

Hon. Paul Desruisseaux: Honourable senators, I should like to ask three pertinent interlocking questions on this protocol and the communiqué. My first question is: Are the people of Canada bound in any way by the protocol done in Moscow, May 19, 1971, between Canada and the U.S.S.R.? I believe the honourable Leader of the Government answered that partly a little while ago, but in my opinion it could be elaborated on a little.

My second question is: If not, does the signing of this protocol by the Prime Minister of Canada call for a formal treaty between Canada and the U.S.S.R.?

My third question is: If the people of Canada are bound by this protocol, how admissible is this principle and how can the protocol be binding on the people of Canada without the approval of both houses of the Canadian Parliament?

Hon. Mr. Martin: I think the third question will be answered by replies I give to questions one and two. In fact, as I think Senator Desruisseaux has himself implied, I really have answered question number three in my speech. The communiqué could not in any way be regarded as anything other than an explanation of the protocol. The protocol is not a treaty. It imposes no obligations on the part of either country. It is a declaration of what the parties intend to do. Essentially what it does is to set up a means of providing for regular consultation between the two countries.

With regard to the second question, obviously it does not call for a formal treaty. There has been no indication of any intention, with regard to either the implications of the communiqué or the protocol, that it would be followed by a formal treaty.

Since approximately 1923 the practice in Canada has been that whenever the Government undertakes an international obligation in a treaty, that treaty is brought to Parliament either before the Government makes a commitment or before ratification is undertaken by Canada.

That procedure was not followed here because this is not a treaty. It therefore does not impose obligations other than those of civilized countries in their relations with one another. I think that covers the three questions.

Hon. Mr. Desruisseaux: By way of explanation I looked at the definition of the word "protocol" in *Webster's Dictionary*. The word is defined therein as:

an original draft or record of a document, negotiation, etc.

A second definition is:

a signed document containing record of the points on which agreement has been reached by negotiating parties preliminary to a final treaty or compact.

A further definition is:

the ceremonial forms and courtesies that are established as proper and correct in official intercourse between heads of states and their ministers.

Hon. Mr. Martin: Senator Desruisseaux has referred to a dictionary definition of the word "protocol". The word

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in international practice means essentially an explanation of a position taken by one country in its relations with another.

There have been some treaties which did impose a continuing obligation, and this was done by way of a protocol. It was done, for instance, in the case of Canada accepting additional obligations under the Columbia River Treaty in 1963 and 1964 when Canada negotiated the sale of the downstream benefits in British Columbia. However the word "protocol" has been used in many instances in the way that it was used in this particular situation.

Hon. Mr. Grattan O'Leary: Honourable senators, it was said of Mr. Gladstone that he could make a budget speech sound like a sonnet. Listening to my honourable friend this afternoon, with a great deal of admiration for his skill, I might say he first made this document, this protocol, sound as if it were almost a breakthrough in history, a monumental milestone in our relations with the Soviet Republic and then, when it suited his purpose or his argument, he made it sound like nothing at all. He said it was the sort of thing we had been doing right along, not only in specific matters with the Soviet Union but with other countries as well.

I have read the document carefully and I have heard the explanations of a number of people, including the Secretary of State for External Affairs who, the other day, said that the trip to Russia and its consequences were a breakthrough in history.

Well, I must say that there are some clauses in the protocol, in the document, which make one wonder. But actually most of it is little more than a triumph of generalizations and abstractions, of vast and utter inconsequences—the sort of thing that the Soviet Government now hands out, apparently to any foreign statesman visiting Moscow. They gave one to the Austrians, one to the French, and one to someone else. As a matter of fact, we know that this document, as has been said again and again, was specifically prepared on Soviet initiative and written probably before Mr. Trudeau reached Moscow. It was ready for publication and made public the second day after he arrived in Moscow. However, if the Government regards it as more than what I have described it to be, if it is a breakthrough in history, if it is a new trend in our foreign relations, then why was this protocol not submitted to Parliament, or to this house? I know what my friend's answer is, but I am not going to accept it.

Hon. Mr. Martin: I have not even made it!

Hon. Mr. O'Leary: In support of my claim I shall read a statement made by my friend's once revered leader, the Right Honourable Mackenzie King, in the House of Commons on June 21.

Hon. Mr. McDonald: What year?