

very eloquently by Mr. Justice Dickson, who said that there seems to be a conflict with the basic notions of equality before the law. That is the real point here. Mr. Justice Dickson went on to say that that is the current state of affairs and that the court is not entitled to question the basic concept of crown immunity. In reading the dissenting judgment of Madam Justice Wilson, honourable senators will see that she pinpoints the issue more directly and expresses the very firm opinion that to rule as the court has done gives carte blanche to crown corporations to do what they like. Of course, they are not likely to do what they like in any broad or significant sense; the fact is that these two corporations have done something which is certainly questionable. The fact that they can avoid judicial examination seems to Mr. Justice Dickson to run against the principle of equality before the law. I think he is right.

Senator Austin: Honourable senators, I hope this will be my last word on this subject. I agree with Senator Roblin that it is appropriate to ask the question with respect to the policy of the application of crown immunity in regard to activities of a commercial nature. It is not a question of law which I understand the honourable senator to be putting to this chamber. I understand his question to be with respect to policy. It is not my purpose at this moment to deal with either the question of law or the question of policy. However, on those questions I will pursue the information which Senator Roblin seeks.

Senator Roblin: Thank you. I wish to make it clear that I am not interested in the minister's opinion with respect to questions of law. No doubt his opinion is valuable. That is not my point; I am interested in the government's policy.

● (2120)

WRONGFUL IMPRISONMENT—CIVIL LIABILITY

Hon. Robert Muir: Honourable senators, I should like to pose a question to the Deputy Leader of the Government in the Senate. He will recall that I previously raised in this chamber a question regarding Donald Marshall, a young Micmac Indian from Nova Scotia who spent 11 years of his life incarcerated in Dorchester Penitentiary for a crime which the courts now say he did not commit.

I was pleased to hear that some progress had been made by the Leader of the Government in the Senate as a result of his surgery. However, it was to him that I posed the original question regarding this matter and I have been awaiting a response.

The federal Minister of Justice has made a statement regarding this case, as has the Minister of Indian Affairs and Northern Development. I am aware that, even if the Deputy Leader of the Government were a member of the cabinet, he could not divulge what is discussed there; but perhaps he could find out, through discussion with these two departments, whether any consideration is being given to compensating Mr. Marshall for the years he spent in jail for a crime he did not commit. Could he also find out whether consideration is being given to looking after this man's legal fees and whether there

are any discussions going on between the federal Minister of Justice and the Attorney General of the Province of Nova Scotia regarding the whole subject?

Hon. Royce Frith (Acting Leader of the Government): Honourable senators, I think it is quite proper for Senator Muir to ask me to find out if the subject is under consideration. It is also reasonable for him to ask whether any discussions are taking place between the federal Minister of Justice and his provincial counterpart, and I shall try to obtain that information.

COMMITTEE OF SELECTION

FIRST REPORT ADOPTED

The Senate proceeded to consideration of the First Report of the Committee of Selection, which was presented earlier today.

Hon. William J. Petten: Honourable senators, I move, seconded by the Honourable Senator Bonnell, that the report be now adopted.

Hon. Duff Roblin (Acting Leader of the Opposition): Honourable senators, I believe this is the motion on the Speaker *pro tem*. One of the senators asked for an explanation on this matter and my honourable friend, Senator Petten, promised to favour us with one.

Senator Petten: Honourable senators, representatives of the leadership of both sides of the chamber met, and decided that the appointment of Speaker *pro tem* would be in order. Senator Molgat was approached; he agreed to serve, and it is my understanding that this is what we are now voting on.

However, the acting leader, Senator Frith, attended those meetings and I did not, and perhaps he would like to add something to what I have already said.

Hon. Royce Frith (Acting Leader of the Government): I would like to remind honourable senators that some time ago our previous Speaker, Senator Marchand, asked that we consider the appointment of a Speaker *pro tem*. The idea was discussed by Senator Flynn, Senator Olson and me and the matter was then referred to the Committee on Standing Rules and Orders and was the subject of considerable discussion and debate in that committee.

The committee decided to recommend that the rules be changed to provide for a Speaker *pro tem* to act in the absence of the Speaker. However, payment for the position would require an amendment to the legislation and the decision of the committee was that, when it made its report, it would not recommend that the legislation be amended at this time but that the position be set up and that the rules be amended accordingly.

That report was adopted by the Senate, and the rules were changed accordingly with the proviso that the provision was not to take effect until the new session.