

THE SENATE

Wednesday, May 14, 1952

The Senate met at 3 p.m., the Speaker in the Chair.

Prayers and routine proceedings.

PRIVATE BILL REPORT OF COMMITTEE

Hon. A. K. Hugessen presented the report of the Standing Committee on Miscellaneous Communications on Bill R-6, an Act respecting The Burrard Inlet Tunnel and Bridge Company.

He said: Honourable senators, the committee have, in obedience to the order of reference of May 6, 1952, examined the said bill, and now beg leave to report the same without any amendment.

PRIVATE BILL REPORT OF COMMITTEE

Hon. Paul H. Bouffard presented the report of the Standing Committee on Miscellaneous Private Bills on Bill E-7, an Act respecting The Sisters of Charity of the House of Providence.

He said: Honourable senators, the committee have, in obedience to the order of reference of May 8, 1952, examined the said bill, and now beg leave to report the same without any amendment.

PRIVATE BILL REPORT OF COMMITTEE

Hon. Paul H. Bouffard, Chairman of the Standing Committee on Miscellaneous Private Bills, presented the report of the committee on Bill G-7, an Act respecting a certain patent application of the Garrett Corporation.

He said: Honourable senators, the committee have, in obedience to the order of reference of May 8, 1952, examined the said bill and now beg leave to report the same without any amendment.

PRIVATE BILL FIRST READING

Hon. J. G. Fogo moved the first reading of Bill I-8, an Act to incorporate The National Dental Examining Board of Canada.

The bill was read the first time.

→ CRIMINAL CODE BILL SECOND READING

On the Order:

Resuming the adjourned debate on the motion for the second reading of Bill H-8, an Act respecting the Criminal Law.

55708--16½

Hon. Mr. Robertson: Honourable senators will recall that yesterday I suggested that the deputy whip might adjourn the debate in order to provide an opportunity for any honourable member who might wish to speak to this motion.

Hon. Arthur W. Roebuck: Honourable senators, I was unable to be present yesterday, and naturally might be expected to be heard from in a matter of this kind. Therefore, in the first instance, I thank the honourable leader for having held the debate open until I could say a few words, notwithstanding that there seems at this time very little to be said.

The bill comes to us at a very late hour, for it is a very large bill, and, did anybody imagine that our giving it second reading would be taken as approval of the bill, I should strongly object. But I do not so understand the procedure. I have had an opportunity of reading what was said by the commissioners in their report, which was distributed to us two or three days ago, but I am sorry that I was not able to hear the remarks made yesterday by the Minister of Justice. However, this morning—though not until twelve o'clock—I obtained in *Hansard* a copy of his speech. The bill itself, which is a document of approximately 300 pages, and which by the way I borrowed from the Clerk, reached my desk at about 12.30 this afternoon. So the opportunity of reading 300 pages has been nil.

I appreciate the statement made here yesterday by the Minister. The point about the bill, as I see it, is that it is not a recasting of the criminal law. The instructions to the commissioners were to revise the expression of the law only. It is not a new criminal law which is being enacted, but only a new enactment of the old criminal law. It is true that you cannot change the phraseology of a section of the Code without changing the meaning to some degree, though not necessarily drastically. And while of course the bill does change the criminal law to some extent, that is not the main purpose of the measure. Its main purpose is to rearrange the Code so as to make it more readily readable or clearly understood. As stated by the Minister here yesterday, the instructions given to the commissioners were to:

- (a) revise ambiguous and unclear provisions;
- (b) adopt uniform language throughout;
- (c) eliminate inconsistencies, legal anomalies or defects;
- (d) rearrange provisions and Parts;
- (e) seek to simplify by omitting and combining provisions;

(f) with the approval of the Statute Revision Commission, omit provisions which should be transferred to other statutes;

(g) endeavour to make the Code exhaustive of the criminal law; and

(h) effect such procedural amendments as are deemed necessary for the speedy and fair enforcement of the criminal law.

Honourable senators will observe that there is no authority given to the commissioners to change the criminal law as such or to provide the Dominion of Canada with a new criminal law. Only the expression of the law is under review. That is a matter of great detail.

Hon. Mr. Nicol: Mr. Speaker, I should like to rise on a point of order. I have asked for a copy of the bill now being discussed and have not received one. I do not know why we allow bills to be discussed in this house before copies have been distributed.

The Hon. the Speaker: I would point out to the honourable senator that it is with the leave of the Senate that the debate is proceeding when only a limited number of copies have been distributed. I understand that the consent of the house given to proceed yesterday continues today.

Hon. Mr. Vien: Mr. Speaker, on the point of order. It is quite correct to say that leave was given to proceed with the debate on second reading yesterday in order to enable the Minister to explain the bill; however, it does not follow that we should continue to debate today without every senator having a copy of the measure before him, as required by the rules of the house. Further, inasmuch as there is a report of the commissioners available, that report also should be in the hands of honourable senators. It is not possible to follow intelligently what is being said in this debate without the measure being before us. I very strongly support the honourable senator's point of order.

On the remarks made by Your Honour, I would suggest that extending the consent of the house to allow the continuation of the debate today would be going beyond our understanding of what happened yesterday when the minister had leave to explain the bill. I do not believe that could be construed as consent to the debate continuing without copies of the bill having been distributed.

The Hon. the Speaker: In answer to the observations of the honourable senator, I may say that leave of the Senate was given, and at first it seemed that second reading would take place yesterday. However at the end of the sitting the honourable leader of the government did not insist on second reading

because he felt that all honourable members should have an opportunity of speaking to the measure. That is why I conclude that the consent of the house given for yesterday is still in effect.

Hon. Mr. Vien: Mr. Speaker, I of course do not want to appeal from Your Honour's decision, but I feel that the honourable leader would be well advised not to insist on proceeding with the debate today, but to allow it to stand until Tuesday next.

Hon. Mr. Roebuck: Honourable senators, let me say that I have no objection at all to suspending what I have to say until later, if the Senate so decrees.

Hon. Mr. Robertson: May I interject a remark at this juncture, lest anything my honourable friend has said as to my insisting on the debate being proceeded with today be misunderstood. That is quite contrary to the fact: I intervened yesterday to prevent the bill from receiving second reading, though all honourable senators present were apparently agreeable to such a step being taken. I said at the outset of the sitting that only twenty copies of the bill were available. I had hoped that by today more copies would be on hand, but I am now advised that they will not reach us until tomorrow morning. Entrusted as I am with the responsibility of the leadership of the house, I am interested in seeing the legislation proceed as rapidly and conveniently as possible, and rather than postpone this measure until next week, when another substantial revision is to come before us, I think we should proceed tomorrow, when the senator from Toronto-Trinity can conclude his remarks. If it is desired that my honourable friend continue at this time, that would be quite acceptable to me. But I think we should proceed with the discussion tomorrow, and Friday if necessary, in order to get the bill into committee as rapidly as possible. Certainly I am not urging that it be dealt with until copies are in the hands of every honourable senator.

Hon. Mr. Haig: Honourable members, I want to support His Honour the Speaker in the stand he takes. The house consented, upon the understanding mentioned, to proceed with debate on the second reading, and that consent will stand until the motion for second reading has been put. Like the honourable government leader (Hon. Mr. Robertson) I am not only willing but delighted that everybody shall have an opportunity to be heard. Of course, as my honourable friend from Bedford (Hon. Mr. Nicol) was not here yesterday, he had no opportunity of knowing the facts.

Hon. Mr. Nicol: I did not ask to be heard. I asked to have a copy of the bill. Without it, should we be expected to agree to second reading?

Hon. Mr. Haig: Unfortunately, my honourable friend was not here. Had he been here he could have objected, but in this house one cannot object *in absentia*. I support the stand of the honourable the Speaker. My understanding is that the consent ran to the second reading, but that after second reading copies of the bill must be in our hands or a new consent will be required.

Hon. T. A. Crerar: Honourable senators, it seems to me that the suggestion of our colleague from Bedford (Hon. Mr. Nicol) is a very reasonable one. We went ahead yesterday with the consideration of second reading for a special reason, namely, that we were told that the Minister of Justice, whom it was desired—quite rightly—should come before us to explain the measure, would not be able to attend later this week. We therefore waived the ordinary requirement that when second reading of a bill is moved copies of the bill should be before us. But I do not think that that agreement was intended to continue indefinitely.

I confess I do not know very much about the Code. I listened yesterday to a very interesting exposition of the legislation. Apparently there is attached to it a memorandum in which the commission entrusted with the revision explains its reasons for the proposals. I think we should have at least some opportunity of looking over that document and the text of the bill before we get into a general discussion. My honourable friend from Toronto-Trinity (Hon. Mr. Roebuck) will, I have no doubt, make a very useful contribution to the debate. Others also may do so. As far as I am concerned I am in complete ignorance, except in a very general way, of what we are talking about; and I would suggest that this discussion be held over until we have had an opportunity of familiarizing ourselves with the bill and the memorandum that accompanies it.

Hon. Mr. Roebuck: As I understand it, the stand—an entirely reasonable one—taken by the honourable senator from Bedford (Hon. Mr. Nicol) is that he is not in a position to even hear a debate until the bill is before him; and in view of what has been said by the honourable member for Churchill (Hon. Mr. Crerar) and by the leader, I move the adjournment of the debate.

The motion was agreed to, and the debate was adjourned.

PRINTING OF COMMISSION'S REPORT

Hon. Mr. Robertson: Honourable senators, as I said before, I have no desire to have the discussion on second reading curtailed or to have it carried on without the fullest facilities. What I said about the availability of copies of the bill tomorrow is in accordance with my best information. If copies are not ready by then, I shall have to act accordingly.

One point has been brought to my attention by the Assistant Clerk. What I said referred to the bill itself. I am advised that no more copies of the report of the Commission are obtainable. Consequently, with leave of the Senate, I move that the Commission's report be printed as an appendix to our *Official Report of Debates*, so that it will be available to anyone who would like to see it.

Hon. Mr. Davis: I assume that the motion of the honourable member from Toronto-Trinity (Hon. Mr. Roebuck) to adjourn the debate will protect him in his right to speak again.

Hon. Mr. Robertson: Yes.

Hon. Mr. Crerar: He adjourned the debate. The motion of Hon. Mr. Robertson was agreed to.

CANADA DAIRY PRODUCTS BILL

SECOND READING

The Senate resumed from Monday, May 12, the adjourned debate on the motion of Hon. Mr. Euler for the second reading of Bill B, an Act to amend the Canada Dairy Products Act.

Hon. Wishart McL. Robertson: Honourable senators, on several occasions I have moved the adjournment of this very interesting debate, chiefly for the reason that, aside from any opinions of my own, it is my duty to reflect as far as possible the views of my colleagues in the government. The question raised is an important one, because it involves legislation which I introduced in the first session of last year.

I communicated to my colleagues the interest which has been aroused in this matter, and took occasion to emphasize my feeling of inability to deal with the great variety of questions raised both as to matters of policy and to legal aspects, as fully and satisfactorily as the house might reasonably expect. This handicap is not a new one so far as I am concerned, and I do not doubt that it will be evidenced from time to time in future. Although at times I have called upon some