

On motion of Senator Bielish, bill referred to the Standing Senate Committee on Transport and Communications.

Hon. Finlay MacDonald: Honourable senators, I should like to thank Senator Fairbairn and Senator Argue for their cooperation. As has been explained, there is some urgency in getting this bill into committee; since the notices will not be going out until another hour or so, I wish to make it known to all those interested that the committee will meet tomorrow at 9.30 a.m. in room 250, East Block.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

THIRTEENTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the thirteenth report of the Standing Senate Committee on Social Affairs, Science and Technology (supplementary budget re examination of Veterans Affairs Votes) presented in the Senate on February 20, 1990.—(*Honourable Senator Marsden*).

Hon. Lorna Marsden: Honourable senators, I move the adoption of this report.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

MEECH LAKE CONSTITUTIONAL ACCORD AND CANADIAN CHARTER OF RIGHTS AND FREEDOMS

DEBATE CONTINUED

On the Order:

Resuming the debate on the inquiry of the Honourable Senator Beaudoin calling the attention of the Senate to the Meech Lake Constitutional Accord and to the *Canadian Charter of Rights and Freedoms*.—(*Honourable Senator Everett*).

Hon. Douglas D. Everett: Honourable senators, I enter this debate on Meech Lake with some considerable trepidation. It is a subject that has been commented on by every constitutional expert in the country. While I did take constitutional law from the Honourable Bora Laskin, I am afraid I did not do terribly well in the exams. I am not sure that he would endorse any views I might have, recalling his predilection for centralization.

Honourable senators, I believe that it is possible for us to live with Meech Lake, but I think that that will require Senate reform before it will happen or can happen. It has been said that this cannot be done because Quebec will not discuss the issue of Senate reform until Meech Lake has been passed. Senator Murray has said that Senate reform is not the key to Meech Lake; that, indeed, Meech Lake is a good deal more complicated than that.

The other day Mr. Mazankowski said that if there were a willingness on the part of both Mr. Bourassa and Mr. Peterson to make an accommodation towards an elected Senate, this

would draw a lot of western and Atlantic provinces on side. With that I agree, and I would argue that an accommodation towards Senate reform should take place before Meech Lake is passed, for I think it will make Meech Lake work better and it will make Meech Lake a great deal more saleable, certainly in the West and, I believe, in the Maritimes.

I would like to deal briefly with the salient clauses of the Meech Lake agreement. First, we have the Canada clause which establishes the principle of duality. I personally prefer bilingualism. On the other hand, if we are to have bilingualism, Quebec's confidence in the continuance of the good will of the rest of Canada is essential. The road can go either way. It can result in no Meech Lake and Quebec perhaps leaving Confederation or we can accommodate Quebec, in which case there is a gamble that Quebec will use clauses like the "distinct society" clause and the duality clause for its own benefit or for a sort of quasi-sovereignty. That would be regrettable, but, nonetheless, I think that the gamble is worth taking to show Quebec that it can have confidence in the rest of Canada, and hopefully that will result in a more bilingual nation.

The other part of the Canada clause is the "distinct society" clause. That clause recognizes the reality of Quebec based on the fact of an overwhelming French population and an adherence to the Civil Code instead of the common law—both matters that the courts have recognized since Confederation.

In 1867 we enshrined the division of powers and the distinctiveness of Quebec. In 1982 we affirmed the bilingual nature of Canada. The "distinct society" clause gives no new powers to Quebec. It is an interpretative clause. Quebec can use its existing powers, and only its existing powers, differently under the "distinct society" clause from the remainder of Canada. Also, in interpreting those actions the court must balance the Charter of Rights with the promotion of Quebec's distinct identity, based on duality and the concept of a distinct society. This does not override the Charter. In fact, the Charter already contains interpretative clauses—for example, the clause that states "there shall be the preservation and enrichment of the multicultural heritage of Canada" and "that there will be respect for the rights of the aboriginal peoples."

There is no reduction under the Canada clause of the powers of the federal government or any province. That clause makes it clear that it is acceptable for Quebec to promote its unique identity as long as it does not do so in a manner that gives weight to other interests protected by the Constitution.

To quote Senator Murray:

They have asked only that the Charter be interpreted in the light of the reality of Canada's linguistic duality and of Quebec's distinctiveness, as it is now interpreted in the light of Canada's multicultural heritage and in the light of aboriginal rights.

● (1440)

The next clause we come to is the rights protection clause, or what is referred to as the nonderogation clause. It states that the Charter of Rights will be interpreted consistent with