

Senator WALKER: What about the wording of this amendment? I have had a great deal of experience with your technique in these matters, Mr. MacDonald, and I should like to hear from you.

Mr. MACDONALD: Are you referring to the wording of the original bill, Senator Walker?

Senator WALKER: No, I am referring to Senator Roebuck's amendment.

Mr. MACDONALD: Could I come to that later?

Senator WALKER: Yes, of course.

Senator POULIOT: Who is the gentleman who just spoke?

The CHAIRMAN: This is Mr. T. D. MacDonald. He is an Assistant Deputy Minister of Justice. We have had him before us many times in the past.

Senator POULIOT: Mr. MacDonald?

Senator WALKER: Yes; not Mr. Favreau.

Senator POULIOT: And not Mr. Driedger.

Senator ROEBUCK: The Assistant Deputy Minister, for whom we all have the highest respect.

Mr. T. D. MacDonald, Assistant Deputy Minister of Justice: Mr. Chairman, I do not know just where to begin, and I will try to be very brief. This is a private members' bill, of course, and I am here to be of whatever assistance I can to the committee. I think, in view of the general terms of reference that you gave me, Mr. Chairman, in asking me to comment, that perhaps I should direct myself first to the original bill and deal with three points which have arisen in connection with it.

I would like to say that my views on this matter are already well known to Senator Roebuck. We have discussed them at some length.

As to the use of the words "*ad subjiciendum*" I think that is completely correct. I think that is the writ of *habeas corpus* that is envisaged. At the same time I think I should say that the other writs that might be brought into the fold by the use of the mere expression "*habeas corpus*" do not today seem to be of such relevance that in practice any case would likely be swept into the ambit of the section that was not intended. For example, the Criminal Code itself employs simply the expression "*habeas corpus*". It is equally true that the Supreme Court Act uses the words "*habeas corpus ad subjiciendum*" and so does the Administration of Justice Act of the United Kingdom. On the other hand, until some time ago, the Nova Scotia act used only the expression "*habeas corpus*", and that was also true in the case of at least one other province. So while the expression "*habeas corpus ad subjudiciendum*"—

Senator CHOQUETTE: You say it like I do, "*subjudiciendum*". I would like to know what is the abbreviation. You are still pronouncing it "*habeas corpus ad subjudiciendum*" and that is the way I say it. I am embarrassed with my old Latin.

The CHAIRMAN: It is "*subjudiciendum*".

Mr. MACDONALD: "*Subjiciendum*". My whole point on that is that while the correct expression, I believe, is *habeas corpus ad subjiciendum*, it does not appear to me that the use of the simple expression "*habeas corpus*" at this particular time brings into the ambit of the section anything that was not intended to be included.

The second point I should mention is the point about giving the Crown an appeal against the mere issue of a writ as contrasted with the order for the discharge of the prisoner. I am not sure the bill in its present form does give