

In a dissenting opinion in the *Daviault* case, Mr. Justice John Sopinka wrote that one of the main purposes of the criminal law is the protection of the public.

Society is entitled to punish those who of their own free will render themselves so intoxicated as to pose a threat to other members of the community.

How can anyone explain to a child who has been raped that somehow it was okay because the man was drunk? As a legislator, I would not be able to do that.

On motion of Senator Bernston, for Senator Lavoie-Roux, debate adjourned.

• (1350)

REVIEWING CANADA'S FOREIGN POLICY

RULING BY SPEAKER OF THE HOUSE OF COMMONS—
POINT OF ORDER

Hon. Allan J. MacEachen: Honourable senators, I rise on a point of order in connection with the report of the Special Joint Committee on Reviewing Canada's Foreign Policy. The point of order is in respect of a ruling by the Speaker of the House of Commons which has a bearing on the Senate, and in particular, whether a ruling from His Honour in the House of Commons automatically carries with it the concurrence of the Senate in a matter which is within the joint custody of the House of Commons and the Senate.

I assure you that my comments do not affect in any way the respect and esteem I hold for the Speaker of the House of Commons. However, my point of order is in connection with a very important matter respecting the relationship between the two houses.

Honourable senators, those of you who have looked at the report of the Special Joint Committee on Reviewing Canada's Foreign Policy will recall that it was presented in three volumes. The first volume is the report itself entitled, "Canada's Foreign Policy: Principles and Priorities for the Future." The second volume is entitled, "Dissenting Opinions and Appendices." The third volume is entitled, "Position Papers." I wish to refer particularly to volume two, "Dissenting Opinions and Appendices." That volume contains the dissenting opinion of the Bloc Québécois and the dissenting opinion of the Reform Party.

Honourable senators, if you look at the dissenting opinion presented by the Bloc Québécois, you will notice that it is a stand-alone report with a table of contents, an introduction, and six chapter headings with a conclusion.

Chapter 1 is entitled, "Canada in an Evolving Global Context"; Chapter 2, "Canada and Jurisdiction in the Area of Foreign Affairs"; Chapter 3, "Culture, Education and La Francophonie: The Federal Government's Claims," and so on. You will further notice that the total dissenting opinion occupies 26 pages and is, in a sense, a stand-alone report. The Reform Party presented dissenting opinions which occupied three pages.

The co-chairs of the joint committee decided that, in light of the character of the dissenting opinions, and particularly the one

from the Bloc, those opinions ought to occupy a separate volume. Thus the main report would be circulated as the report of the committee, and the dissenting opinions would form part of a volume which would include the appendices. If the alternative had been done, presumably we would have a volume of rather large thickness, which is hardly user-friendly.

In any event, honourable senators, the co-chairs deliberated upon this matter, sought the opinion of those who advise on such matters, and concluded that the decision was totally in accord with the Standing Orders of the House of Commons. Whether there is a Standing Order in the Senate covering this subject is another matter.

Senator Lynch-Staunton: I hope not.

Senator MacEachen: In any event, the volumes were released. The Reform Party did not complain. The official opposition in this place did not complain. However, the Bloc Québécois vigorously complained in the House of Commons and stated that their dissenting opinion, or any dissenting opinion, ought to constitute part of the main report.

There was then a debate in the House of Commons in which the co-chair from the House of Commons — at that time, Senator Gauthier — participated. His Honour made a ruling that the spirit of the standing order had been observed, but that the letter of the standing order had not been followed. His Honour said, at page 8253 of the *House of Commons Debates* of November 24, 1994:

However, I am of the opinion that the report does not meet the letter of the standing order. Therefore, should a reprint be required, I am instructing my officials to ensure that the dissenting opinions of the Official Opposition and Reform Party be printed after the signatures of the co-chairs in the same volume.

Honourable senators, a number of questions arise from this ruling. The one that is of particular importance to the Senate is whether or not the Senate has any authority whatsoever over this matter. If so, why is it that a report which is a joint product is not subject to the authority of the Senate as well as to the House of Commons? I would argue that because the report is the result of a joint study, any decision on this point should be a concurrent decision, and agreed upon between the House of Commons and the Senate.

I have other questions, honourable senators, but I believe that, as co-chair from the Senate, I am entitled to express a view on this matter and to have an opportunity to argue with my colleagues in the Senate why this decision was an appropriate one, and why it may be inappropriate to reverse it at this stage, disassemble the report and produce it in a new format.

I think a reprinting will be required. I was informed yesterday that it is impossible to obtain additional copies from the distribution office and that, therefore, the matter of a reprint may be considered very soon.

I think it would be in order to have both houses decide on this matter, and to have an opportunity for both co-chairs to argue that the decision taken at the time was an appropriate one, and that it ought not to be reversed at this stage.