

• (1425)

Then when John Turner became the Minister of Finance and appeared before the committee on the income tax bill and announced the scope and effect of a number of amendments, he said, "This is the last of the amendments in respect of which the undertaking was given by the previous minister that they would be included in a subsequent bill."

I recall an incident when Donald Macdonald, as Minister of Finance, appeared before the committee in connection with a proposed amendment to the income tax bill which he agreed should be changed. He said, "I will undertake not only to change it at the next session, but in the meantime I will make use of a provision in the Financial Administration Act which permits me temporarily to accomplish the same result."

So all our experience has indicated that when we are given an undertaking it is sincerely given and observed; and, of course, what underlies all that is what would happen if a minister gave an undertaking of that kind and did not implement it the next time around. I would speculate on what might happen. He might have a very difficult time before our committee.

Hon. David Walker: Honourable senators, as a critic from the opposition who has been present throughout all the proceedings, I would certainly agree with my learned friend that the bill should be reported without amendment with—and this is very important—the agreement of the minister to accept further amendments.

Having heard the chairman cross-examine the minister, I can assure honourable senators that the minister is hog-tied. He will have to do what he undertakes to do, and I am sure he will do so willingly.

Motion agreed to and bill read third time and passed.

BANKING, TRADE AND COMMERCE

TRIBUTE TO COMMITTEE

Hon. Raymond J. Perrault (Leader of the Government): Honourable senators, on behalf of the government I wish to thank our distinguished Senator Hayden and the members of this committee for their outstanding work with respect to the Bank Act revisions. It has been a detailed and arduous process, which has taken place over a great length of time. The Standing Senate Committee on Banking, Trade and Commerce has worked with its usual diligence and competence. At a time when constitutional reform, including the role of the Senate and the other place, is under consideration by parliamentarians and many other people, the Senate has again demonstrated that as a body of sober second thought, and in a less partisan manner than the other place, it does extremely valuable work for the people of Canada.

Hon. Senators: Hear, hear.

ROYAL ASSENT

NOTICE

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL OTTAWA GOVERNMENT HOUSE

November 26, 1980

Sir,

I have the honour to inform you that the Honourable Brian Dickson, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 26th day of November, at 5.00 p.m., for the purpose of giving Royal Assent to a bill.

I have the honour to be,
Sir,
Your obedient servant,
Edmond Joly de Lotbinière
Administrative Secretary to the
Governor General

The Honourable
The Speaker of the Senate,
Ottawa.

• (1430)

LEGAL AND CONSTITUTIONAL AFFAIRS

REPORT OF COMMITTEE ENTITLED "CERTAIN ASPECTS OF THE CANADIAN CONSTITUTION" TABLED

Hon. H. Carl Goldenberg: Honourable senators, I have the honour to table the report of the Standing Senate Committee on Legal and Constitutional Affairs entitled, "Certain Aspects of the Canadian Constitution."

With the report, honourable senators, I am tabling two research papers, to which reference is made in the report, entitled, respectively, "Standing Senate Committees," and "Special Senate Committees."

Hon. Duff Roblin (Deputy Leader of the Opposition): Honourable senators, I wonder if I might be allowed to make a remark or two about the procedure that we have just followed in connection with this report. I understand that a press conference is being held in respect of this matter, and I would like to make a comment about that.

The Honourable Senator Lamontagne did me the courtesy yesterday to tell me that this document would be released to the press in a lock-up condition at 1.15 p.m. today, and that he would be conducting a press conference at 2 o'clock. I listened to that statement, and I must confess that while I did not give my consent, because it was not asked in that sense, neither did

I express any objections. So I want to be clear about that. On reflection, however, there are a couple of points I would like to bring to the attention of honourable senators.

First of all, from a procedural point of view, the report was issued to outsiders before we got it. That, of course, is a happenstance of the proceedings of this house, as a result of which we did not receive the report from the committee chairman until ten minutes to three. We also have a situation where an extensive explanation of the report is being offered elsewhere before it is offered here.

Without wishing to make too much of this situation, I do suggest to the Leader of the Government, and others, that on another occasion when a report is being tabled we might arrange our timing a little differently so that the Senate is given first crack at it rather than have it displayed, as is happening now, outside this chamber in the first instance.

Hon. Senators: Hear, hear.

Senator Goldenberg: Honourable senators, if I may comment on what Senator Roblin has just said, I have to say that I did not make any arrangements about the press conference. I knew there was going to be one, because that was suggested and agreed upon at one of the committee meetings. The last meeting was on October 30.

Senator Lamontagne told me yesterday at the meeting of the Joint Committee on the Constitution, of which both Senator Roblin and I are members, that he had spoken to Senator Roblin and had arranged with him that both would appear at a press conference. I did not know about the time of the conference, but he assured me that Senator Roblin had agreed to attend the press conference and participate in it.

Senator Roblin: I certainly accept my honourable friend's statement without question. The matter of my appearance was certainly discussed, but in my view it was left up in the air. Anyway, I did not go, as you can see.

My point is that I am not really complaining about a press conference. It is wise to give substantial distribution to the work we do. That is fine. My remarks are addressed merely to the question of the timing. It would be better if we were a little more conscious of the propriety of dealing with the matter in this house first, before giving it first publicity.

Senator Macquarrie: Honourable senators, I would just like to say that, being one of the quietest members of this august body, my applause and enthusiasm a few moments ago was directed towards and in appreciation of the distinguished chairman, not in reference to the procedure that was adopted.

Senator Frith: Honourable senators, we are in this position. As honourable senators know, when a report comes from a committee it can either be presented for adoption or tabled and dealt with under an Inquiry or otherwise. I understand the committee agreed to table the report and then proceed by way of an Inquiry. There is then a difficulty with reference to the timing in order to meet the objectives that everyone seems to agree with, namely, to have the document widely circulated, and at the same time make sure that the press or others do not get first crack at it, to use Senator Roblin's words.

[Senator Roblin.]

• (1435)

Senator Asselin: But they did get first crack at it.

Senator Frith: You are quite correct; in a sense they did. The committee did its work, and I understand that it opted to proceed in this manner. There was some contretemps as far as timing was concerned because of the fact that Senator Goldenberg was to speak before Senator Hayden. That would have at least reduced the time gap. It was a mistake that Senator Hayden proceeded first.

The plan, as I understood it and as understood by the committee, was to proceed by way of an Inquiry. Accordingly, I propose almost immediately to give notice, in Senator Lamontagne's name, of an Inquiry for Tuesday next when the Senate can and will, of course, proceed with it.

There was only one other way, it seems to me, to have proceeded. That was not to have released the report until after the Inquiry had proceeded. That was the alternative. This report is the result of very important work done by the Senate committee, and the advantage of proceeding in the way we did is that the tabling of the report and the press conference will attract the attention of the public before the Inquiry is proceeded with.

This is not to say it could not have been done any other way, but this is the procedure that I thought the committee had agreed upon, so that the public and the press could see the report almost coincidentally with the Senate. The fact that Senator Hayden rose to table his report before Senator Goldenberg tabled his, thus switching the order of the presentation of reports, resulted in a delay of approximately three-quarters of an hour. That was not in the plan.

Senator Thériault: Do I understand that the report just presented was distributed to the press, and that a press conference was held before this document was tabled in this chamber?

Senator Frith: It was, but that was not the intention. As I said, the plan, as set out in the Clerk's Scroll, was for Senator Goldenberg to table his committee's report immediately before Senator Hayden tabled his report. The press conference on Senator Goldenberg's report was to take place at approximately 2.15 o'clock this afternoon. The distribution for the lock-up took place ahead of that time, which is the procedure followed when the budget and other such material is presented to Parliament. The half-hour lead time for the press conference resulted simply because Senator Hayden presented his report first.

Senator Asselin: It is not his fault.

Senator Frith: Of course not; I am not blaming anyone. If it is a matter of blame, I ought to have tugged Senator Hayden and said, "Wait for Senator Goldenberg." If what we are searching for, honourable senators, is blame, I will take the blame. But if we are talking about what the plan was and whether there was an intended discourtesy to the Senate, the plan was that there would be distribution, as is often the case, with an embargo to 2.15. The press conference would then take place at 2.15—there is not much point in having a press

conference on a document if the press has not had a chance to read it—and by that time the document would have been tabled in the Senate chamber. The intention was to table the document here ahead of the press conference. As I said, the only reason that did not happen was that there was a mistake in the order of reports of committees.

Senator Thériault: I am not seeking to attach blame, but I attach great importance to the fact that a document was distributed to the press, even on a "lock-up" basis, with the time factor being 2 o'clock. I heard the Deputy Leader of the Opposition saying that the press conference was called for 2 o'clock.

Senator Roblin: That is what I was told.

Senator Thériault: I have been in this chamber for only a very short time, but it is my experience—and I think all senators will agree—that when the Senate is scheduled to meet at 2 o'clock in the afternoon, it infrequently does so because certain formalities must take place beforehand. I am not seeking to attach blame, but as one who sat in a legislature for a number of years, I would humbly suggest that in future we should be very careful in matters of this type.

• (1440)

Senator Macquarrie: Honourable senators, what I want to say is not contradictory to the honourable senator, my colleague from New Brunswick, but I was inclined to ask what senators were asked to attend at a "lock-up," if I may use that irreligious expression. I might point out that on matters of the Bank Act, I trust the distinguished chairman of the committee, and Senator Walker and others, but had I known that the Constitution matter was going to emerge full-blown I would like to have been there, but no one gave me a chance to be there. I think I have the same feeling that Senator Thériault had, that perhaps we might be a little more sensitive in these matters. I was glad to hear Senator Hayden, because he knows more about the Bank Act than anyone else in Canada, but I would have been at the lock-up on the Constitution if anyone had invited me there. I don't know what good I would have done but I would like to have been asked.

Senator Goldenberg: I want the honourable senator to know that the chairman of the committee was not locked up himself.

Senator Frith: The record should show that all observations which have been made will be taken into account. I do want to underline the fact that the plan called for the constitutional document to be tabled in the chamber before the time set for the press conference, but when the item "Reports of Committees" was called, Senator Hayden was up and speaking on the Bank Act.

Senator Asselin: It was your business to have stopped him.

Senator Frith: Exactly. As Senator Asselin has said, at that point it was my business to have stopped Senator Hayden. That is why I said earlier that if any blame is to be attached, it is mine, and I apologize to the Senate for what happened.

Senator Asselin: We will move a vote of non-confidence.

Senator Frith: Senator Asselin is going to move a vote of non-confidence, and we will have to see what comes of that. In any event, that is the story of how this contretemps—which I think is the right word—took place.

Senator Macquarrie: The government leader was procedurally wrong but strategically right.

Senator Smith: Honourable senators, I would like to make an observation in line with certain questions I asked the chairman of this committee a few days ago about the extraordinary delay in bringing this report before any body, whether it be the press or anyone else. I remember my resentment about being hurried with the work of this committee away back in July and August on the pretext that it was of the greatest importance, in order that the report would have the utmost beneficial effect, that it be ready for release, first, before the First Ministers' Conference; then immediately after that conference, and then finally before Parliament resumed. The First Ministers' Conference began on September 8, if my memory is right, and Parliament resumed on October 6. It is now November 26, and the last meeting of the committee took place many weeks ago.

Senator Goldenberg: October 30; less than a month ago.

Senator Smith: Even that was many weeks ago; and if the last meeting was not held until October 30, then that in itself was a pretty poor show. I want to register my feeling that there was no excuse for hurrying and hasseling the committee to get this work done quickly to meet what was represented to be a most important need, to have the report released when it would do the most good, only to have it finally released at the end of November and in circumstances which seem to be less than happy so far as the Senate is concerned.

[Translation]

Senator Frith: Honourable senators, I wish to give notice, for Senator Lamontagne, that next Tuesday, December 2, 1980, he will call the attention of the Senate to the Report of the Standing Senate Committee on Legal and Constitutional Affairs on "Certain Aspects of the Canadian Constitution," tabled in the Senate today.

Senator Asselin: With your permission, honourable senators, I would like to indicate that so long as the Joint Committee on the Constitution is sitting, a number of senators, who must attend the sittings of that committee, will be unable to take part in the debate which is scheduled for next Tuesday. Approximately ten senators will have to go to the sittings of the Joint Commons-Senate Committee and will therefore be unable to hear Senator Lamontagne. Naturally, I like to read Senator Lamontagne's speeches but I much prefer listening to him. Therefore, some honourable senators will be deprived of the right to hear Senator Lamontagne express his views on the report before us.

In all fairness to the senators who must attend the sittings of the Joint Committee on the Constitution, I think the discussion should be postponed until some other day or time when all senators could be here.

Senator Frith: We most certainly accept that suggestion, honourable senators. I fully understand the point raised by Senator Asselin. But we have no choice in the matter since the sittings of the committee and those of the Senate overlap. If we could reorganize our sittings, that would be an excellent suggestion. We could consider it and discuss it with the opposition leader.

I intend to give notice that when the Senate adjourns today it stand adjourned until Tuesday evening. But we could always change that to Tuesday afternoon and begin with Senator Lamontagne's presentation or, with the consent of the Senate, we could hear him on Wednesday before Question Period, or else, as I said, we could meet at two o'clock on Tuesday. We could then hear his speech and move the adjournment of the debate, depending on what could and should be done. Therefore, we could perhaps adjourn to Tuesday afternoon, since the Committee on the Constitution normally sits—

Senator Asselin: On Tuesday morning.

Senator Frith: At 3.30 p.m., I think.

Senator Asselin: Tuesday morning, afternoon and evening.

Senator Frith: Tuesday morning is difficult for those who have to travel.

[*English*]

Senator Asselin: I am not talking about resuming the Senate on Tuesday morning. I am talking about the fact that almost ten senators won't be able to listen to what Senator Lamontagne is going to say about this very important report, and we are concerned about it. You could postpone the notice that you have just given to the house to the effect that we sit on Tuesday afternoon and Wednesday morning at 11 if it is so important to discuss this report right now, or you could postpone discussion of this report until after we have finished the study of the report on the Special Joint Committee on the Constitution.

[*Translation*]

Senator Frith: As I have said before, that is always possible. For the time being, we will adjourn until Tuesday evening but, in the meantime, we can try to make some arrangement in line with the suggestion made by Senator Asselin. That is one suggestion—not so much for his sake, but to follow his suggestions.

At this time, that notice stands as the Order of the Day for next Tuesday. However, as we are masters of our own procedures, we can make other arrangements if we so wish.

Senator Goldenberg: Honourable senators, I only want to add one word to say that I agree with Senator Asselin. He is right.

Senator Asselin: I am very happy to see that Senator Goldenberg has been agreeing with me for some time now. This is the only time really because, in committee, as he knows, we do not always agree.

[*Senator Asselin*.]

Senator Goldenberg: This is not the first time.

• (14:50)

NORTHERN PIPELINE

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 Special Committee of the Senate on the Northern Pipeline have power to sit while the Senate is sitting today and that rule 76(4) be suspended in relation thereto.

He said: Honourable senators, by way of explanation, I must tell you that this meeting is scheduled for 3.30 this afternoon, I think.

Motion agreed to.

BUSINESS OF THE SENATE

Hon. Royce Frith (Deputy Leader of the Government): Honourable senators, it is possible that we shall have the opportunity to discuss later on during this sitting the possibility of making arrangements so that honourable senators can go to the East Block to pay their respects to our former Governor General. I think that the visit by honourable senators and the members of the House of Commons is scheduled between 3 p.m. and 5 p.m. this afternoon.

[*English*]

Hon. Heath Macquarrie: Honourable senators, I had but a brief opportunity to discuss this with the government house leader, but I feel very deeply about it. I personally do not have to express to anyone my views about the late former Governor General, and certainly not to his magnificent wife, whom I have had the honour of knowing for many years. I think, honourable senators and dear colleagues, we should this day, not only pay our respects to that wonderful man, but we should do it officially and properly; not merely do it while we are waiting for royal assent, or while we are doing nothing between this item and that item.

I trust Senator Hayden and his wonderful committee respecting their work on the Bank Act, because I know they know a thousand times more about that than I do, and I trust them on all other matters, but I think it is not enough for us to go over individually in our spare time to pay respects to that very distinguished man, our former Governor General, whose mortal remains are in the room next to my office in the East Block. I address myself to the Leader of the Government and the government house leader. I think we should today decide that the Senate will adjourn for that purpose.

One of the best things about the Senate, as distinct from the other place, where I spent a long time, as Senator Muir knows, is that we have far better and more reasonable rules. I think we should adjourn at some time today for the purpose of