

DIMINISHMENT OF MINORITY RIGHTS—GOVERNMENT  
POSITION

**Hon. Allan J. MacEachen (Leader of the Opposition):** Honourable senators, I should like to ask the Leader of the Government whether he would help us understand precisely what the attitude of the Government of Canada is to the solution proposed by the Premier of Quebec. We all understand that the "notwithstanding" clause is available, and the effect of the "notwithstanding" clause in these circumstances is to remove rights from certain citizens which are guaranteed in the Canadian Charter of Rights and Freedoms and the Quebec Charter. I should like to know whether it is acceptable to the Government of Canada and whether it supports the diminishment of rights, through this process, of certain Canadian citizens.

**Hon. Lowell Murray (Leader of the Government, Minister of State for Federal-Provincial Relations and Acting Minister of Communications):** Honourable senators, I suppose Mr. Bourassa would make the argument that the situation of the linguistic minority under the present initiative is better than it was under Bill 101, but that is a matter of opinion. As I indicated earlier, Mr. Bourassa has said that the government had 14 options before it. I do not know what the options were; I did not examine them and, therefore, I am not in a position to judge whether the solution—

**Senator Olson:** Answer the question!

**Senator Perrault:** Very conservative! Waffle, waffle, waffle!

**Senator Murray:** I am not in a position to judge whether the so-called "inside-outside" solution is the appropriate one and whether it is the best one to balance, as the court suggested should be done, the valid objective—

**Senator Perrault:** Disgusting!

**Senator Murray:** —of preserving the "l'usage linguistique" of Quebec with the need to protect freedom of expression and the right of the anglophone minority.

**Senator MacEachen:** It is true that there apparently have been options available to the Government of Quebec. I don't know any more than the Leader of the Government knows about what those options are, but what we do know is that the Government of Quebec chose an option which has the effect of diminishing the rights guaranteed in the Charter to Canadian citizens. That is the option that has been accepted.

What the Leader of the Government is saying on this matter which has electrified the country both in Quebec and elsewhere is that the Government of Canada has no view.

**Senator Perrault:** No view. Future of the country!

**Senator MacEachen:** If the government is saying it does not have any view about this development, then I wish the Leader of the Government would tell us. If there is no view, then fine, we would know that.

**Senator Murray:** Honourable senators, once again I have tried to deal with the matter as fully as I can, and I would invite the attention of the honourable senator and others to the

[Senator Murray.]

statements that were made by the Prime Minister today and yesterday in the House of Commons on this matter. The honourable senator says there is a diminishment of rights. I have told him that the Bourassa government would probably argue that, in terms of those rights, the present measure is an improvement over Bill 101 in its original form, but that, as I said, is a matter of opinion.

The honourable senator should carefully read the unanimous judgment that was brought down by the Supreme Court of Canada on this matter.

**Senator Frith:** Which said their rights were diminished! Exactly!

**Senator Murray:** In that matter they discussed at some length the Canadian Charter of Rights and Freedoms and the Quebec Charter. As the honourable senator knows, in the Canadian Charter there is a limitation permitted on rights in Article 1—

**Senator Frith:** Yes, but they did not fall under Article 1.

**Senator Murray:** —in that the rights are subject to those limitations that can be justified, et cetera, in a free and democratic society. Secondly, there is Article 33, which was accepted by Mr. Trudeau as the price for patriation of the Constitution in 1982.

The Supreme Court went on to state very clearly that ensuring the cultural security of francophone Quebecers was a valid objective and an important objective for Quebec; that it was squarely within their jurisdiction to legislate in this matter. They discussed the guarantees of freedom of expression in the two Charters. They gave some hints as to how the government might effectively balance these two concepts. The Government of Quebec has responded, and, as I say, it responded having studied 14 options beforehand. I am not in a position to comment on the option it chose, not having seen the other 13.

**Senator Frith:** All of that must mean "no view"!

**Senator MacEachen:** That is just an extraordinary comment. The minister responsible for this dossier in Canada, on a development which the Premier of Manitoba has called an impending and developing crisis, is unable to give a view as to whether the action taken by the Quebec government is acceptable or unacceptable to the Government of Canada. "I have no view," says the minister on behalf of the government, "no view at all."

**Senator Perrault:** Sad!

**Senator MacEachen:** I think that is quite extraordinary.

**Senator Perrault:** Tragic!

**Senator MacEachen:** I want him to say how it is that the government has no view when one of his colleagues is quoted in *La Presse* as saying today that the action taken by the Government of Quebec is perfectly justified; in other words, that it is appropriate in these circumstances to diminish the rights of certain Canadian citizens which have been granted to them by the Charter. Now the leader says that the Govern-