that society, including from the overall minority provided for in the Constitution. The term Protestant francophone does not appear in the Constitution.

Senator Lavoie-Roux: Dissentient right does.

Mr. Dion: It is the Protestants who are protected. There is very clear support among Protestants for the amendment.

Senator Lavoie-Roux: For the creation of linguistic school boards, I grant you. The coalition of school associations representing numerous families and other Protestant groups including the Alliance, who most certainly represent Montreal Protestants, were opposed to repealing section 93. They were not in favour either. I could name other groups. One must be careful about claiming any broad unanimity among anglophones.

Mr. Dion: There is no unanimity.

Senator Lavoie-Roux: There is no consensus either.

The Chairman: Honourable senators, the minister has to leave us now. On your behalf, I thank him.

[*English*]

The Chairman: Honourable senators, it is moved by Senator Carstairs that I do now leave the Chair and report that we have completed our deliberations. Is that agreed, honourable senators?

Hon. Senators: Agreed.

Senator Cools: Honourable senators, I have one question. Obviously, the minister's time was limited, for he is a busy man. What happens to those of us who had questions to ask of the minister and who did not have an opportunity to do so? Will the minister be brought back?

The Chairman: It is not for me to answer that question.

Does the Honourable Senator Carstairs wish to respond to that concern?

Senator Carstairs: As honourable senators know, the minister appeared twice before the committee which studied the Quebec school question. He has now appeared once before the Senate. To my knowledge, there are no further plans to have the minister appear before us again.

The Chairman: Honourable senators, is there agreement that I report to the Senate?

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

Senator Cogger: Honourable senators, I want to know what happened. We were told earlier today — and possibly that went by the board — that the minister would be available between 3 p.m. and 4:30 p.m. He arrived about five minutes late and then departed at 3:50 p.m. The length of his stay was thus shortened by at least 30 minutes. We are a long way from one hour and one-half for questioning. There are 104 senators. That does not leave a whole lot of time.

Senator Carstairs: To be fair to the minister, a number of agreements have been negotiated in the last 24 hours. They were fluid and flexible. They changed things in a number of ways. The minister agreed to appear at 3 p.m. today, and he let us know at the beginning of his remarks that he was only available until 3:50 p.m.

The Chairman: Is it your wish, honourable senators, that I report that we have completed our deliberations?

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

The Chairman: Is it on division?

Some Hon. Senators: No.

Senator Cools: On division.

The Chairman: On division.

The Hon. the Speaker: Honourable senators, the sitting of the Senate is resumed.

REPORT OF COMMITTEE OF THE WHOLE

Hon. Eymard G. Corbin: Honourable senators, the Committee of the Whole reports that it has concluded its deliberations with the Honourable Stéphane Dion, President of the Queen's Privy Council for Canada and Minister of Intergovernmental Affairs.

Hon. Noël A. Kinsella (Acting Deputy Leader of the Government): Might I respectfully ask Your Honour to advise the house for how many more minutes the bells will ring?

The Hon. the Speaker: The bell rang for 35 minutes prior to Mr. Dion's arrival, which leaves 25 minutes. Therefore, the vote will take place at 4:20 p.m. Is that agreed, honourable senators?

Hon. Senators: Agreed.

The sitting of the Senate was suspended.

•(1620)

The sitting of the Senate was resumed.

SAFETY OF BLOOD SYSTEM

MOTION TO ADJOURN UNDER RULE 60(4) TO CONSIDER MATTER OF URGENT PUBLIC IMPORTANCE—VOTE

The Hon. the Speaker: Honourable senators, the question before the Senate is: Shall the ruling of the Chair be sustained?

Speaker's ruling sustained on the following division:

YEAS
THE HONOURABLE SENATORS

Adams	Lewis
Austin	Losier-Cool
Bacon	Maheu
Bonnell	Marchand
Bryden	Mercier
Butts	Milne
Callbeck	Moore
Carstairs	Pearson
Chalifoux	Pépin
Cools	Perrault
Corbin	Petten
De Bané	Poulin
Fairbairn	Robichaud
Ferretti Barth	(*L'Acadie-Acadia*)
Forest	Robichaud
Gigantés	(*Saint-Louis-de-Kent*)
Grafstein	Rompkey
Graham	Stanbury
Haidasz	Stewart
Hays	Stollery
Hébert	Taylor
Hervieux-Payette	Watt
Joyal	Whalen
Kirby	Wood—46

NAYS
THE HONOURABLE SENATORS

Andreychuk	Kelly
Atkins	Kinsella
Beaudoin	Lavoie-Roux
Bolduc	LeBreton
Cochrane	Lynch-Staunton
Cogger	MacDonald
Cohen	Nolin
DeWare	Oliver
Di Nino	Phillips
Doody	Rivest
Forrestall	Roberge
Ghitter	Spivak
Grimard	St. Germain
Gustafson	Stratton
Johnson	Tkachuk—31
Kelleher	

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

Hon. Noël Kinsella (Acting Deputy Leader of the Government): Your Honour, pursuant to the rules, when a vote is about to be taken, at the time that His Honour puts the question, all senators voting must be in their places. I will repeat that. At the time when His Honour puts the question, any honourable senator not in his or her place is ineligible to vote.

Senator Rompkey was not in his place when the question was put.

An Hon. Senator: New vote!

The Hon. the Speaker: Honourable senators, I did not notice that Senator Rompkey was not in his seat. If he was not, then his vote should not be counted.

POINT OF ORDER

Hon. Bill Rompkey: On a point of order, Your Honour, I was in my seat before the whip had taken his seat.

I am not sure of the *Rules of the Senate of Canada,* but in the House of Commons attendance is permitted up until the time that the whip takes his seat. In my understanding, I was clearly in my seat before the whips had taken their seats, and I think I was here before you had put the question, Your Honour.

Hon. Noël Kinsella (Acting Deputy Leader of the Government): Your Honour, this is one of the problems that both sides have been trying to overcome. It is important that all honourable senators realize what the rules are. To get around this one, perhaps we could have the vote taken again.

Your Honour, I make the suggestion not only to resolve the problem but also to underscore what the rules provide for, not at all to abrogate the right of Senator Rompkey to vote. It seems to me that the way to get around this was to take the vote again. Perhaps other honourable senators have a better solution.

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, it is quite correct that the rule in the Senate is somewhat different from that of the House of Commons. The Senate rule clearly states that the senator must be in his seat at the time that His Honour puts the question. That is to say, after both whips have come forward and have taken their seats. If Senator Rompkey was not in his chair at that particular moment, then I think Senator Rompkey would agree that his vote should not count on this occasion.

Senator Rompkey: If that were the case, I would, but that is not the case. The case is that I was in my seat before the whip had taken his seat and before the Speaker put the question.

The Hon. the Speaker: Honourable senators, we have had a number of discussions about the rule because there was some lack of clarity. It was agreed that senators must be in their seats when the question is put. That is the decision. When the Speaker says "The question before the Senate is," senators must be in their seats.

In this particular case, I do not know whether Senator Rompkey was in his seat when I said "The question before the Senate is." I cannot judge.

I believe the vote was 46 to 31. Would it be agreeable to declare that the vote was 45 to 31?

Some Hon. Senators: Agreed.

Hon. Pierre Claude Nolin: Agreed.

[*Translation*]

MURDER BY COMPASSION

MOTION TO ADJOURN UNDER RULE 60 TO CONSIDER MATTER OF URGENT PUBLIC IMPORTANCE

Hon. Pierre Claude Nolin: Honourable senators, I wish to speak to you of an important and urgent matter, a matter of public interest which requires an emergency debate: murder by compassion.

In October 1993, a farmer in Wilkie, Saskatchewan killed his daughter —

[*English*]

POINT OF ORDER

Hon. Nicholas W. Taylor: Honourable senators, I rise on a point of order.

The Hon. the Speaker: Honourable senators, order, please! The Honourable Senator Nolin has the floor!

Senator Taylor: If I may put forward a point of order, honourable senators, in the *Rules of the Senate of Canada*, on page 70, section 61(6) says quite clearly that:

> Not more than one motion to adjourn, moved in accordance with section (1) or (2) above —

•(1630)

Subsections (1) and (2) refer to emergency debate. It goes on to state:

> — shall be received at any one sitting.

I submit, subject to the ruling of the Chair, that we cannot receive any more motions calling for emergency debate at this sitting today.

Senator Oliver: It was not a motion to adjourn.

Senator Taylor: The honourable senator's motion quite clearly says, "I now move that the Senate do now adjourn." I am saying that you cannot do that more than once in a day.

[*Translation*]

Hon. Pierre Claude Nolin: Honourable senators, I wish to speak to you of an important and urgent matter. In October 1993, a farmer in Wilkie, Saskatchewan killed his daughter Tracy by carbon monoxide poisoning. Severely handicapped —

[*English*]

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, there is a point of order on the floor raised by Senator Taylor, and the Speaker must rule.

The Hon. the Speaker: A point of order has been raised. I am prepared to hear points of view on the point of order. Do any other honourable senators wish to speak on the point of order?

Hon. William M. Kelly: Honourable senators, I do not pretend to be an expert in these matters, but on page 65, rule 60(4) reads, in part:

> When the Senate meets, after a notice or notices has or have been received and distributed pursuant to sections (1) and (2) above...

It seems to anticipate that more than one notice under section 1 can be received.

Senator Taylor: If I may, I think the reason for that is that they have priority. It is usually done in the order that the Speaker receives them. Whichever notice is brought in earliest would be the motion to be considered. It is quite clear when you read rule 61(6) on page 70.

> Not more than one motion to adjourn...shall be received...

The operative words are "shall be received."

In other words, it must simply be introduced on the floor. Senator Nolin has quite clearly asked that the Senate adjourn, and I do not think it could be any clearer than to say there can be no more than one motion to adjourn. Otherwise, the parliamentary process obviously would fall apart. We could move motion after motion after motion from every side of the house to adjourn for special debates, and then the debate would go on. We have had one debate today on an emergency. I am certainly not holding up other debates. They could go on tomorrow, the day after and the day after and next month. However, there is only one motion per sitting.

Hon. David Tkachuk: It is very clear on page 65. Rule 60(4) clearly sets out the order of debate for the Speaker.

> When the Senate meets, after a notice or notices has or have been received and distributed pursuant to sections (1) and (2) above, the Speaker shall, instead of calling "Senators' Statements" recognize the Senator or Senators who gave notice, in the order in which their notices were received.

That is precisely what His Honour is doing.

Hon. Noël Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, it seems to me that to raise a point of order at this time in our proceedings itself is out of order, and in making that assertion I rely on rule 23(1) on page 24 of the *Rules of the Senate of Canada*. It provides that:

> During the time provided for the consideration of the daily Routine of Business and the daily Question Period, it shall not be in order to raise any question of privilege or point of order. Any question of privilege or point of order to be raised in relation to any notice given during this time can only be raised at the time the Order is first called for consideration by the Senate.

That rule is the only rule I find which speaks in a general way to the issue; however, it does not speak in great specificity. The principle is that this is not the time to be raising a point of order.

Senator Carstairs: As to the point of order on the point of order, because I assume that is what it was, Senator Kinsella has indicated that no point of order can be raised during the daily Routine of Business and the daily Question Period, and I would remind senators, and particularly His Honour, that we have not yet come to Routine Business today.

Hon. Orville H. Phillips: Honourable senators, I agree with Senator Tkachuk in referring to rule 60(4) on page 65, but I go further than that. I would ask His Honour to look at his earlier statements when he stated that he had received eight notices and that, according to the *Rules of the Senate of Canada*, he must hear those. I quote the Speaker rather than the rule book, I am sure with much more authority.

Hon. Wilfred P. Moore: Honourable senators, Senator Tkachuk made reference to rule 60(4). The rule refers to "notice or notices," and I submit that refers to the two types of notice mentioned above. It is not just the notice of emergency debate. Two types of notice are mentioned in 60(1) and 60(2), and that is what I think is meant by the rule.

Senator Kinsella: Your Honour, we must have a ruling from the Chair on my point of order which trumps, in the order of points of order, the point of order raised by Honourable Senator Taylor. We must know whether the Chair is ruling that a point of order can be raised at this time in our proceedings. I do not know the answer. I would like to have guidance and a ruling from the Chair.

The Hon. the Speaker: I am prepared to rule on that matter unless there are more comments on that particular point.

It is in order to raise a point of order now because we have not reached the daily Routine of Business. If the honourable senators would look at rule 23(1), it is clear.

> During the time provided for the consideration of the daily Routine of Business and the daily Question Period, it shall not be in order to raise any question of privilege or point of order.

We have not reached the daily Routine of Business because it is clear under the rules that questions of urgent importance must come before statements. I have not called Senators' Statements, so we are not into the daily Routine of Business.

Hon. John Lynch-Staunton (Leader of the Opposition): Could we continue the discussion on this? I would like to know where we are. We are not in Routine Proceedings, and we are not on orders. Where are we?

•(1640)

I thought we were beginning the second emergency debate. Senator Nolin rose to begin a motion urging a second emergency debate, and Senator Taylor raised a point of order challenging his right to do so. We have no argument with that question being put as to whether he is entitled to do so, and the others that follow can be put on the same day or whatever. However, we would like to know the rules that govern the state we are at now.

It is as if we were in limbo in a sense. However, there is nothing in the rules that says, once an emergency debate motion begins and others are waiting, that they should not be taken into consideration one after the other. Otherwise, why call them emergency motions when even the word "emergency" is being denied by a point of order which attempts to refuse consideration of the motion?

The Hon. the Speaker: Honourable senators, all I have to work with is the rule book. You ask where we are in our business. In response, I would refer you to page 65, rule 60(4) which states:

> When the Senate meets, after a notice or notices has or have been received and distributed pursuant to sections (1) and (2) above, the Speaker shall, instead of calling "Senators' Statements," recognize the Senator or Senators who gave notice, in the order in which their notices were received.

At this point, we have not reached the daily Routine of Business. The very purpose of an urgent debate is to prevent the Senate from going into Routine Business. It is a motion meant to supersede the business of the Senate for that day. The motion must be on an urgent matter.

In reading that rule, honourable senators, I can only conclude from the fact that it states, "notice or notices," that it is proper to receive more than one.

I would rule, on the point made by Honourable Senator Taylor, that rule 61 (6) applies to sections (1) and (2) of rule 61 which states that, when leave is granted — and, at this point, leave has not been granted to any motion — new motions may come forward.

If a new motion comes forward and I find that it is in order and I ask that you agree to grant leave, then there can be no further motion put after that until such time as leave is granted. I rule that it is in order for the Honourable Senator Nolin to proceed.

[*Translation*]

Senator Nolin: Honourable senators, in October 1993, a farmer in Wilkie, Saskatchewan killed his daughter Tracy by carbon monoxide poisoning. Severely handicapped by cerebral palsy, Tracy, who was then 12 years old, could not speak, could not walk, could not eat unassisted. The trial of her father, Robert Latimer, triggered a national debate on euthanasia.

The reason we need to hold an emergency debate is a very simple one. There is a legal vacuum around this matter. It is high time, with all of the Senate's experience with the euthanasia issue, we addressed this matter. The work of the Special Senate Committee on Euthanasia and Assisted Suicide has certainly cast some light on this matter, but the *Latimer* case must involve all parliamentarians, us senators first and foremost, since we are able to rise above partisan debate.

A year after he killed his daughter on November 16, 1994, Robert Latimer was sentenced by Justice Ross Wimmer of the Court of Queen's Bench of Saskatchewan to a minimum sentence, namely life imprisonment with no possibility of parole for 10 years.

On December 4, 1994, the Canadian Civil Liberties Association called for the federal Minister of Justice to revoke Robert Latimer's prison sentence.

In July 1995, three justices of the Saskatchewan Appeal Court were unanimous in confirming Robert Latimer's sentence for murder. One of them, however, wrote that imprisonment for 10 years constituted cruel and unusual punishment, thus leaving the door open for appealing the sentence before the Supreme Court of Canada.

In October 1995, Mr. Latimer's lawyers filed an appeal with the Supreme Court of Canada. A petition signed by 17,000 people was presented in the House of Commons in favour of Mr. Latimer's appeal.

In February 1997, the Supreme Court ordered a new trial. On November 4, Robert Latimer was found guilty for the second time of second-degree murder and was sentenced to a prison term of 25 years with no possibility of parole for 10 years.

In his instructions to the jury of seven women and five men, Mr. Justice Nobel said that the issue was to determine whether Mr. Latimer had killed his daughter. He said:

> If you are sure the accused has committed a crime, you must find him guilty.

The federal Minister of Justice, Ms McLellan, said she had considered the possibility of lessening the minimum 10-year prison sentence in the case of second-degree murder committed in exceptional circumstances.

On December 1, 1997, Mr. Latimer was given a constitutional exemption by Mr. Justice Nobel of the Court of Queen's Bench. He felt that the sentence of life imprisonment constituted cruelty and ordered Mr. Latimer to serve two years less a day in prison. He will therefore spend the first year of his sentence in provincial prison and the second year on parole at his farm. Not everyone was pleased at the outcome.

The Council of Canadians with Disabilities called for the respect of the rights of Tracy Latimer and all persons with disabilities. I quote:

> Tracy's impairment cannot be cited as mitigating circumstances in the decision on the action taken by Mr. Latimer, nor in the decision to prosecute him.

The Constitution precludes such discrimination. The CCD goes on to say:

> By excusing the murder of young Tracy, Canadian society has once again underscored the extreme vulnerability of people with disabilities to serious abuse. So long as the public fails to consider persons with disabilities as human beings and to demystify the concepts of pain and suffering used by all those who want to justify our death, our lives remain in danger.

I quoted Jim Derksen, of the Human Rights Committee, Council of Canadians with Disabilities.

The Special Senate Committee on Euthanasia defined euthanasia as follows:

> The deliberate act undertaken by one person with the intention of ending the life of another person in order to relieve that person's suffering where that act is the cause of death ... Euthanasia is voluntary when it takes place in accordance with the wishes of a competent individual, whether these are made known personally or by a valid advance directive ... Euthanasia is nonvoluntary when it is done without the knowledge of the wishes of a patient either because he or she has always been incompetent, or is now incompetent and has left no advance directive...

This describes the *Latimer* case.

The Hon. the Speaker: Honourable Senator Nolin, I am sorry to interrupt you but your time is up.

[*English*]

Senator Carstairs: Honourable senators, Senator Nolin has initiated a debate in this chamber this afternoon which is very close to the hearts of every senator in this chamber who sat on the Special Senate Committee on Euthanasia and Assisted Suicide.

The *Latimer* case was very much a public document at the time of our deliberations. I think in no small part that case contributed to the decision which we made unanimously in recommending that the federal government look at a charge of murder — because I think it was murder in the case of Tracy Latimer — but in a somewhat different light from the types of murders committed by criminals like Paul Bernardo or Karla Homolka.

•(1650)

We suggested that the individual should still be charged and tried and, if appropriate, convicted of murder, but we then also suggested that consideration could be given to the elements of mercy and compassion. The judge should have some discretionary powers to determine whether, in that particular case and in those particular circumstances, a life sentence with no eligibility for parole for 25 years or no eligibility for 10 years should be considered.

Honourable senators, this recommendation was given great consideration in committee. Obviously, I supported it, as did Honourable Senators Beaudoin, DeWare, Lavoie-Roux, Corbin and Neiman, who was with us at the time. I hope I have not missed anyone.

The decision in the case of Robert Latimer was that there should be a constitutional exception pursuant to section 12 of the Charter, cruel and unusual punishment. Perhaps this would not have been necessary had the recommendation of our Senate committee been accepted; it was not.

What we are determining today is whether an emergency debate on this issue is warranted. If Senator Nolin had come into this chamber on December 2, the day after this application of section 12 of the Charter of Rights and Freedoms had been cited by a member of the judiciary, his argument for an emergency debate would have been far stronger. Senator Nolin chose to wait until December 11 to introduce such a motion.

When we are dealing with the question of urgency, it appears to me that a burden of proof must exist that there is a genuine emergency requiring urgent action.

This is an issue, honourable senators, on which I certainly have strong views and about which I would be delighted to participate in a debate at any time. However, it is not an issue which meets the tests under 60(1)(*a*) of "genuine emergency" or "urgent," or of 60(6)(*b*) of "another opportunity." Therefore, we cannot support an emergency debate at this time.

Hon. Michel Cogger: Honourable senators, I take exception to the remarks just made by the deputy leader as well as those that she made previously in the case of the emergency debate as proposed by Senator Doyle.

In both cases she raised the notions of proof and burden of proof in matters that, to a lawyer, certainly mean something very precise and very definite. I do not know where the deputy leader finds those notions.

Our rules are reasonably clear, certainly in this case, and I do not find that the proponent of an emergency debate must prove anything. All a proponent must do is explain. "Explain" has a very different meaning from the word "proof." He must explain why the matter should be given urgent consideration. Where is the burden of proof?

This is not a controversial adversarial process as in a court of law. If we allow the deputy leader to continue, she will soon be speaking to us about beyond a reasonable doubt. There is no such thing as proof in this case. Senator Nolin must only explain why he believes that the matter should be given urgent consideration. He then must go on to give reasons why.

Honourable senators, I submit that the date on which the point is being raised by Senator Nolin is totally irrelevant. What we must consider is, is it likely that we will have another opportunity to consider the matter within a reasonable period of time. That is the test. Please forget about proof. Please forget about the date on which judgment was delivered.

It is entirely logical to consider whether this opportunity to discuss this matter is within a reasonable period of time. We are close to the Christmas adjournment. Is this not the time to discuss this situation? Certainly, if we do not discuss it now, we will not be able to do so until some point in the New Year.

I invite honourable senators to discard those notions of proof, evidence, burden of proof and beyond a reasonable doubt. Senator Nolin must merely explain the situation according to our rules.

Hon. Philippe Deane Gigantès: Honourable senators, Senator Cogger said that these are not adversarial proceedings. Parliaments have emerged historically as an evolution from single combat or multiple combat to settle issues through speech with two opposing parties. The adversarial nature of at least two parties is essential to Parliament. If there is only one party, then we have a socialist republic working in unison and unanimity. The adversarial nature of a parliament gives it its essential democratic character.

Hon. Jerahmiel S. Grafstein: Honourable senators, to assist Senator Cogger, our deputy leader did not speak about an onus placed upon the proponent of beyond a reasonable doubt. That is not what she said. That is taking out of context what she said.

As I heard the deputy leader, the proponent's responsibility in introducing a motion of emergency is to demonstrate with clear and unequivocal facts that there is a genuine emergency. We must hear the facts. The proponent must propose those facts. We must conclude as a body that it is a genuine emergency. I did not hear that.

Hon. Donald H. Oliver: Honourable senators, in response to Senator Grafstein, I listened to what Senator Cogger said. At no time did he say that Senator Carstairs said that the test was a burden of proof as in the criminal law.

What he did say is that, because she used the word "proof," the next thing she will be asking the members of this chamber to do is to apply the test of beyond a reasonable doubt. That is all he said. He did not say that she said to use that test.

Hon. John G. Bryden: Honourable senators have received notice of eight urgent matters. I take it that these matters sprang full-blown from the heads of the members of the other side last night or this morning. These matters range from a discussion of the blood situation to the situation in relation to compassionate murder.

•(1700)

Another notice of extreme urgency that I received is regarding the declining transfers to the provinces. I was not surprised to see the author of the next one: The delay in getting search helicopters became very urgent this morning over breakfast, I take it. Yesterday, Canada did something in Kyoto that now demands an emergency debate. Also the honourable senators opposite became aware, probably over breakfast, that there is a high rate of unemployment in Canada and that that demands emergency debate. There is also a request for an emergency debate on the impending deadline for RRSP conversion.

I do not know whether His Honour has ranked these in order of importance, or whether it was first-past-the-post as to who got the chance to stand up and make a speech.

Then, finally, we are told by notice that there should be an emergency debate over the number of personal bankruptcies.

I raise all that, honourable senators, because we on this side have at least four or five urgent matters that should be dealt with, including an amendment to the Constitution that will affect the people in Quebec, and an amendment to the Constitution that will affect education in Newfoundland. We have a situation where we have federal-provincial agreement to amend the Canada Pension Plan, which includes an undertaking to implement the changes effective January 1. We have a situation which could result in an inability on the part of the police forces in our country to search residences for evidence, unless we deal with it one way or the other.

I do not know what credit any of us are bringing to this institution by being part of this. I know that long before my time, there was a very difficult period in this place which brought it into terrible disrepute. That, of course, was the GST debate which was finally resolved by eight senators being dropped in here because of a little-known section of the Constitution. Is it really payback time? Do honourable senators really want to go back to those days?

I do not know whether the people sitting up in our gallery are members of the press, but, honourable senators, do we really want to show to the public of Canada the useless games that we are prepared to play, out of either personal pique or some possible attempt to grandstand just to delay and obstruct?

That is my concern and I would ask Your Honour to take those views into account when making your ruling.

Senator Kelly: Honourable senators, I think most of you know that the last thing I want to do is appear excessively partisan. I am quite serious about that, but I must say that Senator Bryden made me feel somewhat sad. I do not really believe he meant to speak the way he did. When you look at the subjects of these motions, they may well not deserve emergency debate, but they deserve attention. There is nothing frivolous in talking about the blood supply. There is nothing frivolous in talking about the helicopters. There is nothing frivolous in any of these motions, I would say to Senator Bryden, and I honestly believe he did not mean to speak the way he did. I do not think the people of Canada would be pleased to hear matters of that sort treated in that way.

Senator Bryden: There is something very frivolous in the process that is being used here.

Senator Kelly: I was speaking of the subject-matter.

[*Translation*]

Hon. Roch Bolduc: Who has the most decency? We on this side of the Chamber or you on the other side? You think that five hours are enough for consideration at second reading of Bill C-2, to amend the Canada Pension Plan?

[*English*]

It is much more important than that.

[*Translation*]

The Hon. the Speaker: Honourable senators, I listened carefully to what Senator Nolin and the other honourable senators who participated in this debate said. I agree that this is an important matter. I must rule not only on the importance of the debate, but also on whether the proposal meets the requirements set out in the *Rules of the Senate*. These requirements are clearly stated at section 60(1), paragraphs (*a*), (*b*), (*c*) and (*d*), and at section 66, paragraphs (*a*) and (*b*). Unfortunately, I find that the proposal does not meet all these requirements. This matter could be debated at another time. I therefore declare the motion out of order. I see only one honourable senator standing. Do the whips agree on how long the bells should ring?

[*English*]

Senator Lynch-Staunton: Your Honour, if I may, there is a house order to have a deferred vote.

The Hon. the Speaker: I have to know first if the vote will be instantly. If I am told it will be an hour bell, then I have another proposition for you.

The whips advise me that the bells will ring for one hour.

I must remind honourable senators that yesterday, by decision of the Senate, it was ordered that there would be a deferred vote at 5:30 p.m. today. Here is what I would propose. Under the rule, I must call for the bells to ring 15 minutes ahead of time. The bells will be ringing as it is, so I will not need to do that, but at 5:30 p.m. we must reassemble to have the vote on the deferred motion, if that is agreeable. Then the bells will continue to ring after that vote is finished to conclude the hour allocated for his vote on the proposed motion of Honourable Senator Nolin.

Senator Taylor: Honourable senators, could I make another point of order?

Some Hon. Senators: No.

The Hon. the Speaker: No. I am sorry, Senator Taylor, a vote has been called and I cannot entertain a point of order.

Senator Taylor: The point of order is on the time limit on the vote.

The Hon. the Speaker: Senator Taylor, I am sorry, a vote has been called and I cannot now entertain a point of order. Will you please resume your seat.

Senator Kinsella: Honourable senators, I wish all honourable senators to understand clearly the proposition from His Honour. The bells will commence to ring shortly. There will be a one-hour bell, and as happened earlier today, when it comes to quarter after five, the clock should stop on this vote. Then the bells that ring from 5:15 to 5:30 p.m. will be for the vote to be taken by house order at 5:30. After the vote at 5:30 p.m. has been completed, the bells will once again resume ringing until six o'clock.

•(1710)

The question is: Do the bells ring to the point when the one hour is up, even though that may be beyond six o'clock? If so, pursuant to what rule is that the case?

The Hon. the Speaker: Honourable senators, let us be clear. In three-minutes' time, I must call for the bells to ring for a vote which will take place at 5:30 p.m.

I am told by the whips that the bells will ring for a full hour for the vote relating to the appeal of the Speaker's ruling, and that the ringing of the bells on the deferred vote will not be part of that.

However, I must remind honourable senators that, if the bells are ringing at six o'clock and I am not in the Chair to see the clock, the bells will continue to ring, and there will be no adjournment at that time. There will be an adjournment at the conclusion of the vote which, presumably, will be at 6:30 p.m. or 7:00 p.m. I will then leave the Chair until eight o'clock. Those are the rules.

I am prepared to entertain a question, but not a point of order.

Hon. Nicholas W. Taylor: Honourable senators, I would refer the Honourable the Speaker to page 76 of the *Rules of the Senate,* rule 66(3). The last half of that subsection states that the whips do not have the right to set a time on a debate that has a time limit.

There was a 15-minute time limit on the prior debate, and it fell on the shoulders of His Honour to set that time limit. In other words, the whips are not empowered to set time limits on debates. Subclause (3) reads:

> These provisions shall apply, in particular, to the disposition of non-debatable motions and any motion for which a period of time has been allocated to the disposition of the debate.

Honourable senators, His Honour made the allocation of 15 minutes. Therefore, it is his prerogative and not that of the whips' to set the time period for the vote.

Some Hon. Senators: Oh, oh!

The Hon. the Speaker: Honourable senators, I shall reread the rules during the interval while the bells are ringing for the deferred vote.

I now call for the bells to ring for the deferred vote to be held at 5:30 p.m., as agreed.

•(1730)

CRIMINAL CODE INTERPRETATION ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Moore, seconded by the Honourable Senator Ferretti Barth, for the second reading of Bill C-16, An Act to amend the Criminal Code and the Interpretation Act (powers to arrest and enter dwellings),
>
> And on the motion in amendment of the Honourable Senator Cools, seconded by the Honourable Senator Sparrow, that the motion be amended by deleting all the words after "That" and substituting the following therefor:

"Bill C-16, An Act to amend the Criminal Code and the Interpretation Act (powers to arrest and enter dwellings), be not now read a second time because

(*a*) the Senate is opposed to the principle of a bill which has been placed before Parliament as a result of the judgment of the Supreme Court of Canada of May 22, 1997, and of the Court's Orders of June 27 and November 19, 1997;

(*b*) the Senate finds it repugnant that the Supreme Court is infringing on the sovereign rights of Parliament to enact legislation and is failing to respect the constitutional comity between the courts and Parliament; and

(*c*) the Court is in effect coercing Parliament by threatening chaotic consequences respecting law enforcement and arrests if Parliament does not pass this bill.",

And on the sub-amendment of the Honourable Senator Phillips, seconded by the Honourable Senator Wood, that the motion in amendment be amended by deleting the word "and" at the end of paragraph (*b*) and by adding the following after paragraph (*c*):

"(*d*) the Court, by its Order of November 19, 1997 that Bill C-16 must be enacted by December 19, 1997, is impeding proceedings in Parliament and is subordinating the Senate of Canada; and

(*e*) the Court is usurping the royal prerogative of the Sovereign who, with the advice and consent of Parliament, keeps and upholds the Queen's Peace and the public peace and security of all.".

The Hon. the Speaker: Honourable senators, the question before the Senate is on the sub-amendment of the Honourable Senator Phillips.

Sub-amendment negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Atkins
Cochrane
Cogger
Cohen
Cools
DeWare
Di Nino
Doody
Doyle
Eyton
Forrestall
Grimard
Gustafson
Kelleher
Kelly
Keon
Kinsella
Lavoie-Roux
LeBreton
Lynch-Staunton
MacDonald
Oliver
Phillips
Rivest
Roberge
Stratton
Tkachuk—27

NAYS

THE HONOURABLE SENATORS

Adams
Austin
Bacon
Bonnell
Bryden
Butts
Callbeck
Carstairs
Chalifoux
Corbin
Fairbairn
Ferretti Barth
Forest
Ghitter
Gigantès
Grafstein
Graham
Haidasz
Hays
Hébert
Hervieux-Payette
Joyal
Kenny
Kirby
Lewis
Losier-Cool
Maheu
Marchand
Mercier
Milne
Moore
Pearson
Pépin
Petten
Poulin
Robichaud (*L'Acadie-Acadia*)
Robichaud (*Saint-Louis-de-Kent*)
Rompkey
Stanbury
Stewart
Stollery
Taylor
Watt
Whelan
Wood—45

ABSTENTIONS

THE HONOURABLE SENATORS

Johnson
Spivak—2

The Hon. the Speaker: The question before the Senate now is the motion in amendment moved by the Honourable Senator Cools, seconded by the Honourable Senator Sparrow:

That the motion be amended by deleting all the words after "That" and substituting the following therefor:

"Bill C-16, An Act to amend the Criminal Code and the Interpretation Act (powers to arrest and enter dwellings), be not now read a second time because —

Shall I dispense?

Hon. Senators: Dispense.

The Hon. the Speaker: Is it your pleasure —

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I thought we would now go to the bell on the second request for an emergency debate.

The Hon. the Speaker: Are honourable senators not prepared to proceed with this matter?

Senator Lynch-Staunton: No.

The Hon. the Speaker: Very well.

Senator Lynch-Staunton: We cannot proceed with the Order Paper. We have to go back to where we were before Routine Proceedings, I believe.

Hon. Mabel M. DeWare: It has been agreed by the two whips that there will be a 30-minute bell. That will bring us to 6:05 p.m.

The Hon. the Speaker: The bells will ring for 30 minutes. The vote on the question of whether the Speaker's ruling will be sustained will be held at 6:05 p.m.

Is that agreed?

Hon. Senators: Agreed.

The Hon. the Speaker: Ring the bells.

•(1800)

MURDER BY COMPASSION

MOTION TO ADJOURN UNDER RULE 60 TO CONSIDER MATTERS OF URGENT PUBLIC IMPORTANCE— SPEAKER'S RULING SUSTAINED

The Hon. the Speaker: Honourable senators, the question before the Senate is: Shall the ruling of the Chair be sustained?

Speaker's ruling sustained on the following division:

YEAS

THE HONOURABLE SENATORS

Adams	Kenny
Austin	Kirby
Bacon	Lewis
Bonnell	Losier-Cool
Bryden	Maheu
Butts	Marchand
Callbeck	Mercier
Carstairs	Milne
Chalifoux	Milne
Cools	Moore
Corbin	Pépin
Fairbairn	Pearson
Ferretti Barth	Poulin
Forest	Robichaud
Gigantès	*(L'Acadie-Acadia)*
Grafstein	Robichaud
Graham	*(Saint-Louis-de-Kent)*
Haidasz	Stanbury
Hays	Stewart
Hébert	Stollery
Hervieux-Payette	Taylor
Joyal	Whalen—41

NAYS

THE HONOURABLE SENATORS

Andreychuk	Kelleher
Atkins	Kelly
Beaudoin	Keon
Bolduc	Kinsella
Cochrane	Lavoie-Roux
Cogger	LeBreton
Cohen	Lynch Staunton
DeWare	MacDonald
Di Nino	Nolin
Doyle	Oliver
Eyton	Phillips
Forrestall	Rivest
Ghitter	Spivak
Grimard	Stratton
Johnson	Tkachuk—30

ABSTENTIONS

THE HONOURABLE SENATORS

Nil

The Hon. the Speaker: Honourable senators, it now being six o'clock, I leave the Chair to return at eight o'clock.

The sitting of the Senate was suspended.

•(2000)

The sitting of the Senate was resumed.

BUSINESS OF THE SENATE

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I have just been briefed, so I stand to be corrected by the other side, but I understand that some agreement has been reached.

I will not be moving my time allocation motion this evening. I understand that no further motions for emergency debates will be moved by the other side this evening, nor will any questions of privilege be raised. However, if some accommodation is not reached by tomorrow at 10 a.m., all emergency debates will stand on the Order Paper to be called tomorrow. I further understand we will move now to Orders of the Day.

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, the Deputy Leader of the Government has correctly stated our understanding, and the house order that will flow from our understanding.

The Deputy Leader of the Government shall not be moving her closure motion. Questions of privilege and notices of motions for emergency debates will stand until ten o'clock tomorrow morning, without change.

Hon. Consiglio Di Nino: Honourable senators, did the Deputy Leader of the Government suggest that there will be further discussion this evening and that what will happen tomorrow has not yet been agreed upon?

Senator Carstairs: Honourable senators, I understand negotiations are ongoing and some meetings are being arranged. We are looking for some mutual accommodation to deal with the business of the Senate.

Hon. David Tkachuk: Honourable senators, I request further clarification. A number of urgent matters have been brought to the attention of the Senate. They are not on the Order Paper. They have been filed. I understand those urgent matters raised today will be addressed tomorrow in the same order. However, I further understand that other honourable senators have other matters of urgent, public importance which were filed with the Clerk of the Senate today. I request assurance that those other matters will follow on the matters already raised in the Senate today.

Senator Carstairs: Honourable senators, clearly, I cannot tell you about something of which I am not yet aware. Everything on the Order Paper for today will continue on the Order Paper for tomorrow, including the notices of urgent debate as given and of which I have received copies. I have not yet received copies of further motions, but they would naturally be addressed in order of receipt if they meet the rules.

Senator Tkachuk: Has the notice of motion put forward by the honourable deputy leader regarding limiting the debate on Bill C-2 now been set aside?

Senator Carstairs: Honourable senators, my notice of motion has no more been set aside than have the emergency debate motions.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, we are as desirous of getting out of this impasse as anyone in this chamber. The reason for the impasse is well known. Discussions to solve the impasse are going well. Without being overly dramatic, we hope for some kind of breakthrough tomorrow to allow us to get back to the normal routine.

We have not yet reached Routine Proceedings. We are at the stage of dealing with the motions for emergency debate. We are willing to go straight to the Orders of the Day and ignore Routine Proceedings, but the understanding is that, when we get into the Orders of the Day, in return for not pursuing the emergency debate motions today, the notice of motion for closure on Bill C-2 will not be raised.

We also understand that tomorrow, at ten o'clock, we will resume by discussing the emergency motions.

Senator Carstairs: I concur with that.

Hon. Colin Kenny: Honourable senators, some of us wish to go through Routine Proceedings. I have not been a party to this discussion; and I do not choose to be party to it.

Senator Lynch-Staunton: Honourable senators, I was trying to be cooperative with the government side. We have no objection to beginning with Routine Proceedings.

Senator Di Nino: That is, as long as the other portion of that particular agreement stands.

Senator Carstairs: That is agreeable.

The Hon. the Speaker: Honourable senators, we must have unanimous agreement since we are deviating from the rules.

Is it agreed that we will resume tomorrow morning at ten o'clock when we will deal with the remaining six of eight motions for emergency debate raised today?

Is it further agreed that, when we resume tomorrow, I will call the third motion, that of Honourable Senator Phillips, and go through them in series.

Hon. Senators: Agreed.

The Hon. the Speaker: Shall we now proceed to Orders of the Day or should I call Routine Proceedings?

Some Hon. Senators: Routine Proceedings.

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

Hon. Senators: Agreed.

•(2010)

ROUTINE PROCEEDINGS

CANADA-JAPAN INTER-PARLIAMENTARY GROUP

REPORT OF EIGHTH ANNUAL MEETING WITH JAPAN-CANADA PARLIAMENTARIANS FRIENDSHIP LEAGUE TABLED

Hon. Dan Hays: Honourable senators, I have the honour of tabling, in both official languages, the report of the eighth annual meeting between the Canada-Japan Inter-parliamentary Group and the Japan-Canada Parliamentarians Friendship League. The meeting and visit took place in Japan from November 8 to 16, 1997.

CANADIAN NATO PARLIAMENTARY ASSOCIATION

REPORT OF CANADIAN DELEGATION TO SPRING SESSION OF NORTH ATLANTIC ASSEMBLY HELD IN LUXEMBOURG TABLED

Hon. Bill Rompkey: Honourable senators, I have the honour to table the first report of the Canadian NATO Parliamentary Association which represented Canada at the 1997 spring session of the North Atlantic Assembly, NATO Parliamentarians, held in Luxembourg from May 28 to June 1, 1997.

EXPORT OF MILITARY GOODS, 1996

REPORT TABLED

Leaving having been given to revert to Tabling of Documents:

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I have the honour to table the report on the export of military goods from Canada for 1996.

THE SENATE

NOTICE OF MOTION REQUIRING ATTENDANCE OF SENATOR THOMPSON

Hon. Colin Kenny: Honourable senators, I give notice that tomorrow I will move:

That Senator Andrew Thompson be ordered to attend the Senate in his place when the Senate resumes sitting in February, 1998, following the Christmas adjournment;

That should he fail to attend, the matter of his continuing absence be referred to the Standing Senate Committee on Privileges, Standing Rules and Orders for the purpose of determining whether his absence constitutes a contempt of the Senate;

That, if the committee is obliged to undertake this study, it be authorized to examine and report on any and all matters relating to attendance in the Senate and how it specifically applies in the case of Senator Thompson; and

That the committee report its findings and any possible recommendations within two weeks from the day the matter is referred to the Committee.

CANADA-JAPAN INTER-PARLIAMENTARY GROUP

EIGHT ANNUAL MEETING WITH JAPAN-CANADA PARLIAMENTARIANS FRIENDSHIP LEAGUE— NOTICE OF INQUIRY

Hon. Dan Hays: Honourable senators, I give notice that on Monday next, December 15, I will call the attention of the Senate to the eighth annual meeting between the Canada-Japan Canadian Parliamentary Group and the Japan-Canadian Parliamentarians Friendship League which held its meetings in Japan from November 8 to 16, 1997.

QUESTION PERIOD

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I have a response to questions raised in the Senate on November 26 by the Honourable Senator Oliver regarding changes to the Canada Pension Plan, role of auditors. I have a response to a question raised in the Senate on November 18 by the Honourable Senator Oliver regarding the deadline for conversion of retirement savings plans. I have a response to a question raised in the Senate on October 8 by Senator Atkins regarding the status of partnership on social programs with the government of Ontario. I have a response to a question raised in the Senate on October 30 by the Honourable Senator Stratton regarding changes to the Canada Pension Plan, polls and focus group testing.

HUMAN RESOURCES DEVELOPMENT

CHANGES TO CANADA PENSION PLAN—ROLE OF AUDITORS IN RELATION TO BOARD OF DIRECTORS—GOVERNMENT POSITION

(Response to question raised by Hon. Donald H. Oliver on November 26, 1997)

The CPP Investment Board will appoint its own auditor, which may or may not be the Auditor General**.** This is normal practice for an arm's-length pension board. For example, Ontario Teachers' Pension Plan Board and the Ontario Municipal Employees Retirement System both use private sector auditors.

When a corporation appoints its own auditor, in keeping with normal business practice, it does not mean that the role of the auditor is to protect the board of directors. The integrity of the audit is ensured by the high standards and legal responsibilities of the auditing profession.

The Auditor General will continue to be responsible for auditing the consolidated financial statements of the CPP as a whole. **The Auditor General will have access to whatever information from the Board and its auditor that he considers necessary to accomplish this function** — any records, accounts, statements or other information. An amendment was made at report stage to clarify this right of access.

The Investment Board will be fully accountable to Parliament and to the Canadian people. For example, it will:

- publish an annual report, including its audited financial statements, which will be tabled in Parliament and provided to the provinces;
- prepare quarterly financial statements and provide them to federal and provincial Finance Ministers;
- make its investment policies, standards and procedures public; and
- hold regular meetings in each participating province to allow for public discussion and input.

HUMAN RESOURCES

DEADLINE FOR CONVERSION OF REGISTERED RETIREMENT SAVINGS PLANS BY SENIORS—POSSIBILITY OF CONCESSIONS—GOVERNMENT POSITION

(*Response to question raised by Hon. Donald H. Oliver on November 18, 1997*)

The age at which RRSPs must be converted to RRIFs was changed from 71 to 69 in the 1996 budget. The new age limit takes effect this year and means that individuals who turn 69, 70 or 71 in 1997 must mature their RRSPs by December 31st, 1997.

There has been a concern expressed that some individuals age 69 and 70 are unaware of the deadline and may inadvertently fail to mature their RRSPs by December 31st – with the consequence that their RRSPs would be deregistered and they would be required to pay tax on the full amount of funds in the plan.

However, this concern is unwarranted. RRSP issuers provided notice in June to all clients who have to mature their plans by the end of this year. The 1996 budget required this notification. In addition, banks, trust companies and other RRSP issuers have publicized the earlier deadline in promotional and public information materials.

More importantly, the RRSP contracts employed by most issuers include a provision for the RRSP to be matured by the issuer to meet the maturation deadline in cases where the issuer is unsuccessful in obtaining instructions from the annuitant.

This means that, in virtually all cases, the RRSPs of clients who may be unaware of the earlier deadline will automatically be converted to RRIFs by December 31st — thus avoiding deregistration of the plan and the corresponding tax consequences.

Where this default provision is exercised, RRSPs are converted to RRIFs with the issuer. The client remains free to convert the RRIF to an annuity or transfer it to another financial institution at a later date.

In addition, Revenue Canada has had very few cases of failure to meet the age 71 maturation deadline in past years, and it is their policy to treat these situations with sensitivity. The cases have tended to arise in unusual situations such as the client's age being incorrectly recorded by the RRSP issuer. In such cases of inadvertent error, Revenue Canada has been able to waive the penalties that would otherwise apply.

Given the safeguards in place, changing the deadline now would simply serve to render invalid all of the notifications and public materials that have been issued and would create confusion and uncertainty among affected seniors.

INTERGOVERNMENTAL AFFAIRS

STATUS OF PARTNERSHIP ON SOCIAL PROGRAMS WITH GOVERNMENT OF ONTARIO

(Response to question raised by Hon. Norman K. Atkins on October 8, 1997)

The Government of Canada is clearly committed to working with all provinces to address the employment and social needs of Canadians. The government recognizes that many social changes, such as child poverty, youth unemployment and labour market development generally, can best be addressed when all governments work cooperatively together.

With respect to Ontario in particular, the Minister of Human Resources Development has worked closely with his Ontario counterpart to implement a National Child Benefit and Canada Child Tax Benefit. This work is progressing quickly through the multilateral process on the renewal of the social union. Ontario has taken a leadership role in this process.

The Minister of Human Resources Development and the Ontario Minister of Community and Social Services are currently co-chairs of Federal/Provincial/Territorial Ministers of Social Services, which has been a key forum for intergovernmental discussions on implementing the National Child Benefit.

As partners in the National Child Benefit initiative, Ontario has committee to reinvest $150 million in provincial savings to expanding programs to help families with children find and keep jobs. As part of this commitment, Ontario has announced a $100 million Ontario Child Care Tax Credit targeted to low-income families as a reinvestment initiative under the National Child Benefit.

The Minister of Human Resources Development has also written to his provincial colleagues inviting them to begin negotiations on the new Employability Assistance for People with Disabilities program, which is to replace the Vocational Rehabilitation for Disabled Persons Program. The Government of Canada is allocating additional funding to resolve an outstanding funding issue. New agreements with the provinces will be in place for April 1, 1998.

The Government of Canada is also working with Ontario and other provinces to address youth unemployment through the Forum of Labour Market Ministers.

Finally, Ontario has indicated that it is now prepared to develop a new partnership with Canada in labour market development, similar to the eight partnership agreements signed with other provinces in the last year. While the negotiations have not yet begun, I am confident that if and when a partnership with the Government of Ontario in this area is arrived at, it will benefit the unemployed Canadians in the province.

HUMAN RESOURCES DEVELOPMENT

CHANGES TO CANADA PENSION PLAN—BUDGET FOR EXPENDITURE ON PROMOTION AND ADVERTISING—GOVERNMENT POSITION

(*Response to question raised by Hon. Terry Stratton on October 30, 1997*)

The results of a poll or focus group were released to the public on September 2, 1997. This study was undertaken in November, 1996 for the Department of Finance on pension issues.

No public relations firms have been hired by the government to provide advice on the CPP. However, Ekos Research and Associates carried out the field work and tabulation for the Department of Finance's pension issues poll in November 1996, and the results were analyzed and prepared by Earnscliffe Research & Communications.

ORDERS OF THE DAY

CANADA EVIDENCE ACT
CRIMINAL CODE
CANADIAN HUMAN RIGHTS ACT

BILL TO AMEND—THIRD READING

Hon. Sharon Carstairs (Deputy Leader of the Government) moved the third reading of Bill S-5, to amend the Canada Evidence Act and the Criminal Code in respect of persons with disabilities, to amend the Canadian Human Rights Act in respect of persons with disabilities and other matters and to make consequential amendments to other Acts.

She said: Honourable senators, in speaking on third reading of this bill, I want to bring to the attention of all of you a concern with respect to aboriginal people which was raised with members of our caucus by the Honourable Senator Watt. Senator Watt has carefully analyzed this bill. He has indicated that wishes to introduce a private bill which would ensure inclusion of aboriginal peoples in the Canada Human Rights Act. He hopes to be able to do that soon, but will do it as quickly as possible. Meanwhile, he is prepared to allow Bill S-5 to proceed as it stands.

Hon. Eymard G. Corbin: Honourable senators, I have a question for the Deputy Leader of the Government in the Senate. Can she inform the house of when this exchange between herself and Senator Watt took place? I ask the question because I had a conversation with Senator Watt before noon today, and I was not aware at that time that he was leaning in that direction, if I may express it that way.

Senator Carstairs: Senator Watt's concern was with respect to how he could best make a substantive change to the Canadian Human Rights Act. He had originally considered amending clause 9(2) of the present bill. However, after legal advice, we conversed and decided that this may be a more symbolic than justiciable amendment; in other words, that it would not have the power that he would wish such an amendment to have.

He spoke with me this afternoon at about three o'clock. At that time, I asked him if he was prepared to allow Bill S-5 to go forward today, and he indicated that he was willing to do that.

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, I wish to make a few remarks on third reading of this bill, which I have been pleased to support. Our business and our calendar sometimes accommodates the possibility of a symbolic gesture. We were aiming to give this bill third reading and passage through the Senate on Human Rights Day, which was yesterday, but I would be pleased if that happens today.

The bill is part of a long process which speaks to persons with disabilities. Governments before this one have tried to deal with the issue of reasonable accommodation, which I think this bill does.

•(2020)

As an interesting footnote to the debate, mention was made several times yesterday by honourable senators of the contribution by the late Professor John Humphrey to human rights, not only domestically but internationally, John Humphrey met with a tragedy in a fire as a young boy and, throughout the rest of his life, was without the use of one arm. Notwithstanding that physical disability, his remarkable career has been of great benefit in the pursuit of freedom.

Had Mr. Humphrey taken abuse regarding his disability to heart, then society may not have benefited from the work of this brilliant human rights pioneer.

Bill S-5 is an important initiative in law reform. I commend the government and the minister for it. It has been improved in committee with the acceptance of an amendment that senators on this side of the house were pleased to bring forward.

Bill S-5 reflects the duty to review the legislation and to find ways of dealing with barriers for people with disabilities. The bill speaks to the great work that is done by this chamber, and I am pleased to lend my enthusiastic support to third reading of this bill.

Hon. Consiglio Di Nino: I actually had intended to ask a question of the Deputy Leader of the Government on Senator Watt's comments. If that is inappropriate, possibly Senator Kinsella can answer my question.

I am somewhat concerned that Senator Watt would feel that this bill would not cover or include — if that is what the issue is — members of the aboriginal communities. Does anyone know what Senator Watt's concern is? Is it appropriate for me to ask the question now?

Senator Carstairs: If I could have leave, I will answer the question.

Senator Kinsella: The question was asked of me, and it is my time to speak.

I am able to reply to the question as Senator Carstairs was kind enough to share with me a letter which she had received from the Minister of Justice that speaks to the very question raised by Senator Di Nino.

In that letter, the minister said that while the Canadian Human Rights Act does not apply to the Indian Act, the Canadian Human Rights Act has been applied to Indian bands where the activity in question is not based on the Indian Act.

There are those areas of non-discrimination where the Human Rights Commission does have jurisdiction. When the act was drafted in the late 1970s, the operation of the Indian Act was excluded from applying to it. That was explained by the minister in her letter.

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

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

CRIMINAL CODE INTERPRETATION ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Moore, seconded by the Honourable Senator Ferretti Barth, for the second reading of Bill C-16, An Act to amend the Criminal Code and the interpretation Act (powers to arrest and enter dwellings),
>
> And on the motion in amendment of the Honourable Senator Cools, seconded by the Honourable Senator Sparrow, that the motion be amended by deleting all the words after "That" and substituting the following therefor:
>
> > "Bill C-16, An Act to amend the Criminal Code and the Interpretation Act (powers to arrest and enter dwellings), be not now read a second time because
> >
> > (*a*) the Senate is opposed to the principle of a bill which has been placed before Parliament as a result of the judgment of the Supreme Court of Canada of May 22, 1997, and of the Court's Orders of June 27 and November 19, 1997;
> >
> > (*b*) the Senate finds it repugnant that the Supreme Court is infringing on the sovereign rights of Parliament to enact legislation and is failing to respect the constitutional comity between the courts and Parliament; and
> >
> > (*c*) the Court is in effect coercing Parliament by threatening chaotic consequences respecting law enforcement and arrests if Parliament does not pass this bill.",

Leave having been given to proceed to Order No. 7.

The Hon. the Speaker: If no other honourable senator wishes to speak, then the question before the Senate is the amendment proposed by the Honourable Senator Cools, seconded by the Honourable Senator Sparrow:

> That the motion be amended by deleting all the words after "That" and substituting the following therefor —

Hon. Senators: Dispense.

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

Some Hon. Senators: No.

Some Hon. Senators: Yes.

The Hon. the Speaker: Will those honourable senators in favour of the motion in amendment please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators opposed to the motion in amendment please say "nay."

Some Hon. Senators: Nay.

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

I declare the amendment lost.

Some Hon. Senators: On division.

The Hon. the Speaker: The question is then on the main motion; that is, for the second reading of Bill C-16.

Does any honourable senator wish to speak on the second reading of Bill C-16?

Some Hon. Senators: Question.

The Hon. the Speaker: It was moved by the Honourable Senator Moore, seconded by the Honourable Senator Ferretti Barth, that Bill C-16 be read the second time.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

Motion agreed to, on division, 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 Moore, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

[*Translation*]

DEPOSITORY BILLS AND NOTES BILL

SECOND READING—DEBATE ADJOURNED

Hon. Céline Hervieux-Payette moved the second reading of Bill S-9, an Act respecting depository bills and depository notes and to amend the Financial Administration Act.

She said: Honourable senators, I am pleased to move the second reading of the bill respecting depository bills and notes and to support its speedy passage.

I am in favour of its speedy passage because, as many of you know, this is an essentially technical bill. It has the full support of the banking industry and the financial services industry.

As you are no doubt aware, the way the Canadian financial services industry operates is undergoing major change.

Naturally, this need for change is brought about by greater international competition, which is itself the result of tremendous technological progress.

In fact, the financial services industry is probably the one most affected by the development of information technology.

That is why some sectors of this industry that had not changed in years are now forced to modernize and increase their efficiency.

The Depository Bills and Notes Act is another step taken by the government to facilitate the modernization of our financial services industry.

This bill deals with the transfer of ownership of certain negotiable instruments of the money market such as bankers' acceptances and commercial instruments.

There was a time when institutions held and exchanged such instruments directly. The documents actually changed hands.

But today, it is increasingly common for banks and other stakeholders to hold instruments, that is to say bills, Treasury bonds and other negotiable instruments, through depositaries.

When such instruments are assigned, the transfer is effected by an entry in the depository's records. What takes place is the registration of the new owner in the record held by the clearing house, not the actual exchange of the instrument per se.

•(2030)

Yet, the legislation governing financial institutions does not reflect this established practice.

The problem is due to the fact that the related federal legislation, namely the Bills of Exchange Act, continues to allude to the effective possession of a negotiable instrument when referring to the rights of the parties to a transaction.

Indeed, the term "bearer" means the person in possession of a bill or note that is payable to the bearer.

Therefore, when a negotiable instrument is in the hands of a depository and the transfer is done through a recorded entry, the rights mentioned in the Bills of Exchange Act are impossible to interpret, since the instrument itself remains with the depository.

Until now, these requirements prevented an appeal to a depository, or a property transfer through a recorded entry.

The bill before us today corrects this problem by creating two new categories of instrument: depository bills and depository notes.

The bill ensures that a purchaser of a depository bill or note has the same legal rights as a purchaser of a bill or note under the Bills of Exchange Act, without the instrument actually being delivered.

However, since they are designed to be distributed and traded on a relatively large scale, the ensuing rights and responsibilities will be defined through clear reference to the function of the clearing-house and to trading in a book-entry system.

In order to distinguish them from other similar securities, these new instruments will carry a notation on the reverse side indicating that they are depository bills and notes subject to the Depository Bills and Notes Act.

Honourable senators, the Canadian Depository for Securities Limited wishes to be able to hold negotiable money market instruments, such as banker's acceptances and commercial paper, and to record the transfer of these instruments in its books as quickly as possible. Passage of this bill will authorize it to do so.

This new practice will be much more efficient than the present system, which requires the actual possession of the instrument involved.

I would add, honourable senators, that this bill in no way prevents individuals and institutions from acquiring and holding other negotiable bills and notes, which are always subject to the Bills of Exchange Act.

Honourable senators, this bill is being tabled following the recommendations of the private sector group which reviews the operations of the international financial system, commonly called the G30.

This group is calling for the wide-scale implementation of security deposit and transaction recording systems, on the ground that this will improve the efficiency of money markets.

This initiative also has the support of all stakeholders in the financial community.

I invite you to adopt without delay this constructive technical bill. Bill S-9 is not controversial, and as I was saying earlier, it should be adopted rapidly.

I invite the honourable senators to give their approval so that we can move on to other bills.

On the motion of senator Stratton, debate adjourned.

[*English*]

•(2030)

THE SENATE

COMMITTEES PERMITTED TO MEET DURING ADJOURNMENTS

Hon. Sharon Carstairs (Deputy Leader of the Government), pursuant to notice of December 10, 1997, moved:

That for the duration of the present Session any select committee may meet during adjournments of the Senate.

Hon. Consiglio Di Nino: Honourable senators, does the term "select committee" include all standing and special committees of the Senate?

Senator Carstairs: Yes.

Senator Di Nino: Thank you.

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

Hon. Senators: Agreed.

Motion agreed to.

CANADA ELECTIONS ACT

LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE AUTHORIZED TO REVIEW PROPOSED REGULATION IN ACCORDANCE WITH THE REFERENDUM ACT, SUBSECTION 7(6)

Hon. Sharon Carstairs (Deputy Leader of the Government), pursuant to notice of December 10, 1997, moved:

That the Standing Senate Committee on Legal and Constitutional Affairs be empowered to review the regulation proposed by the Chief Electoral Officer, tabled in the Senate on December 10, 1997.

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

Hon. Senators: Agreed.

Motion agreed to.

LEGAL AND CONSTITUTIONAL AFFAIRS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE WITHDRAWN

On Motion No. 37:

That the Standing Senate Committee on Legal and Constitutional Affairs have power to sit at 3:15 p.m., Wednesday, December 10, 1997, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

Hon. Lorna Milne: Honourable senators, I ask that this motion be removed from the Order Paper.

The Hon. the Speaker: Honourable senators, is it agreed that Motion No. 37 be removed from the Order Paper?

Hon. Senators: Agreed.

Order withdrawn.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

VETERANS AFFAIRS SUBCOMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Orville H. Phillips pursuant to notice of December 10, 1997, moved:

That the Subcommittee on Veterans Affairs of the Standing Senate Committee on Social Affairs, Science and Technology have power to sit at 4:00 p.m. on Tuesday, December 16, 1997, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until tomorrow at 10 a.m.

APPENDIX
(See p. 673)

SUPPLEMENTARY APPENDIX TO THE REMARKS

MADE BY SENATOR COOLS

IN THE SENATE ON DECEMBER 10, 1997

ON

BILL C-16

AN ACT TO AMEND THE CRIMINAL CODE

AND

THE INTERPRETATION ACT
(POWERS TO ARREST AND ENTER DWELLINGS)

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