

Your committee recommends that its quorum be reduced to five members.

Respectfully submitted,

EARL A. HASTINGS
Chairman

The Hon. the Speaker: When shall this report be taken into consideration?

Senator Flynn: Not tonight. We have to think about it.

Senator Asselin: It is too important.

Senator Buckwold: The opposition needs time to think about it.

Senator Hastings moved that the report be placed on the Orders of the Day for consideration on Thursday next.

Motion agreed to.

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Royce Frith (Deputy Leader of the Government), with leave of the Senate and notwithstanding rule 45(1) (a), moved:

That the Standing Senate Committee on Banking, Trade and Commerce have power to sit while the Senate is sitting tomorrow, Wednesday, October 22, 1980, and that rule 76(4) be suspended in relation thereto.

Motion agreed to.

• (2010)

QUESTION PERIOD

[English]

THE CONSTITUTION DEBATE

CORRESPONDENCE BETWEEN LEADER OF NEW DEMOCRATIC PARTY AND THE PRIME MINISTER

Hon. Jacques Flynn (Leader of the Opposition): Honourable senators, I have a question for the Leader of the Government. I understand that the Prime Minister has received a letter from Mr. Broadbent, the Leader of the New Democratic Party asking—did Senator Guay not understand?

Hon. Joseph-Philippe Guay: I am listening to you.

Senator Flynn: If I might be allowed to finish, and if the honourable senator will keep quiet in the meantime—

Senator Guay: You are taking a long time to get it out.

Senator Flynn: You always take a long time to understand.

Senator Guay: I do understand when something makes sense.

Senator Flynn: I doubt it very much, and I am not the only one. I would ask the honourable senator once more to keep quiet. I know he has a loud voice, but when I have the floor he shouldn't interrupt.

Senator Guay: On a point of order, I don't mind the Leader of the Opposition speaking out of turn but his ears must be wobbling, because he is surely picking the wrong party this time.

The Hon. the Speaker: Senator Flynn, do you have a question?

Senator Flynn: I certainly could not have made a mistake of that magnitude. There is only one voice like Senator Guay's.

The Hon. the Speaker: Question.

Senator Flynn: I was referring to a letter sent to the Prime Minister by Mr. Broadbent suggesting some amendment to the resolution concerning constitutional reform. I was wondering if a reply had been given by the Prime Minister and what the nature of that reply was.

Hon. Raymond J. Perrault (Leader of the Government): Honourable senators, I have been advised that there has been a heartening exchange of correspondence between the Right Honourable the Prime Minister and the Leader of the New Democratic Party, Mr. Broadbent.

Senator Asselin: His best friend.

Senator Perrault: I do not have copies of the letters immediately available. It may be that the Prime Minister may wish to make a statement on the subject at some point in the next few hours—

Senator Asselin: You should have one copy because you represent the government in the Senate.

Senator Perrault:—and if it is possible to bring a statement to the Senate, I will do so.

Senator Flynn: Are you saying that you have not yet received a copy of the Prime Minister's reply?

Senator Perrault: I do not have a copy of the letter attributed to Mr. Broadbent, nor do I have a copy of a reply which is reported to have been sent to Mr. Broadbent by the Prime Minister. I understand that an exchange of letters has been made, but I do not have those documents on my desk.

[Translation]

Hon. Martial Asselin: Honourable senators, I have a supplementary question. If the letter sent to Mr. Broadbent deals with the resolution currently before the house, why does the Prime Minister extend such preferential treatment to Mr. Broadbent instead of making an announcement to the house or Parliament if it has to do with an amendment to the resolution before Parliament?

[English]

Senator Perrault: Honourable senators, surely nothing precludes the Prime Minister of Canada writing to the leader of any party or the leader of any other party writing to the Right

Honourable the Prime Minister. This was not an exchange of official documents. These were letters written by one party leader to the Right Honourable the Prime Minister. I understand that it related to the subject of natural resources. I understand the exchange has been completed in the past hour or so. The document has not yet arrived. That is all that I can say at this time.

Senator Flynn: Could I ask the Leader of the Government if he subscribed in advance to whatever undertaking the Prime Minister would make?

Senator Perrault: It would be unwise for me to comment on the contents of a letter which I have not yet seen personally; but I understand that it was a very encouraging exchange of letters, in which a degree of accord was achieved.

• (2015)

Senator Flynn: I am asking about your own accord, and that of your two colleagues sitting next to you. Did you agree in advance to whatever undertaking has been made?

Senator Asselin: Senator Argue is laughing.

Senator Argue: Solidarity forever.

Senator Asselin: A socialist.

Senator Perrault: I know my colleagues will want to speak for themselves, but I have never signed a policy blank cheque in my entire life, and I have not done so in this case.

Senator Murray: In view of the fact that copies of the correspondence in question have been available to the parliamentary press gallery for some time today, one can only regret and deplore the fact that the minister, who is Leader of the Government in the Senate, has not been given the same courtesy as the press gallery was given by the Prime Minister. Will the minister, however, say whether in fact a decision has been made by the government to accept certain amendments to the proposed resolution?

Senator Perrault: The government said at the outset that constructive initiatives would be considered carefully, and amendments would be considered if they served the public interest. The government takes the position that amendments should be made if they mean improved legislation and if they serve, as well, to meet more effectively the needs of the Canadian people.

Senator Murray: The minister knows the question that I was asking. I will repeat it and perhaps make it more precise. Has the government decided to accept amendments to the proposed resolution covering the area of natural resources and indirect taxation, to name two? Has the government made a decision on this matter?

Senator Perrault: Honourable senators, I am prepared to make a statement on that subject later this evening. I do not have available to me a document that is supposed to be on its way over to me at this time.

[Senator Perrault.]

PROCEDURE RESPECTING REPORT OF PROPOSED SPECIAL JOINT COMMITTEE

Hon. George J. McIlraith: Honourable senators, I would like to raise a matter that I hope will be of interest to honourable senators.

If we examine the motion now before the other place relating to the Constitution, we will notice that it is to the effect that a special joint committee of the Senate and the House of Commons be set up. The last paragraph of the motion reads:

That a Message be sent to the Senate requesting that House to unite with this House for the above purpose—

And so on.

The point I want to raise is this. Although what I have just read is in the traditional form of a motion, the form of the particular resolution that will be considered by this house when the message comes to us from the other place will be similar to the resolution in the other place. The resolution itself, however, that will be before the committee, if and when it is set up, contains in it a draft bill with many clauses. The procedure here in an ordinary case of consideration of a report from a joint committee of the houses would be to move concurrence in the report. In the event there is no concurrence in the report, and the report of the committee is neither accepted nor rejected, but there is a wish to amend any of the clauses in the resolution, presumably the procedure would be to return the report to the committee with an instruction from the Senate to amend the particular clause or to strike it out. That, of course, cannot take place in this instance because the committee is not a standing committee but a special committee. It is also a joint committee, and for two reasons the ordinary procedure cannot take place. One reason is that since it is a special committee it will be *functus* and will not be in existence. The second reason is that there is no way, as far as I can see, that one house can instruct the members of another house what to do. It just cannot be done.

• (2020)

That being so, the traditional procedure cannot be used, and I would like the Leader of the Government, or his deputy, to take the matter under consideration with a view to clarifying what our procedure will be in the event that the committee makes a report which the Senate wishes to amend in any particular way. What will be the form of our procedure? It may involve providing special rules of procedure for the particular resolution containing a draft bill that will come before us, or there may be some other procedures that I am not aware of that are readily available. Would the leader inform the Senate the procedure to be followed when the joint committee reports to the Senate?

Hon. Raymond J. Perrault (Leader of the Government): Honourable senators, the matter is under consideration at the present time and the helpful remarks of the honourable senator will be taken into consideration as well.

[Translation]

CORRESPONDENCE BETWEEN LEADER OF THE NEW
DEMOCRATIC PARTY AND THE PRIME MINISTER

Hon. Arthur Tremblay: Honourable senators, my question is directed to the government leader and I think that in a way it is the continuation of the one that has been so aptly asked by our colleague.

I would simply like to know how, in our proceedings, in total accordance with our procedures, beyond, outside and within what is officially before us, a proposed resolution containing a motion for the establishment of a joint committee to study that proposed resolution—or the one the government leader put forward so that we could examine it before the proposed resolution comes to us—I would simply like to know how we shall be decently dealing with the trade-offs that will occur in the meantime, such as the current one we have just learned about through the exchange of letters that the office of the Prime Minister gave to the press earlier?

I recall that at some point during the Constitution conference the Right Hon. Prime Minister himself had a good laugh at the trade-off between a barrel of oil and a barrel of fish, for instance, to show that the issue extended far beyond trade-offs. Judging from the two letters that were given to the press earlier and which we have before us, this is indeed a trade-off.

How shall we deal with trade-offs within the limits of our procedures? I think my question follows those our colleague asked a moment ago.

[English]

Hon. Raymond J. Perrault (Leader of the Government): Honourable senators, I am somewhat mystified by Senator Tremblay's observations. Perhaps I misunderstood what he was endeavouring to communicate. There is now on our order paper an inquiry with respect to the proposed constitutional package, and I am sure that many honourable senators would be more than pleased to hear Senator Tremblay's views. He would feel free to discuss every aspect of the documents tabled in the Senate a few days ago relating to constitutional amendment, and in the context of the inquiry he could certainly discuss the correspondence between the Right Honourable the Prime Minister and Mr. Broadbent and any other aspect of the constitutional dialogue. We would welcome his participation in this debate. Indeed I know that the supporters of the government value the honourable senator's opinions very highly. We would be more than delighted to hear him speak to us this evening.

● (2025)

The honourable senator asks the question, "How shall we proceed?" It seems to me that a good starting point would be for as many opposition senators as possible who have been critical of certain aspects of the constitutional reform proposals to participate in the debate. An inquiry is before the Senate. May we hear their views? As I have said, surely this is a useful starting point.

Senator Tremblay: I have a supplementary question. I have the feeling that the Leader of the Government, because I have

not expressed myself clearly, I suppose, has not understood that, in fact, I was not raising a question about the content of any resolution, but about the decency of introducing other matters in the debate, matters which are not in the resolution or any other document that has been presented to us.

We have here a new element. We have a trading-off approach by the government in those two letters. Shall we discuss that as an approach? There is some sort of immorality there. That is why my question was, in fact, a question about decent behaviour. The Leader of the Government just invited me to discuss the content of what was already there, but that is a new element which brings in the question of decency and proper behaviour. Should trade-offs take place at the same time as we have our debate on a so-called resolution? Should basic and more significant things be taking place elsewhere? I would just like to behave correctly in terms of our procedures and in terms of decent behaviour.

Some Hon. Senators: Hear, hear.

Senator Perrault: The honourable senator states that he would like to behave correctly as a participant in the activities of this chamber. Of course, we have no doubt on that account at all; he always has conducted himself with the highest standard of decorum. But let me ask honourable senators a question. It has been suggested that some impropriety has been committed by the Prime Minister in that he has exchanged certain important letters with the Leader of the New Democratic Party in respect to the clarification of certain sections of the constitutional package relating to resources. The other day the Leader of the Official Opposition, the Honourable Joseph Clark—

Some Hon. Senators: The Right Honourable Joseph Clark.

Senator Perrault:—suggested that there was some clarification required of the sections relating to referenda generally and a so-called "people's referendum section" in the Constitution. It has been suggested by certain supporters of the government that perhaps those sections should be clarified through amendment to make certain that the intent of the government is expressed adequately in the legislation proposed. Can that process be dismissed as "trading-off" or "bargaining"?

● (2039)

It seems to me the entire parliamentary process is one of bargaining and accommodation, and attempting to achieve a consensus on a number of key points. Surely, this is the very essence of the parliamentary system. It certainly has been for the number of years I have been associated with it, and I am sure that has been the case for all parliamentarians who have been in this chamber for some time, or in the other place or some other assembly. There is nothing wrong in the procedure of compromise; nothing wrong with the process of attempting to achieve a consensus.

I stated the other evening, honourable senators, that it seemed to me that the most desirable achievement from this process of dialogue in which we are all engaged, or should be all engaged, would be a substantial national consensus, which could be brought to Westminster so that the British Parlia-

ment and Her Gracious Majesty the Queen could feel that our joint address does represent a preponderance of Canadian public opinion. And if it requires flexibility on the part of this government to accommodate some of the concerns of Canadians, whether they are New Democrats or members of the Progressive Conservative Party or any other party, this is the kind of government that will be flexible in order to achieve the best results.

Some Hon. Senators: Hear, hear.

Some Hon. Senators: Oh, oh.

Senator Donahoe: Hear, hear! It will be flexible all right.

Senator Tremblay: The Leader of the Government has alluded to the stand taken by the Leader of the Opposition in the other chamber. In fact, the Leader of the Opposition has said that section 42 and other parts of the proposed Constitution Act, 1980 cannot be accepted in terms of a federal country. On that point we will not have any flexibility. We will not trade off the federal system.

The trading off is in there in those letters. It is not a question of the federation.

[Translation]

This is surely a less lofty issue, it is the "trade-off" of the specific things, oil barrels, this or that, specifically those things to which the Prime Minister has already referred, saying that we should not be satisfied with those mundane transactions but look beyond. Referring to the position taken by the Leader of the Opposition in the House of Commons, the leader of the Government meant more essential matters, involving the federal system itself. And on that issue, not only do we not want to be flexible but we pride ourselves that we are not, and if the government is flexible enough to compromise about the federal system itself, as is the case in the resolution, we are going to object. We are adamant on that point. We wish to preserve a Canadian federation and not bring on a unitary state. We will not yield on that issue. If that kind of flexibility is the principle governing the government, as for us, we will remain intransigent.

[English]

Senator Frith: That is a question?

Senator Perrault: Honourable senators, I am sure we are all pleased that the honourable senator has, in fact, made his speech, and we have enjoyed hearing his comments, although they were not made as part of the inquiry debate on the Constitution. However, if the letter of the Right Honourable the Prime Minister to the Leader of the New Democratic Party is so controversial—

Senator Asselin: Have you got it?

Senator Perrault: Let me read it to honourable senators who have not seen it.

Dear Mr. Broadbent,

I have received your letter of October 20 in which you express your intention—

[Senator Perrault.]

Honourable senators, do I detect an unwillingness to listen to these words? Will they be embarrassing to the opposition?

An Hon. Senator: They have asked for it, but they don't want it.

Senator Perrault: Well, you know, if you can't stand the heat, get out of the kitchen. Let me start again:

Dear Mr. Broadbent,

I have received your letter of October 20 in which you express your intention and that of the New Democratic Party to support in the House of Commons the "Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada."

• (2015)

I am very pleased that you recognize the need at this time for action by Parliament to patriate the Constitution, to entrench certain fundamental rights, to entrench the principle of equalization, and to enshrine minority language education rights. I agree with you that it is desirable that the constitutional package have the broadest possible support in Parliament and in the country.

Honourable senators, I stated that a moment ago. That is the position of the government:

You stress in your letter the importance you attach to the confirmation of the right of provinces to manage and control their resources, the right of the provinces to levy indirect taxation on resources, and to share a concurrent power with federal paramountcy with respect to interprovincial trade in resources. I agree with you that some change for the proposed Resolution with respect to resources will increase the support for the package both in Parliament and in the country. I am, therefore, prepared to deal with this particular issue at this time.

In fact, the points you raise with respect to resources were among those put forward by the Minister of Justice in his opening statement last July at the first meeting of the Continuing Committee of Ministers on the Constitution. I repeated them in September at the First Ministers' Conference.

That is another example, honourable senators, of the flexibility that the national government has demonstrated to the entire process:

The Prime Minister continues:

Of course, during the course of the constitutional negotiations over the summer, we put forward a number of suggested changes. Those relating to resources were expressly acceptable to us only on the condition that agreement be reached to entrench in the Constitution certain basic principles of the economic union.

Accordingly, the type of amendment which I would be prepared to accept would be one which makes specific provision that the increased provincial power could only be exercised in a way that does not allow a province to discriminate against other parts of Canada. Therefore, I would be prepared to accept an amendment which you or

one of your Colleagues may propose in Committee which would:

(1) confirm the jurisdiction of the provinces with respect to exploration, development, conservation, and management of non-renewable natural resources and forestry resources in the province including the making of laws in relation to the primary production from such resources;

(2) give the provinces concurrent jurisdiction in interprovincial trade in non-renewable resources subject to full federal paramountcy and subject to a clause which would prohibit discrimination in prices or in supplies of resources exported from the province to another part of Canada;

(3) give the provinces the right to levy indirect taxation in non-renewable resources as long as such taxation does not discriminate between the province and other parts of Canada.

Yours sincerely,
P. E. Trudeau.

Honourable senators, that is a constructive forthcoming letter written in the spirit which has imbued every one of the government's efforts in this constitutional dialogue, and that is to attempt to clarify and to improve the constitutional package without sacrificing any of the fundamental principles.

Hon. G. I. Smith: Honourable senators, I wonder if I could prevail upon the Leader of the Government to read again a sentence which I am not sure I appreciated. I think it has to do with concurrent jurisdiction over certain things, including interprovincial trade. I am not clear whether that concurrent jurisdiction relating to interprovincial trade concerns only resources or whether it was modified in some way.

● (2040)

Senator Perrault: I felt that that would bring some happiness to the Honourable Senator Smith. I will read it again:

2) give the provinces concurrent jurisdiction in interprovincial trade in non-renewable resources subject to full federal paramountcy and subject to a clause which would prohibit discrimination in prices or in supplies of resources exported from the province to another part of Canada.

I express the personal hope that this is the kind of letter that will win a great deal of support from the provinces across the country.

[Translation]

Senator Tremblay: I have a question that touches upon the topic we have now been dealing with for a while but which concerns more directly the conduct of our business.

Are we to understand, in view of the trade-off between the Right Hon. Prime Minister of Canada and the leader of one of the parties of the opposition—whose relations with one particular province are public knowledge, that the resolution

could be amended in the House of Commons so as to include the conclusions of that trade-off. Or are we to take it for granted, in view of the type of letters we will deal with in committee, that the conclusions of the trade-off are to be treated as an official amendment to the resolution that has already been accepted by the government?

[English]

Senator Perrault: Honourable senators, surely that is a decision for the committee itself to make. Those honourable senators who are members of the committee will have full opportunity to discuss the initiatives that are going to come from the New Democratic Party members of the committee. The committee will write its report, and if a majority of committee members believe that these are the types of amendments that they would like to see made to the bill which is part of the so-called constitutional package, then that fact will be reported to the House of Commons, and the House of Commons will then presumably make its decision.

Senator Tremblay: And shall we as the Senate make our decision at the same time, or will the decision of the House of Commons be the final resolution of the question?

Senator Perrault: The Senate, in due course, will have an opportunity to debate those measures and to participate in the decision-making process, as has been the case since Confederation.

Senator Tremblay: I have a further supplementary. Will that be on the basis of the present powers of the Senate, or will it be under section 44 of the proposed Constitution Act, 1980, pursuant to which we would have only a suspensive veto.

Senator Perrault: Honourable senators, the constitutional package is not in effect as yet, so of course section 44 would not apply to the debate that will ensue.

Senator Tremblay: I am glad to hear that.

INDUSTRY

GOVERNMENT ASSISTANCE TO MASSEY-FERGUSON LIMITED

Hon. C. William Doody: Honourable senators, I have a question for the Minister of State for Economic Development relating to Massey-Ferguson Limited and the efforts to revitalize that firm. There have been some newspaper reports which I think should be commented on. I do not know whether they are accurate or not, and perhaps the minister can help me.

There was an announcement yesterday of a package put together by the Government of Canada and the Government of Ontario in an effort to help Massey-Ferguson Limited. That package, I understand, is conditional on the agreement of the Canadian Imperial Bank of Commerce to lower the rate of interest it charges Massey-Ferguson and to postpone debt payments.

When it insisted on this condition, did the government know that the Canadian Imperial Bank of Commerce was willing to comply? In other words, was the Canadian Imperial Bank of