

The Special Committee of the Senate on The Clerestory of the Senate Chamber

Evidence

Ottawa, Thursday, April 10, 1975

The Special Committee of the Senate on the Clerestory of the Senate Chamber met this day at 10 a.m. to consider the question of the installation of stained glass windows in the clerestory of the Senate Chamber.

Senator John J. Connolly (*Chairman*) in the Chair.

The Chairman: Honourable senators, we have two witnesses this morning, the Clerk of the Senate and the former Clerk of the Senate. We have decided to call as our first witness Mr. Robert Fortier, the Clerk of the Senate, but if the former Clerk, Mr. John F. MacNeill, would be good enough to come forward also, everyone will be able to get a good look at him and Mr. Fortier and I will have someone to lean on when we need some advice. In due time we will welcome Mr. MacNeill, but at the moment I thank the Clerk of the Senate for coming. We are looking forward to having him clarify some of the questions raised at our organization meeting.

By way of introduction, since this is the first meeting of the committee that is being reported, I should say that for such a committee as this we shall have to improvise and innovate. We may have to do that on a catch as catch can basis, because of the number of major committees of the Senate which seem to be sitting steadily these days. Therefore, I will call meetings as I see opportunities. Sometimes they may be at irregular times—I mean, afternoon meetings, perhaps meetings on Tuesdays if the Senate is sitting on Tuesday evenings. I will consult with the members of the committee before I do that.

A project was envisioned to install stained glass windows in the Senate chamber. Our first problem was to find out whether the Senate had in fact any authority to deal with this matter, and what other authority there was here with respect to the calling of tenders, the letting of contracts, the type of person who should do it, the kind of installation that should be made, and the method of payment.

Before we really go into the question of what is to be done, therefore, we want to know, logically, what authority the Senate itself has to deal with this kind of question within the precincts of the chamber. For that reason, we thought the official authority is the Clerk of the Senate, who is ultimately responsible for the administration of the affairs of the Senate, both when the Senate is sitting and when it is not. We welcome Mr. Fortier to talk to us about this problem.

Mr. Robert Fortier, O.C., Clerk of the Senate and Clerk of the Parliaments: Thank you, Mr. Chairman.

Honourable senators, I will try to convey to you what I have found by way of authority for the work to be performed or for whatever is decided upon for the precincts of

the Senate. I have found some precedents. I shall also say a word or two on the contractual side of the project. Finally, I have obtained some information on the work that was done in the House of Commons, showing how it was done and its ultimate cost.

As far as the authority of the Senate is concerned, several questions come to mind as to what authority the Speaker, or the Clerk, or Black Rod, or the Senate itself might have.

Insofar as the Speaker is concerned, no authority is provided either in the statute or in the Rules of the Senate. The only statute applicable to the Speaker is Chapter S-14, of the Revised Statutes of Canada, 1970 which deals only with absences of the Speaker from the Senate and the appointment of an Acting Speaker. In regard to the Clerk of the Senate it is the same thing: no authority is provided insofar as the precincts of the Senate are concerned.

As the chairman has indicated, the Clerk only has some administrative authority. The only statute referring to the Clerk of the Senate is the Publication of Statutes Act, which gives the Clerk legal authority to certify acts of Parliament and to be the custodian of the acts of Parliament.

Black Rod has no authority insofar as the precincts of the Senate are concerned. The only reference to Black Rod is found in the Rules of the Senate, where, if a senator goes to the House of Commons to appear before a committee thereof, without having been duly authorized by the Senate, Black Rod has the authority to take that senator into custody.

The Chairman: That is interesting. Where would he detain the senator?

Mr. Fortier: Yes, it is interesting. I have not found any jail in the building yet! The Senate has complete authority over the precincts of the chamber, and it can delegate this authority to a committee. It has not delegated any authority to the Speaker, to the Clerk or to Black Rod, so the authority remains with the Senate.

The Chairman: How does that arise? What is the authority for that? Is it the Senate? Is it the rules of the Senate?

Mr. Fortier: It is the precedents. The rules do not deal with it. There is no written rule that authorizes the Senate to approve structural changes to the chamber. There are the six precedents that I have found. The Senate has decided, and has approved recommendations, to make certain changes in the Senate chamber. I may be wrong, but I did not find any written authority. It is just a tradition and a precedent, that the Senate has authority over the precincts of the Senate and over everything that has to do with the Senate itself.