

### LEGAL AND CONSTITUTIONAL AFFAIRS

#### MOTION TO AUTHORIZE COMMITTEE TO STUDY CERTAIN ASPECTS OF THE CONSTITUTION—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion of the Honourable Senator Lamontagne, P.C., seconded by the Honourable Senator Frith:

That the Standing Senate Committee on Legal and Constitutional Affairs be authorized to consider and report upon constitutional provisions regarding individual and collective rights and upon the future role and composition of the Canadian Senate and alternative constitutional arrangements compatible with true federalism;

That the membership of the committee be increased to thirty members and that Rule 67(1)(j) be suspended in relation to membership of the committee;

That the committee be empowered to engage the services of such counsel and technical, clerical and other personnel as may be necessary for the purposes of its examination and consideration of such legislation and other matters as may be referred to it; and

That the committee have power to sit during adjournments of the Senate, and

On the motion in amendment thereto of the Honourable Senator Flynn, P.C., seconded by the Honourable Senator Tremblay, that the first paragraph of the motion be amended by striking out all of the words after the word "upon" in the second line and substituting the following therefor:—

"the matter of constitutional reform with special attention being given to the question of the division of powers between the federal and provincial governments and to constitutional provisions regarding individual and collective rights".—(*Honourable Senator Tremblay*).

[*Translation*]

**Hon. Maurice Lamontagne:** Honourable senators, I rise on a point of order. First of all, I would seek leave to make a few comments, which will last about 12 minutes and which I was unable to make last Wednesday during my first intervention. They will provide clearer explanations on the third element of my motion which concerns the following:

—alternative constitutional arrangements compatible with true federalism;

I consider this third part of the motion to be probably the most important, and I believe that it extends the terms of this motion much further than the reform of the Senate. In my opinion, honourable senators are entitled to know the full significance of this third element before voting not only on the motion but also on the amendment. In fact, I have another reason for seeking leave at this time, and it is that I shall not be able to be present in this house next Tuesday and Wednesday.

[*Senator Petter*.]

**Senator Flynn:** Well, if I understand the honourable senator, what he is saying is that he has forgotten to tell us about the most important part of his proposal. Why did he not do so? I do not know. However, I find this a bit strange. In any case, if he has now realized that he failed the first time, perhaps he wants another chance. Does Senator Frith intend to speak after him?

**Senator Frith:** Yes.

**Senator Flynn:** You will therefore explain the speech of Senator Lamontagne!

**Senator Frith:** This might be.

**Senator Lamontagne:** Do I have consent?

[*English*]

**The Hon. the Speaker:** It is moved by the Honourable Senator Lamontagne—

[*Translation*]

**Senator Flynn:** Senator Lamontagne has asked permission to speak a second time on the amendment to provide some explanations.

**Senator Denis:** He has already done so.

**Senator Flynn:** No, he said he would speak for 12 minutes. He has not spoken for 12 minutes. At least, it did not seem that long to me. Permission granted.

[*English*]

**The Hon. the Speaker:** It is agreed?

**Senator Lamontagne:** Honourable senators, I certainly do not want to start another quarrel with my great friend, Senator Flynn.

**Senator Flynn:** What quarrel? I give you leave.

**Senator Lamontagne:** Yes, of course. I wish to thank honourable senators for giving me leave to explain that part of my motion which refers, and I quote, to

alternative constitutional arrangements compatible with true federalism.

To me, renewed federalism—quite apart from other things, including a new division of jurisdiction—also means the development of a truly federal system within which the two orders of government will be legally and really sovereign. This last aspect of constitutional reform may be seen as being as important as the division of jurisdiction. Indeed, over the years—and I am sure that Senator Roblin would agree with me—and at least until recently, provincial governments have been complaining not so much about their lack of legislative powers as about federal intrusion into their areas of jurisdiction. Moreover, this problem arises in Canada irrespective of the division of powers or the division of jurisdictions, and it must be solved as a separate issue.

In 1867, for reasons that I still believe were justified at that time, the Canadian Constitution put the provinces under a system which I describe as federal tutorship or domination. In other words, we had a quasi-unitary state. That system was

expressed by several extraordinary powers conferred upon the federal government, including the power of disallowance and a practically unlimited spending power. It enabled the central government to intervene in various arbitrary ways into areas of provincial jurisdiction. According to a great number of Canadians, such a system of federal tutorship is no longer desirable, and in the future it should evolve toward a regime of true federalism within which the two orders of government would be sovereign within their respective jurisdictions.

This basic federal principle of constitutional reform has been proposed by the white paper entitled "Time for Action" issued by the Canadian government in 1978, by the Pepin-Robarts Task Force, by the beige paper of the Quebec Liberal Party and by most other federalist groups.

In some respects, however, the application of that principle raises difficulties. For instance, all the groups I have just mentioned agree that the central government should keep the spending and the declaratory powers it now has in order to maintain some flexibility within the whole political system. But then the question arises, is it possible to devise a new constitutional arrangement that would preserve those federal powers and, at the same time, respect the principle of sovereignty of both orders of government? Such an arrangement, in my view, would have to meet two basic requirements. First, it would have to enable provincial governments to control the exercise of the federal extraordinary powers in their areas of jurisdiction. This is what I call the provincial requirement. Secondly, this arrangement would also have to be compatible with true federalism, and respect the integrity and sovereignty of the federal order of government. This is what I call the federal requirement.

● (1450)

It is obvious that the Senate, as presently constituted, cannot meet what I have just described as the provincial requirement. This chamber cannot claim to be a credible spokesman for provincial governments.

**Senator Asselin:** Why not?

**Senator Lamontagne:** It was not designed originally to fulfil that function, and it was never expected to do so, although, as Senator Tremblay reminded us the other day, it was expected to reflect broad regional interests and aspirations, which is quite a different thing. That inability of the present Senate to meet the provincial requirement, which I described a moment ago, led various groups, more particularly in the last two or three years, to look for a more suitable constitutional arrangement. The House of the Federation proposed in Bill C-60 proved, for various reasons, to be an unacceptable alternative. Basically, as in the case of the present Senate, it could not satisfy the provincial requirement. It would represent political parties, not provincial governments, and it would still be dominated by federal forces. Thus, alternative arrangements have been put forward.

The Pepin-Robarts Task Force, the British Columbia government and other groups have proposed that the Senate be replaced by a new second chamber of the Canadian Parlia-

ment, to be called the House of the Provinces or the Council of the Federation, and composed exclusively of representatives of provincial governments. I made a detailed criticism of the Pepin-Robarts proposal in a speech in this chamber on January 30, 1979. Senators Connolly and Lang have more recently presented their own forceful arguments against it.

In my view, that proposal and other similar projects, while they could, in a rather clumsy way, satisfy the provincial requirement, do not meet the federal requirement. They are not compatible with federalism. They would replace federal tutorship by provincial tutorship. They would introduce a confederal chamber into a federal Parliament. They would introduce into a legislative body, the Canadian Parliament, a second chamber composed exclusively of representatives of the executive branch of another sphere of government. Perhaps we would have to accept such a hybrid and monstrous body to satisfy a most serious provincial grievance, if there were no other and better alternatives available to us.

However, the beige paper contains such an alternative, as Senator Godfrey so rightly pointed out in this chamber recently. Indeed, the federal council proposed by this document would meet the provincial requirement, because it would enable provincial governments to control the exercise of federal powers in their areas of jurisdiction. But it would also, in its basic features, satisfy and meet the federal requirement.

It is important to note that the council proposed in the beige paper would not be a legislative body, and it would not be part of the Canadian Parliament. It would be a special inter-governmental institution whose intervention would take place before the beginning of the formal federal legislative process. In this way, the sovereignty of the Canadian Parliament and its integrity as a federal institution would be preserved. In other words, such an arrangement would put an end to what I call federal tutorship without replacing it by provincial tutorship. My main objection to it is that it would add another highly complex institution to an already cumbersome political system.

Is this really necessary? I do not believe so. Canadian federalism has already developed a unique kind of mechanism called federal-provincial conferences. In spite of the criticisms that have been made against this typical Canadian institution, it is true to say that it has accomplished a most useful role in the past. The beige paper, the Pepin-Robarts report and other similar documents agree that this mechanism be preserved and improved as an essential feature of our federalism. Bill C-60 contained constitutional provisions to institutionalize it. Why not, then, assign to that institution, in addition to its other traditional functions, the constitutional role that the federal council would be expected to play? This mechanism, federal-provincial conferences, could even be identified from now on in our Constitution as the federal council. Such an approach would represent an important evolution, but not a revolution.

**Senator Flynn:** Would you get rid of tutorship, anyway?

**Senator Lamontagne:** Indeed, it has been the general practice for many years to submit federal proposals related to joint

or shared-cost programs to federal-provincial conferences prior to their presentation to Parliament as legislative measures. The proposed arrangement would merely extend that practice and make it compulsory and more effective, in terms of provincial control, by inserting it into a new Constitution. That is why I describe this proposal as evolutionary rather than revolutionary.

I understand from press reports that Premier Lougheed has expressed his preference for this alternative arrangement over the creation of a separate federal council. According to the same sources, Mr. Ryan is prepared to look favourably at this new proposal. It is also possible to conclude, in the light of recent federal-provincial meetings, that most premiers would favour that approach, which is so uniquely Canadian. I suggest, therefore, that the Senate subcommittee, if it is created, should consider this alternative very seriously and very carefully.

I believe very strongly that, if we can find a practical and acceptable way that is compatible with true federalism to end the federal tutorship that has existed in our Constitution since 1867, we will have accomplished a major step toward a renewed federalism, better adjusted to the political realities of today and tomorrow. For this reason alone, although there are others, I feel that the mandate proposed in my motion is extremely important and is sufficiently broad, at least for the time being. It is also very urgent. Indeed, if we want to have an impact on agreements that might be reached in September at the inter-governmental level, we should be in a position to submit concrete proposals on this alternative arrangement not later than early in August.

As the subcommittee develops a new constitutional mechanism to end federal tutorship, in the spirit of true federalism, it should also, as the motion mentions, examine the future role and composition of the Senate, not as a confederal body but as a genuine federal institution. More particularly, it should consider how this chamber could play a specific role in the areas of the official languages and regional interests and aspirations. We have talked about Senate reform for many years. Now, in my view, is the time for action. We should not be ashamed of presenting concrete proposals for Senate reform; after all, many other groups have done so, although I feel they are much less knowledgeable than we are in this chamber. What is wrong with an institution that looks at itself and seeks to improve its role and usefulness?

● (1500)

Once this new scenario becomes available, it will be up to the Canadian people, the provincial governments and the Canadian Parliament to decide whether they still want such a reformed Senate as a federal parliamentary institution.

In conclusion, I submit that it would be unrealistic to expect the committee to do more from now until the first part of August than to produce a report with concrete recommendations on the three important topics mentioned in my motion. In the meantime, if we want to tackle the other subjects on the agenda of the First Ministers Conference that will be held in September, the only practical way of doing it is to organize a

[Senator Lamontagne.]

special debate in this chamber at the appropriate time, as the Leader of the Government has already suggested.

Finally, I suggest that we should review the whole situation after the September meeting and decide then, in light of the results of that conference, what further initiative we as the Senate should take. If we then consider that it would still be desirable for us to launch an inquiry into the other aspects of renewed federalism, including the division of jurisdictions, we may come to the conclusion that it would be preferable to assign that task to a special committee rather than to the Standing Senate Committee on Legal and Constitutional Affairs.

For all those reasons, I must state again that unfortunately I cannot accept Senator Flynn's amendment. I plead: Stop quibbling and move on to the urgent, important and practical job that lies immediately ahead of us and which is contained in my motion.

**Hon. Senators:** Hear, hear.

[Translation]

**Hon. Jean-Paul Deschatelets:** Would Senator Lamontagne allow me a question?

He insisted on the importance of the committee's being in a position by August to examine the whole issue of the composition and role of the Senate in the Constitution. I think Senator Lamontagne spent several minutes stressing the priority of that question, is that not right?

Am I to understand that the first duty of that committee, according to the remarks Senator Lamontagne has just made, would be to consider the question of the Upper House? Am I to understand that?

**Senator Lamontagne:** First of all, as the motion says, and as I tried to explain—indeed, the motion is very clear on the first two points, I think—the committee would consider and report upon individual and collective rights.

Secondly—

**Hon. Martial Asselin:** You dropped that.

**Senator Lamontagne:** Pardon?

**Senator Asselin:** You dropped that?

**Senator Lamontagne:** No, no.

**Senator Asselin:** You gave priority to—

**Senator Lamontagne:** No, no.

**Senator Asselin:** You did not explain that.

**Hon. Jacques Flynn (Leader of the Opposition):** He cannot explain it.

**Senator Lamontagne:** That is in the motion.

**Senator Asselin:** But are you not dropping individual and collective rights?

**Senator Lamontagne:** No.

**Senator Asselin:** And are you concentrating your consideration only on the renewal of the Upper House?

**Senator Lamontagne:** First of all, the terms of reference of the committee would be to consider—in light of the documents that already exist, and there are already several of them—individual and collective rights.

Second, the future role and composition of the Senate as a federal chamber, not a confederal chamber.

Third, to develop a new mechanism which henceforth would allow provincial governments to have control over the exercise of the extraordinary powers the federal government has in their fields of jurisdiction which is another matter, I think, apart from the reform of the Senate as a purely federal institution.

So I say that this motion has three different and very important elements, and the committee should consider those three elements concurrently.

**Senator Asselin:** And report by August 1?

**Senator Deschatelets:** Your remarks today, Senator Lamontagne, if I understand correctly, do not change in any way the order of priorities you set in your motion?

**Senator Flynn:** Honourable senators, I would like to rise on a question of privilege.

I believe that the speech Senator Lamontagne has just made has enabled him to gain the floor under a pretence that is, in my opinion, very doubtful.

He could have mentioned that during the debate on the main motion, or on the amendment. However, if every time we are not satisfied with the reaction we get we have a right to speak twice, well, honourable senators, I submit everyone in this house will have the right to speak two or three times. The tactic of Senator Lamontagne is simply to rally his troops.

I therefore submit that this discipline of the party in power is the best argument of the opponents of the Senate. You are totally lacking in flexibility and you are unable to accept that the opposition could be right.

**Senator Lamontagne:** Honourable senators, I firmly object to the comments of Senator Flynn. I would simply like to explain that there is absolutely no tactic—

**Senator Flynn:** Is this another speech?

**Senator Lamontagne:** No, I am simply replying to your question of privilege. Are we not a democratic assembly?

**Senator Flynn:** No, unfortunately.

**Senator Lamontagne:** Because of you! I was saying that I did not make a speech on the main motion because at that time I was convinced, because of our discussions and consultations, that there would be no objection to the main motion. I therefore did not make a speech at that time.

**Senator Flynn:** You knew quite well what would happen.

**Senator Lamontagne:** In the second place, after my honourable friend moved his amendment, when I tried to elaborate on my comments and to say precisely what I stated this afternoon, it was Senator Flynn who objected.

• (1510)

**Senator Flynn:** Not at all. You are raising an issue which is irrelevant to the one I raised, because when I rose following introduction of the motion, I invited you to explain your motion if you wanted to, and I gave you notice that I wanted to move an amendment. I did so. Afterwards, you had the opportunity to make your comments, but you did so badly. You then decided that you wanted another chance today, especially since there was some hesitation on your side of the house and you are now trying to rally your forces.

**Senator Asselin:** I have a question for Senator Lamontagne. In his speech today, he mentioned a new work method. He said that what was most important was to suggest a renewed formula for the Upper Chamber and that this should be done before August 1. I want to ask a very simple question, and I could also ask it of the Deputy Leader of the Government.

Last session, a special committee was formed with Senator Stanbury as chairman. This committee worked for many weeks before proposing exactly what Senator Lamontagne wants to propose. Instead of wasting our time considering the motion moved by Senator Lamontagne, would it not be more reasonable, first of all, to re-establish the committee chaired by Senator Stanbury, and to ask it to table its conclusions, because a number of senators worked hard during the last session on this special Senate committee to find a new formula for an Upper Chamber, such as suggested by Senator Lamontagne. He says no because this is not his idea.

**Senator Lamontagne:** That is not what I suggested.

**Senator Asselin:** Honourable senators, in order to expedite our work, would it not be more practical that Senator Stanbury's committee be re-established and the conclusion of its report tabled? Time and money have been invested by the Senate to establish that committee, and we could then consider what Senator Lamontagne has in mind. Apparently there is a desire to put aside that committee's report. We did not re-establish that committee, yet Senator Lamontagne would like us to start anew. Is that what you want, or not?

**Senator Lamontagne:** Honourable senators, I do not think I am a complete idiot.

**Senator Asselin:** We shall see.

**Senator Lamontagne:** I included in the motion the consideration of individual and collective rights. But that was Senator Tremblay's suggestion. There is no intention to start over again the work already undertaken in that area. There now exists a unanimous report by a joint committee of the Senate and the House of Commons that was published in the fall of 1978, and it includes very specific recommendations in that area.

So there would be no question of that group starting from scratch, but it would simply be a matter of taking note of that committee's recommendations and determining whether they still apply under the current conditions.

When it comes to considering the future role and make-up of the Senate, clearly the group will not start over again all the studies that have been made. It will take note of them, as well as the proceedings and public hearings of that special commit-

tee, in addition to the reports already prepared and published. The aim is not at all to re-invent the wheel. However, I feel that we could put some emphasis on the third part of my proposal. It involves something that is new, in my view. I would further remind Senator Asselin that the third part is not aimed at creating a second chamber within our Canadian Parliament, but quite the opposite, preventing what in my view would be a serious mistake, and trying to ensure that from now on—

**Senator Flynn:** We heard that point before.

**Senator Lamontagne:** As I said, in considering that third part we would attempt to ensure that from now on the monitoring by provincial governments would proceed at the intergovernmental level rather than within Parliament.

**Senator Asselin:** I would like to ask a question of Senator Frith, the deputy government leader. What happens to that special committee that was chaired by Senator Stanbury? Is it still-born? Will it report to the Senate? What are the contents of the studies made by that committee for weeks on end? Were taxpayers' money and the energy of senators spent so that we can never know the conclusions? In these circumstances, maybe the report could answer all the questions asked by Senator Lamontagne, and that will be asked anew by that sub-committee on legal and constitutional affairs. Could he answer my question as to what happens with that special committee that was not re-established?

**Senator Frith:** Honourable senators, I would like to make a few comments on the amendment, and I would therefore address that question within the context of my remarks.

**Senator Asselin:** No answer. As far as I am concerned, I would like to look more closely at what was said this afternoon by Senator Lamontagne, since he served us terms out of the ordinary, especially when he spoke of trusteeship federalism.

**Senator Flynn:** Hear, hear!

**Senator Asselin:** So I would like to know where that stems from. As far as I am concerned, I move the adjournment of the debate, quite simply.

[English]

**Senator Smith (Colchester):** Honourable senators, I rise on a question of privilege. I was one of those who happily agreed to allow Senator Lamontagne to intervene in the way he has, thinking, of course, that what he was going to deal with was some relatively small and incidental matter that somehow he had overlooked in his main speech. Now I find that really what he has been saying—or it seems so to me—is the main subject matter of what he meant to say in his speech.

My point of privilege is this. I spoke on this amendment, and therefore, by the ordinary rules, just like Senator Lamontagne, I would not have the right to speak in reply to the comments he has made today. I am not prepared to speak to them today, but at some future date it seems to me that the same privilege should be accorded to those of us on this side, and on the other side, too, who spoke on the amendment, of speaking again in reference to the remarks of Senator Lamontagne.

[Senator Lamontagne:]

**The Hon. the Speaker:** If you will allow me, honourable senators, I should like to say that when Senator Lamontagne rose to speak I tried to intervene because Senator Lamontagne was supposed to speak instead of Senator Frith. I wanted to have the agreement of honourable senators but you did not give me a chance. You all said, "We agree," and he spoke. I did what I could. I have no power to do more than that, unless you find something different in the rules. Perhaps you are right when you say that you thought he was only going to make a few remarks, but there was no indication of any kind that would lead one to believe that it would be so. I did not know it would be a speech, but I think I made the effort at the beginning. I know it is not the custom for the Speaker to stop the discussion and say, "Wait a minute. I have something to tell you," and indeed, you would not have accepted that; but I made the effort to say, "This is not according to the rules." I wanted to have your agreement, and you gave your agreement, even before I asked you. This is what happened. Senator Flynn agreed and even you, Senator Smith, agreed. If you agreed then, you cannot now disagree.

**Senator Flynn:** That is not the point.

**Senator Smith (Colchester):** Mr. Speaker, if I may address my comments to what you have just said, I must say that I was not in the slightest way aiming any criticism at your honourable self. I had agreed, and I was not trying to withdraw that agreement, or to disagree. All I am saying is that having agreed, and having received something greater than I expected, it would not be unreasonable if I requested the same privilege, and if honourable senators were to agree to give it to me, I do not have the slightest criticism of your honour in any way.

**Senator Lamontagne:** In answer to this question of privilege I must remind my honourable colleague that I was very clear and very honest when I asked for leave to make my remarks. I said that I would limit my comments to this aspect of the motion.

**Senator Flynn:** Yes, that was the point.

**Senator Lamontagne:** I said also that unfortunately I would not be in the Senate next Tuesday night and next Wednesday, so that I would not even have the chance to speak on the main motion, though it would have been my right to do so.

I think I was very straightforward and very honest with my colleagues. Leave was given and I expressed gratitude for the fact that it was given. I do not see why you should be quibbling again, or regret having given leave after the fact.

The other day, when Senator Tremblay intervened, completely out of order, after the debate had been closed on the third reading of a bill, we gave him consent to speak. There was no problem.

**Senator Asselin:** Out of order, you say? Will you explain that?

**Senator Smith (Colchester):** Honourable senators, I think that what was intended to be simply a request that I be granted the same privilege as was granted to the honourable

senator, has sparked some misunderstanding. I say again that I agreed willingly, and I would agree if the same question were put to me again. I do not regret that I agreed. I do not try to withdraw my agreement. I only say that having agreed, and having heard what was said as a result of the agreement of all senators, I wish only to claim the same sort of privilege for myself.

• (1320)

**Hon. Royce Frith (Deputy Leader of the Government):** Honourable senators, if we have covered this particular point sufficiently, I might suggest that the comments indicate that more was said by Senator Lamontagne than was perhaps anticipated. I am sure that there is no intention on the other side to suggest any trickery, but merely some disappointment that more was said than was expected. I know that honourable senators realize that it is proper to speak on the motion as well as on the amendment, when speaking on the amendment, but I want to make it clear that if I misled my learned friend, the Leader of the Opposition, in any way by warning him that Senator Lamontagne was going to ask for leave, and that he would not speak fully on both the motion and the amendment, then—

**Senator Asselin:** But he did.

**Senator Frith:** I knew that he was going to do so. If I misled the other side by suggesting that he would be saying less than that, I apologize for having done so. If it turns out that someone on the other side wishes, in the course of this debate or any other, to speak on an amendment and asks for leave to speak a second time, then I am sure that not only will it be received, I hope generously, but the comments of Senator Smith (Colchester) and other senators on the other side will be noted for that purpose.

Unless I have misunderstood the status of the matter, I believe that Senator Asselin has proposed the adjournment of the debate—which in itself is not a debatable motion. I draw that fact to the attention of honourable senators and would suggest that we are now in a position to move on to the next order of business.

On motion of Senator Asselin, debate adjourned.

## CONSUMER AND CORPORATE AFFAIRS

### BANNING OF GLASS CONTAINERS FOR CARBONATED DRINKS— REQUEST FOR INFORMATION—DEBATE CONTINUED

The Senate resumed from Wednesday, May 14, debate on the motion of Senator Fournier (Madawaska-Restigouche):

That there be laid before this house copies of all correspondence, notes, minutes of meetings and other communications between the Minister and officials of the Department of Consumer and Corporate Affairs during the year 1979, related to the banning of certain glass containers of carbonated drinks.

**Hon. Royce Frith (Deputy Leader of the Government):** Honourable senators, the wording of Senator Fournier's motion, which can be found on page iii of the *Minutes of the Proceedings of the Senate* for today, is as follows:

That there be laid before this house copies of all correspondence, notes, minutes of meetings and other communications between the Minister and officials of the Department of Consumer and Corporate Affairs during the year 1979, related to the banning of certain glass containers of carbonated drinks.

Honourable senators will recall that the minister took the position that the documents were privileged and should not be produced. Honourable senators will know that in connection with such claims the privilege is usually granted, with exceptions. I say usually granted, but there are exceptions. The position of the ministry to claim privilege in those circumstances is the subject of a fairly long line of precedents, the leading one being the case of *Duncan v. Cammell Laird Company Limited*.

Senator Fournier (Madawaska-Restigouche) quite properly, in my opinion, said that he did not wish to withdraw his motion, which was a normal request. The normal procedure is that once the privilege is claimed, the person asking for the documents is asked to withdraw his motion, although he is not required to do so. Senator Fournier (Madawaska-Restigouche) declined to withdraw his motion, and I then adjourned the debate.

Two things have happened in the meantime. Obviously Senator Fournier's motion, and his well-known position on this question, has come to the attention of the ministry—it must have or they would not have declined to produce the documents—and some action has been taken. The subject of that action is contained in a news release by the federal Consumer and Corporate Affairs Minister, Mr. Ouellet. I have already furnished a copy in advance to Senator Fournier. I will explain to the house what is in it and I shall then ask for permission to table it. It says:

Federal Consumer and Corporate Affairs Minister André Ouellet today announced his intention of introducing regulations under the Hazardous Products Act which will allow the sale of 1.5-litre soft drink bottles of improved safety performance. The Minister stressed that the bottles must meet standards prescribed by his department and carry a warning label.

Mr. Ouellet explained that under the regulations the soft drink industry will not be able to increase its supplies of the 1.5-litre bottle designs banned last year, and can market only those bottles which pass the department's combination of drop and drill tests. In addition, each bottle will have to carry a bilingual label stating, "Contents under pressure. Handle with care".

The Canadian Soft Drink Association has stated that 1.5-litre bottles currently in stock can meet departmental standards if they are coated with a layer of plastic.