

THE SENATE

Tuesday, November 18, 1980

The Senate met at 8 p.m., the Speaker in the Chair.
Prayers.

THE CONSTITUTION

SPECIAL JOINT COMMITTEE—CHANGES IN COMMONS MEMBERSHIP

The Hon. the Speaker informed the Senate that messages had been received from the House of Commons to acquaint the Senate that the names of Miss Campbell (South West Nova), Messrs. Robinson (Burnaby), Hawkes, Lapierre, Beatty and Epp had been substituted for those of Messrs. Lapierre, Manly, Beatty, Tobin, Epp and Hawkes; and that the names of Messrs. Tobin and Lapierre had been substituted for those of Messrs. Lapierre and Tobin; and that the name of Mr. Knowles had been substituted for that of Mr. Robinson (Burnaby) on the list of members appointed to serve on the Special Joint Committee on the Constitution of Canada.

DOCUMENTS TABLED

Hon. Raymond J. Perrault (Leader of the Government) tabled:

Report of Crown Assets Disposal Corporation, including its accounts and financial statements certified by the Auditor General, for the fiscal year ended March 31, 1980, pursuant to section 14 of the *Surplus Crown Assets Act*, Chapter S-20 and sections 75(3) and 77(3) of the *Financial Administration Act*, Chapter F-10, R.S.C., 1970.

Report of the Task Force on Canada Mortgage and Housing Corporation (Chairman, Donald J. Matthews), dated October, 1979.

• (2095)

PRIVATE BILL

PRESIDENT OF THE LETHBRIDGE STAKE OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS—FIRST READING

Hon. Ernest C. Manning presented Bill S-16, respecting the President of the Lethbridge Stake of the Church of Jesus Christ of Latter-day Saints.

Bill read first time.

Senator Manning moved that the bill be placed on the Orders of the Day for second reading on Tuesday, November 25, 1980.

Motion agreed to.

QUESTION PERIOD

[English]

THE CONSTITUTION

SPECIAL JOINT COMMITTEE—ATTENDANCE IN CHAMBER OF SENATE MEMBERS

Hon. Duff Roblin (Deputy Leader of the Opposition): Honourable senators, before I ask one or two questions of the government, can the leader tell me whether there is any way of recording the attendance of senators who are posted to the Special Joint Committee on the Constitution. On certain days the committee meets at exactly the same time as the Senate, and when that happens senators have a problem in recording their attendance here, although they are engaged in Senate business. Is there any way by which we can facilitate that situation?

• (2014)

Hon. Raymond J. Perrault (Leader of the Government): Honourable senators, in view of the fact that the special joint committee has permission to meet while the Senate is sitting, the Deputy Leader of the Opposition has advanced a very constructive idea, which is worthy of study and action, if possible.

May I say at the outset of the Question Period that our esteemed and distinguished colleague, Senator Olson, is forced because of his onerous responsibilities to leave at approximately 9 o'clock. If those questions to be directed to Senator Olson can be asked before that time, it will be of great help to him.

Senator Roblin: Honourable senators, this may be a light evening for Senator Olson so far as questions are concerned, but we will keep that request in mind.

STATUS OF REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE

Hon. Duff Roblin (Deputy Leader of the Opposition): Honourable senators, I should like to refer to a question asked by my leader a few days ago and addressed to the Honourable Senator Goldenberg as Chairman of the Standing Senate Committee on Legal and Constitutional Affairs, requesting information when the report of that committee with respect to constitutional reform in reference to the Senate might be presented. Is there any information on that matter.

Hon. Raymond J. Perrault (Leader of the Government): Honourable senators, I understand it is the intention of the Chairman of the Legal and Constitutional Affairs Committee to table that report on Wednesday, a week from tomorrow. There have been some delays occasioned by translation challenges.

Senator Roblin: Did the leader say the date for tabling is not next Wednesday, but a week Wednesday?

Senator Perrault: A week from tomorrow, yes.

Senator Roblin: I do not wish to dwell on the subject, but it has been some time since the matter was handed over to the legal staff and others to prepare, and that delay raises the question of whether they have too much on their plates to get these jobs done in time. I will not pursue that matter further at the moment because we will be getting the report next week, but it may be something we will have to look into at some time.

REFERENCES TO APPEAL COURTS BY PROVINCIAL GOVERNMENTS

Hon. Duff Roblin (Deputy Leader of the Opposition): Honourable senators, I should like to direct a question to the Leader of the Government respecting the constitutional situation. I am sure he is aware that a number of the provinces have given notice of their intention to direct references to their courts in respect of the constitutionality of the government's proposal which is now before the Special Joint Committee of the Senate and the House of Commons. I am aware that in the case of the Province of Manitoba, for example, the hearings will commence on December 4.

Can my honourable friend confirm that the federal government will be represented at those hearings and will make a presentation of its view of the matter?

Hon. Raymond J. Perrault (Leader of the Government): Honourable senators, the question will be taken as notice.

Senator Roblin: Honourable senators, on the same subject, I would ask my honourable friend to make inquiries on some other points as well.

I wish to know what the policy of the government is in respect of action by these courts. In other words, should it happen that the appeal court of a province finds that the government's proposal is unconstitutional or is otherwise open to question, I want to know whether it is the intention of the government to refer such a decision to the Supreme Court of Canada.

Senator Perrault: Honourable senators, that is, at this stage at least, a hypothetical question. For this reason, I am not prepared to answer the question.

Senator Roblin: I can understand my honourable friend's reluctance to answer it, but I suggest that it is by no means hypothetical, because at some stage in the game, all things being equal, the Supreme Court of Canada will be asked to rule upon the findings of these various appeal courts and to

[Senator Roblin.]

make a decision with respect to the constitutionality of the government's move.

My question is: If the matter is found to be unconstitutional, will the government have regard or respect for, or accede to, the decision of the court in that respect?

Senator Perrault: The federal government has, of course, a long tradition of respecting court rulings, as do other governments in this country. Beyond that, honourable senators, I am not willing to make a further statement. The eventuality will be dealt with, should it arise.

Senator Roblin: I thank my honourable friend for his comment, but I hope he will take the matter under consideration and give us a more definitive answer than he has so far, because it is quite conceivable that there may be a finding against the federal government in the matter. In that event, this house, along with others, may be asked to make up its mind on whether it intends to proceed in defiance—if that is the correct word—of the court's judgment on the very important constitutional matter. Because the matter will go to the courts and is bound to proceed to the Supreme Court, and is bound to result in a decision one way or the other, I think the government's policy in the case of an adverse decision should be made known to the Senate.

Senator Perrault: The honourable senator's views will be given careful consideration. I thank him for his opinion on this matter.

• (2015)

Senator Roblin: I want my honourable friend to know that I will be awaiting his answer with anticipation. I hope he will give it to us within a reasonable time. Answers to such questions, if not timely, are not of much use.

THE ENVIRONMENT

POLLUTION—ACID RAIN

Hon. Nathan Nurgitz: Honourable senators, I have a question for the Leader of the Government in the Senate. In light of Monday's newspaper reports to the effect that acid rain pollution in eastern Canada is substantially worse than had originally been estimated or calculated, and that 65 to 80 per cent of acid rain which falls in sensitive areas, to quote a newspaper account, comes "sweeping in from the U.S.," will the Leader of the Government provide the Senate with a progress report on, and details of, new initiatives being taken by the Government of Canada to impress upon the American authorities the true nature of the problem, and also provide the Senate with innovative programs, if there be such, which we can expect will combat acid rain for future generations?

Hon. H. A. Olson (Minister of State for Economic Development): Honourable senators, perhaps I should try to reply to this question, because this has been drawn to the attention of the Economic Development Committee for a number of reasons, including the need for additional funding to deal with the problem.