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(HANSARD)

Wednesday, April 28, 2004

THE HONOURABLE LUCIE PÉPIN
SPEAKER *PRO TEMPORE*

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THE SENATE

Wednesday, April 28, 2004

The Senate met at 1:30 p.m., the Hon. the Speaker *pro tempore* in the Chair.

Prayers.

SENATORS' STATEMENTS

CURLING

WORLD CHAMPIONSHIPS IN GAVLE, SWEDEN—
CONGRATULATIONS TO WOMEN'S
GOLD MEDAL AND MEN'S BRONZE MEDAL WINNERS

Hon. B. Alasdair Graham: Honourable senators, we are at the time of year when Canadians are either focused, distracted, elated or frustrated as winter sports head to their inevitable and hopefully exciting playoff showdowns.

Against this background, one team stands out above all the rest. Tonight, the Mayflower Curling Club in Halifax will honour Colleen Jones and her world champion women's curling team made up of Kim Kelly, Mary-Anne Arsenault and Nancy Delahunt. These women are among Canada's greatest athletes and finest ambassadors.

Anyone who had the opportunity to watch the final from Gavle, Sweden last weekend could not help but be greatly moved as the Red Maple Leaf flag was raised, and the skip and her mates proudly sang our national anthem with tears of justifiable emotion streaming down the cheeks of these proud Canadians.

Colleen's "Hurry, Hurry, Hurry, Hard!" has resonated around the world.

On a personal note, on the weekends when I watch my grandchildren play hockey in the rinks of Halifax, I see and perhaps more often hear Colleen shake the rafters with her cries of, "Holy moly, what a goalie!" This, of course, is when she is cheering for her 10-year-old son Luke, who happens to be the star goaltender for the Atom Hawks, a team on which my grandson Andrew Nolan Graham happens to be a valued centre and right winger. Colleen is not only a great broadcaster and world-renowned curler, she is also a model mom.

One could not mention curling without recognizing as well the outstanding achievement of another Mayflower team of skip Mark Dacey, Bruce Lohnes, Bob Harris and Andrew Gibson who captured the men's bronze medal at the same world tournament in Sweden.

I know all honourable senators would want to join with me in congratulating and extending best wishes to the winning team and everyone associated with curling at the Mayflower in Halifax.

SOUTH AFRICA

2004 NATIONAL ELECTION

Hon. Donald H. Oliver: Honourable senators, 10 years ago today I was in South Africa. I was honoured and privileged to participate in the first democratic elections ever in the Republic of South Africa. I spent some two weeks in South Africa as a United Nations observer, and I watched with awe as tens of thousands of black South Africans lined up, many of them for days, to cast their first ever vote for the man who was to them the embodiment of everything right and just, Mr. Nelson Mandela.

The most recent South African election ended officially on Saturday when the Independent Electoral Commission, the IEC, declared that the polls were free and fair, and the African National Congress, the Mandela party, won 279 seats in the National Parliament. It was an open and free election, virtually without a fault.

Honourable senators, the South Africans are an incredible people. As one writer said, South Africans, the extraordinary people that they are, have made great strides in political maturity over the last 10 years. This was manifested in the counting and the exercise of the franchise. The third democratic national elections of the republic have come and gone without a major glitch. One commentator said:

> Although we are a developing nation, we have come of age as far as election management is concerned. The advancement in technology in our country coupled with the level of skill in the organization has improved our efficiency considerably. Whereas in 1999 we announced the results on the sixth day after the elections, this time around we captured, audited and are announcing results three days after the elections.

Honourable senators should know that in the run-up to the elections of this month in South Africa, observers saw robust competition among political parties during the campaigning, and the campaigns were issue driven. Most of the parties were no longer relying on the roles they had played during the anti-apartheid struggle years. In other words, they were not liberation elections as was the case when I was there in 1994.

Honourable senators, this is a commendable and remarkable achievement, and it is a day that, as democrats, we should all celebrate with pride. The democratic experiment of an open and free election with a secret ballot works, and it works well in South Africa.

THE LATE GEORGE FERGUSON

Hon. Catherine S. Callbeck: Honourable senators, I rise to pay tribute to a respected and fondly remembered Islander who passed away last week, George Ferguson of Murray River. A war veteran and small businessman, George represented the District of Fifth Kings in the provincial legislature for four terms, from

1960 to 1974. He served with distinction as Minister of Highways during his final two terms in office, from 1966 until his retirement from politics in 1974. George left a legacy of respect and affection on both sides of the legislative assembly.

He was renowned for his kindness and understanding and for doing his best to serve and support every voter in his constituency, regardless of political affiliation. Newly elected MLAs could always turn to George for advice and support. He was a mentor long before the term became fashionable. In short, during his long and distinguished career in politics, he exemplified everything that is finest about those who serve in an elected office.

I extend my sympathy to his widow, Dorothy, to his children, Dennis, Fergie and Paul, and to the other members of his family.

• (1340)

ROUTINE PROCEEDINGS

CHILD-DIRECTED ADVERTISING

NOTICE OF INQUIRY

Hon. Mira Spivak: Honourable senators, I give notice that, on Tuesday, May 4, 2004, I shall call the attention of the Senate to the need for government intervention to curb child-directed advertising that encourages poor nutrition and physical inactivity.

OFFICIAL LANGUAGES

BILINGUAL STATUS OF CITY OF OTTAWA— PRESENTATION OF PETITION

Hon. Francis William Mahovlich: Honourable senators, pursuant to rule 4(h) of the *Rules of the Senate*, I have the honour to table petitions signed by 25 people asking that Ottawa, the capital of Canada, be declared a bilingual city and the reflection of the country's linguistic duality.

The petitioners pray and request that Parliament consider the following:

> That the Canadian Constitution provides that French and English are the two official languages of our country and have equality of status and equal rights and privileges as to their use in all institutions of the government of Canada;
>
> That section 16 of the Constitution Act, 1867 designates the city of Ottawa as the seat of the government of Canada;
>
> That citizens have the right in the national capital to have access to the services provided by all institutions of the government of Canada in the official language of their choice, namely English or French;
>
> That Ottawa, the capital of Canada, has a duty to reflect the linguistic duality at the heart of our collective identity and characteristic of the very nature of our country.
>
> Therefore, your petitioners ask Parliament to confirm in the Constitution of Canada that Ottawa, the capital of Canada, is officially bilingual, pursuant to section 16 of the Constitution Act, from 1867 to 1982.

QUESTION PERIOD

HEALTH

FIRST MINISTERS' ACCORD ON HEALTH CARE RENEWAL— ENDORSEMENT BY GOVERNMENT

Hon. Marjory LeBreton: Honourable senators, the Minister of Health, Pierre Pettigrew, gave a speech on health care reform last week that focused on the subject of medical waiting lists.

One of the recommendations in his speech was that governments should publish data on their performance in meeting targets for appropriate waiting times. However, the minister's speech did not include any endorsement of the 2003 First Ministers' Accord on Health Care Renewal, which directed the provinces to develop performance indicators, including those to measure timely access to services, health care providers and diagnostic tests.

Would the Leader of the Government in the Senate tell us why his government has yet to endorse last year's health accord?

Hon. Jack Austin (Leader of the Government): Honourable senators, Senator LeBreton is asking me a series of questions with respect to the federal-provincial negotiations on health care and the terms on which the federal government is prepared to provide additional funding. These terms deal with accountability and transparency.

As the honourable senator knows, the Prime Minister and the premiers have planned a meeting — I believe the date is tentatively set for July 28 to 30 — to deal with health care and other issues.

As for the details of that process, I have consistently said that these negotiations are going on at several levels. That is the only reply I can provide to the honourable senator at the moment.

HOSPITAL WAITING PERIODS— COMMENTS BY MINISTER

Hon. Marjory LeBreton: Honourable senators, in his speech last week, the minister said that some of the fears Canadians have in regard to waiting times have:

> ... grown out of misinformation and exaggerated anecdotes that have become urban legends about the health system.

While the minister went on to say that some of these fears are legitimate, it is troublesome that he would use the words "minor" or "trivial" to characterize the genuine concern that Canadians have over long waiting times.

Would the Leader of the Government in the Senate tell us what misinformation regarding lengthy waiting times the minister was referring to in his speech, and, in his capacity as a cabinet colleague, would he ask Mr. Pettigrew to refrain from doing so in the future?

Hon. Jack Austin (Leader of the Government): Honourable senators, it is abundantly obvious that the subject of waiting times is a critical issue for Canadains with respect to health care.

Our own committee on Social Affairs, Science and Technology, chaired by Senator Kirby, of which Senator LeBreton is the deputy chair, pointed to this issue as the one that needed to be dealt with as the highest priority. The government has accepted that recommendation and is working to establish criteria for waiting times and the consequences for provinces for not meeting those criteria.

The discussions between the federal government and the provinces must be based on facts, as Senator LeBreton suggests, rather than on advocacy by various interest groups in the health industry. Work is going on, as the honourable senator well knows, to establish the waiting times in a variety of medical treatment programs.

Waiting times vary from province to province. The issue is greater relative to certain types of medical treatment — treatment for cancer in one province and hip replacement surgery in another.

The administration of health care is the responsibility of the provinces. However, the federal government, in using the power of the chequebook, has a responsibility to Canadians — I know the honourable senator agrees with this — to get value for money and to see measurable results from the contribution of new funds.

HUMAN RESOURCES DEVELOPMENT

COST OF POST SECONDARY EDUCATION— STUDENT DEBT

Hon. Ethel Cochrane: Honourable senators, a report released from Statistics Canada on Monday shed more light on the serious debt load problems facing our post-secondary graduates. The report found that the average student debt load has gone up 76 per cent since 1990.

The average debt load for a bachelor's degree graduate is $20,000, while a graduate with a college degree must repay $13,000. Statistics Canada also reports that almost one half of all graduates in the year 2000 owed money.

Ian Boyko, the Chairman of the Canadian Federation of Students, said that these statistics show that we are putting an entire generation in debt, or at least the poor half of it.

My question is for the Leader of the Government in the Senate. In conjunction with the provinces, what will this government do to address this serious problem of student debt?

Hon. Jack Austin (Leader of the Government): Honourable senators, this question was asked in Question Period within the last three weeks by the honourable senator, and I provided an answer at that time.

• (1350)

The government recognized the problem of increasing costs of post-secondary education in the budget speech by the Minister of Finance on March 23, 2004. He announced various measures, including the raising of debt limits under the Canada Student Loans Program, the provision of a bond program and a number of other measures designed to address the question of students and post-secondary debt.

I am most interested in knowing whether the honourable senator has a suggestion to make as to what steps the government could take within the fiscal framework that would be of greater assistance.

Senator Cochrane: Honourable senators, I thank the honourable senator for his suggestion. Since the leader has asked for my suggestions, I will probably put those in writing.

I would draw attention to a news release issued by Statistics Canada to demonstrate the importance I attach to this matter. I continue to ask these questions in the hope that some action will be taken.

The recent federal budget did nothing to address the problem of student debt by raising loan limits. Instead, it should be tackling rising tuition fees or providing even more grants. This government has helped to make the situation worse, in my view. The federal government must work with the provinces to lower tuition costs and provide grants to students, especially those from low-income families.

Will the federal government commit more funds to specifically address those two areas: tuition costs and student grants?

Senator Austin: Honourable senators, I look forward to receiving the honourable senator's written proposals. She well knows that the question is quite complex as it relates to additional direct grants to students. There is a triangle of responsibility, which is the student for his or her education, the province to provide that education at a quality level and affordable cost, and the federal government to direct funds to assist in education. That triangle of responsibility must be measured over and over again in a balanced way.

The federal government has put an enormous amount of funds into the education file. Billions of dollars have been transferred to universities for research and postgraduate work, to develop centres of excellence and to fund chairs. This has allowed the provinces and the universities to change budgets in order that they can make the funds that they were investing in these areas available at the undergraduate level to some extent.

However, the provinces must take this decision because universities are provincially owned. That is the Canadian system in the large. We bring enormous pressures on the provinces to meet their responsibilities.

I am open to receiving specific proposals and I would be most interested to know whether those proposals and the additional spending advocated are a policy of the party of the honourable senator or a personal view.

CITIZENSHIP AND IMMIGRATION

NEW IMMIGRATION CONSULTANT REGULATIONS

Hon. Donald H. Oliver: Honourable senators, my question is to the Leader of the Government in the Senate, and it deals with the new immigration consultant regulations.

Honourable senators will recall that the federal government brought forward regulations that deal with immigration consultants. When these new regulations were introduced last fall, I asked the former Leader of the Government in the Senate a question concerning how potential immigrants in foreign countries will learn about these new rules. I think it is important to restate information in that regard now that the rules are in place. If potential immigrants are not aware of the changes, they may continue to be cheated out of money and receive bad advice from fraudulent immigration consultants.

Have our embassies and our high commissions around the world been informed as to how to let potential immigrants know about these new regulations?

Hon. Jack Austin (Leader of the Government): Honourable senators, I do not have personal knowledge to answer the question, but I would be astonished if our immigration officers abroad were not up to speed with the new regulations and if they were not authorized to provide that new information to potential immigrants.

It is clear, honourable senators, that we have not met our immigration targets. We seek to invite people who would like to come to Canada to do so within the criteria for immigration that have been set.

As far as I know, we are very active in responding to applications for immigration. I hope that these people are given adequate information.

Senator Oliver: Honourable senators, as a supplementary question, under the new regulations, a special fund will be created to compensate people who have been victimized by fraudulent consultants. Unfortunately, there are already many instances of immigrants who have lost money, sometimes substantial amounts of money, or had their cases mishandled through the misconduct of consultants they trusted and thought would act on their behalf.

Could the Leader of the Government in the Senate tell us if people who were so victimized before the new regulations were put into place will have access to compensation through this fund, and if not, what recourse will they have? In other words, will the compensation provision be retroactive?

Senator Austin: I thank the honourable senator for his question. I will make inquiries in an endeavour to provide an answer shortly.

PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

CYBER ATTACKS

Hon. J. Michael Forrestall: Honourable senators, my question is for the Leader of the Government in the Senate.

In a recently revealed report written last September or October, CSIS warned that last summer's blackout could be a harbinger of what might happen were terrorists to conduct, in any serious way, cyber attacks on Canada. Such attacks would, we have learned, cause cascading blackouts in communications, transportation, water systems, banking operations and who knows what else.

The new national security policy announced yesterday is filled with platitudes on strengthening the government's ability to defend against and prevent cyber attacks, but few, if any, concrete measures are mentioned.

What has the government done since the CSIS report was issued late last summer to address the concerns of CSIS regarding cyber attacks? How much better are we prepared to deal with such an attack, as it has been three or four years since the notion was new? In other words, what specific steps, if any, has the government taken so far, and what does it intend to do to guard against recurrences that would flow from cyber attacks?

Hon. Jack Austin (Leader of the Government): Honourable senators, we have, as of yesterday, announced a national security policy that is many-faceted. I cannot expect the honourable senator to endorse the policy because of partisan issues. However, yesterday in Question Period I suggested that Canada's national security would be enhanced if there could be a bipartisan approach to national security. That idea, apparently, is falling on very flinty ground.

• (1400)

Senator Forrestall: That is almost indecent!

Senator Austin: With respect to a cyber policy, honourable senators will know that a joint study was undertaken between Canada and the United States regarding the cause of the blackout last summer. That blackout was determined to have originated in Ohio with FirstEnergy Corp. and its negligence with respect to the transmission-line management.

The important part of the question asks what we are doing to defend ourselves against that type of breakdown or, indeed, if I understand the question, against terrorist attacks on the system. In terms of transmission-line management and the cascade effect, new models have been set up to defend against the cascade part of the damage so that the issue can be isolated to small regions rather than cascade the entire network. I understand that that work is in place.

With respect to terrorist threats to our system of generating and maintaining electric loads, again, a system is in place that will isolate large regions. However, smaller regions may be vulnerable, depending on what is hit. Regardless of how the cyber part of the system is managed, if there is no physical plant, the cyber system cannot save you.

NATIONAL SECURITY POLICY—
CYBER-SECURITY TASK FORCE

Hon. J. Michael Forrestall: I appreciate that answer very much. The question is not asked out of partisanship. As a result of Minister McLellan's broad, sweeping announcement yesterday, we can now ask these questions without being partisan at all. Minister McLellan tabled in Parliament yesterday a comprehensive statement on national security. In it, she announced the establishment of a high-level national cyber-security task force.

Can the Leader of the Government in the Senate give us any indication of when that task force will be in place, who will head it up and who will be its members?

Honourable senators, the threat is not somewhere off in the wilderness; the threat is real and it is possible. We have seen the value of a threat as an instrument of terrorism. We saw it yesterday on a flight from Halifax to Vancouver. It terrifies people, and the only comfort has to come from the government. Hence, there is nothing partisan about it at all, honourable senators.

Hon. Jack Austin (Leader of the Government): Honourable senators, I find myself in the strange place of not being able to disagree with the honourable senator's supplementary question in any way. The threat is always present. We must be extremely watchful, and we must have systems that can respond.

The national security policy is a major step forward. The government, as you are aware, in various parts of the strategy, is committing a total of $690 million, in addition to the over $8 billion that has been put into Canada's security system since September 11, 2001. However, it is not the money alone; it is what the money can do to bring us to the highest stage of alert.

Senator Forrestall knows as well as anyone here that information is what it is all about. It is being able to anticipate, and anticipating requires information. It requires the collection of information. Much of the focus of the national security policy, as Senator Forrestall knows, is on getting the kind of information that will allow us to make a rapid response, one of anticipation, it is hoped, but, if not, a very rapid response if an event takes place.

I am sure that this chamber will want to study the national security policy. It is, in effect, what the British call a white paper. It is the government's policy, but it is the outline of a policy. There is so much to be done to fill in the specific actions that the government must take.

CANADA-UNITED STATES RELATIONS

OPENING OF BORDER TO BEEF EXPORTS—
VISIT BY PRIME MINISTER

Hon. Gerry St. Germain: Honourable senators, my question to the Leader of the Government in the Senate relates to the Prime Minister's visit with the President of the United States on Friday of this week in Washington. Is the Leader of the Government in the Senate aware of whether the Prime Minister and the President will be discussing a detailed strategy or proposal to eliminate the U.S. trade ban on live Canadian cattle, or is this merely a photo op for the Prime Minister before the call the timing of this upcoming visit is strange. Possibly the minister could explain to the Senate and to Canadians why the meeting was called at this time.

Hon. Jack Austin (Leader of the Government): Honourable senators, I know that Senator St. Germain agrees with me that Canada-U.S. relations are of paramount importance to Canada. The development of an understanding and, hopefully, of a concurrence on issues that irritate the relationship is something that we all want.

It is part of long-standing practice for the President and the Prime Minister, in whatever year or decade, to hold meetings on bilateral relations. There needs to be no explanation, in my view, as to why the President of the United States would meet with the Canadian Prime Minister.

The agenda includes a number of issues of importance to Canada; for example, softwood lumber, BSE, security issues and issues relating to the upcoming G8 meeting, which will take place on June 8 to 10 in Sea Island, Georgia. The President of the United States is the host at that meeting. There are other issues on the agenda, but I do not think that anyone in this chamber would challenge either the importance or the necessity of a bilateral meeting.

Senator St. Germain: Honourable senators, I do not think anyone would question the need for a meeting and the need to deal with the issues that have been so adeptly pointed out by the Leader of the Government in the Senate. However, I would have sooner seen an invitation to the ranch at Crawford, Texas, than to Washington.

I hope the next invitation from the President to a Canadian Prime Minister will be to Stephen Harper, my leader, as opposed to the Prime Minister of the day.

Senator Robichaud: You can start praying now!

Senator Austin: Why would he want to meet the Leader of the Opposition?

Senator St. Germain: I do not intend to start praying, as this is not a praying matter. This is a matter of Canadians making the right choice, and I know they will.

Honourable senators, my supplementary question relates to the beef issue, again. As many of us recall, earlier this month the U.S. Department of Agriculture announced that premium and on-the-bone cuts from Canadian cattle under 30 months of age would be allowed across the border. Unfortunately, this move was stalled by Monday's court decision until a May 11 hearing, at which time presentations will be made for and against the opening of the border to these beef cuts. What measures is the Canadian government taking to ensure that the case for Canadian beef is being effectively communicated in this case, and what precise efforts is the Canadian government engaging in to influence the outcome of this matter? This entails beef from cattle under 30 months.

Senator Austin: Honourable senators, specifically, the U.S. Department of Agriculture is committed to defending its decision in the judicial process. Of course, it has possession of all appropriate facts. I am not sure whether Senator St. Germain is arguing that Canada should ask to appear as an intervenor in that process, but if that is his suggestion, I will certainly send it along to the Department of International Trade for its consideration.

• (1410)

Regarding the general subject of my honourable friend's question, the Prime Minister, the Right Honourable Paul Martin, called all the premiers and territorial leaders to ask for their priorities. My understanding is that a conference call was held in which they were all present and all engaged in a background discussion to prepare the Prime Minister for his meeting with President Bush, which indicates that the Prime Minister's agenda is not only federal in nature but also national.

Senator St. Germain: Honourable senators, we should be doing everything we can. The relationship between Canada and the United States, whoever is the Prime Minister, must improve for the sake of all Canadians.

INTERNATIONAL TRADE

NORTH AMERICAN AGRICULTURE STRATEGY

Hon. Gerry St. Germain: Honourable senators, the government seems to be chasing issue after issue, especially in the area of agriculture. The Honourable Senator Andreychuk showed me a document stating that the export of live hogs to the United States is in question as well.

Is any thought being given to a North American agriculture strategy to coordinate all of these issues? Our cattle go back and forth across the border, and now we have a challenge in the poultry industry. There is a litany of issues in the agriculture sector alone, such as the cross-border shipment of grain. We should work on a North American strategy similar to what Prime Minister Brian Mulroney established under the Canada-U.S. Free Trade Agreement and then under NAFTA. We should focus on an agriculture policy so that we can give our agricultural industry the security and stability it needs to serve the well-being of all Canadians.

Hon. Jack Austin (Leader of the Government): Honourable senators, Senator St. Germain makes an interesting suggestion. Of course, large parts of our agricultural industry fervently wish for total free trade with the United States so that we have an integrated economy in, for example, beef, hogs and grain.

The problem we always face in developing a bilateral integration strategy, as Senator St. Germain knows, is that Canada has a market management system with respect to key products — eggs, dairy products, chickens, turkeys — which is not acceptable to the United States. Unwinding these programs is not acceptable to substantial parts of the Canadian agricultural community. It is difficult to move to total integration.

Disputes over softwood lumber and hogs, as well as the Canadian Wheat Board issue, indicate that there are producers in the United States who would be very resistant to any kind of open market exchange with Canada. The consideration is one that must be balanced to see whether we could make progress.

TREASURY BOARD

APPOINTMENTS TO CROWN CORPORATIONS— PROCESS OF SELECTION

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, my question to the Leader of the Government is based on a statement made by the President of the Treasury Board in March. He said that, henceforth, appointments to Crown corporations, including senior officers and directors, would no longer be unilaterally made by the Prime Minister but would be subjected to a procedure based on merit, which would include asking Crown corporations to establish a nominating committee, the possibility of recruitment through search firms and eventually a parliamentary review of the candidates that the minister or the Prime Minister recommends.

The President of the Treasury Board spoke on March 15, and the Prime Minister himself confirmed that procedure on March 26 when he spoke in Winnipeg. He said, "Last week we completely overhauled the way the government appoints those who lead its Crown corporations," which leads me to believe that the new process is now in place. Could the Leader of the Government in the Senate confirm that?

Hon. Jack Austin (Leader of the Government): Honourable senators, I would need to find out at what stage the policy implementation now sits, but I would be happy to give further information to the Leader of the Opposition shortly.

Senator Lynch-Staunton: Honourable senators, it is either government policy that is implemented or it is not government policy. The importance of this matter is realized by the fact that this year well over 100 appointments to Crown corporations come due, including key ones that have already opened up, such as the chairman of VIA Rail, the CEO of VIA Rail and the CEO of the Business Development Bank. In addition, it is possible that the position of CEO of Canada Post may open up. The first two Crown corporations are being managed by interim appointees, which is not right. Permanent people are needed in those key positions. What is the government doing to fill those positions based on the criteria announced by the President of the Treasury Board and confirmed by the Prime Minister, since the way he worded it is as if those criteria were already in place?

Senator Austin: Honourable senators, I know that Senator Lynch-Staunton wants specific information and not just a general answer that does not provide much more information than the statement he has read. I will do my utmost to bring a more specific answer to him shortly.

BUSINESS DEVELOPMENT BANK

CONFIDENCE IN PRESIDENT OF CHIEF EXECUTIVE OFFICER AND BOARD OF DIRECTORS

Hon. John Lynch-Staunton (Leader of the Opposition): In searching for that answer, will the leader also find out if the directors of the Business Development Bank who supported Mr. Vennat, who was then dismissed by the government, will be reappointed when their terms come due?

Hon. Jack Austin (Leader of the Government): Obviously, honourable senators, that is something for consideration at a future time, and at a future time there will be an answer.

Senator Lynch-Staunton: No, right now.

THE SENATE

TRIBUTE TO DEPARTING PAGES

The Hon. the Speaker *pro tempore***:** Honourable senators, I have the honour of presenting three pages who will be ending their contracts with the Senate.

Alexandra Spiess, from Ottawa, has been a page for the past two years while pursuing her combined honours degree at Carleton University in humanities and English. After completing her degree next year, she hopes to take some time off to travel. She has very much enjoyed her experience in the Senate.

Hon. Senators: Hear, hear!

The Hon. the Speaker *pro tempore***:** Ashley Delaurier, from Tecumseh, Ontario, will be leaving the Senate after two years of service. She will be completing her studies in physiotherapy at the University of Ottawa in order to pursue further studies in medicine. She truly enjoyed her experience at the Senate.

Hon. Senators: Hear, hear!

The Hon. the Speaker *pro tempore***:** Michelle Jones, from Kamloops, British Columbia, is sad to be leaving the Senate after three years service. Now that she has graduated with an honours degree in political science, in September she will be pursuing a joint law degree and master's program at the University of Ottawa and the Norman Paterson School of International Affairs.

Hon. Senators: Hear, hear!

• (1420)

ORDERS OF THE DAY

PUBLIC SAFETY BILL 2002

THIRD READING—
ALLOTMENT OF TIME FOR DEBATE—
NOTICE OF MOTION

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I rise pursuant to rule 39 to inform the chamber that I have had a discussion with my counterpart, the Acting Deputy Leader of the Opposition, about the disposition of Bill C-7.

It has not been possible to reach an agreement concerning the time to be allocated for the third reading stage of this bill. Therefore, pursuant to rule 39, I give notice that, at the next sitting of the Senate, I will move:

> That, pursuant to rule 39, not more than a further six hours of debate be allocated for the consideration of the third reading stage of Bill C-7, An Act to amend certain Acts of Canada, and to enact measures for implementing the Biological and Toxin Weapons Convention, in order to enhance public safety;
>
> That when debate comes to an end or when the time provided for the debate has expired, the Speaker shall interrupt, if required, any proceedings then before the Senate and put forthwith and successively each question necessary to dispose of the third reading stage of the said bill; and
>
> That any recorded vote or votes on the said question shall be taken in accordance with rule 39(4).

Some Hon. Senators: Hear, hear!

Senator St. Germain: So much for the democratic deficit.

CUSTOMS TARIFF

BILL TO AMEND—THIRD READING

On the Order:

> Resuming debate on the motion of the Honourable Senator De Bané, P.C., seconded by the Honourable Senator Gill, for the third reading of Bill C-21, to amend the Customs Tariff.

Hon. Michael A. Meighen: Honourable senators, I welcome the opportunity to speak again and for the last time to Bill C-21.

When I last spoke to this bill, I focused primarily on its development implications. In so doing, I drew attention to the sorry state of the Liberal government's development policy, a policy that fails to allow measures such as those contained in Bill C-21 to flourish. Today, I should like to speak to the trade implications of this bill.

Bill C-21 will extend for another 10 years, until June 30, 2014, both the General Preferential Tariff and the Least Developed Country Tariff. Before talking about these two measures specifically, I think perhaps a little background on Canada's customs tariff regime would be helpful. There are several components to the regime: the Most Favoured Nations Tariff, known as the MFNT; the General Preferential Tariff, known as the GPT; and the Least Developed Country Tariff, known as the LDCT. Those tariffs are applicable to those trading partners with which we do not have formal trade agreements.

Ordinarily, the tariff rate is set at 35 per cent, but through Orders in Council, tariffs can be reduced for specific countries. That reduction will usually depend on our trade relationship with those countries. In the case of the GPT and the LDCT, it will depend on our foreign aid strategy, which is supposed to be designed to help stimulate the economies of many of those countries.

Honourable senators, only a very few countries are subject to the 35 per cent tariff: North Korea is one; Libya, Oman and Albania are the others — four, in total. However, the vast majority of the others are subject either to the GPT or to the LDCT. The GPT applies to some 180 countries around the world. The LDCT applies only to the world's poorest countries — countries such as Burundi, Chad, the Democratic Republic of Congo, Haiti, Laos and others — 48 countries in total.

Then there are those with which we have negotiated a formal trade agreement. This is the fourth category of tariffs. Countries in this category include Mexico and the United States, which, with Canada, are signatories of the North American Free Trade Agreement. Other countries with which we have bilateral trade agreements include Chile, Costa Rica and Israel.

As you might expect, honourable senators, the GPT and the LCDT provide either very low or non-existent tariff rates for those countries that fall into those categories. The reason for Bill C-21, which I remind honourable senators seeks to extend these tariffs for another 10 years, is that if these tariffs are allowed to expire, then those nations benefiting from them would revert to most favoured nation status. They would then be subject to the higher MFN tariff rate.

[*Translation*]

Honourable senators, Canada is an exporting country. The livelihood of most Canadians is dependent on the trade relations that our country maintains with the rest of the world. Last year, Canada exported $457.8 billion in goods and services and imported $409.1 billion.

Close to 40 per cent of the Canadian economy is based on trade. This means that trade and the tariffs that regulate this activity are serious business. This is why a legislative measure such as Bill C-21, which several of us may believe to be rather straightforward on the face of it, was the object of an extended debate in the other place.

No one is opposed to the need to extend tariffs, and certainly not the Conservative Party of Canada. This is why we support the bill. However, as we often say, the devil is in the details.

[*English*]

For instance, while we on this side support this bill, we would like to see international trade regulated under free trade agreements or special agreements with other countries. In that way, everyone benefits — exporters, importers and consumers around the world. Agreements such as these bring a much needed level of certainty and predictability to the international trade regime, a predictability that has been sadly lacking since the collapse of the WTO talks in Cancun.

Another concern on this side of the chamber is that, through Orders in Council, the government sets tariffs on a more or less ad hoc basis. A particular tariff rate is settled upon for a particular country depending on — I will not say whim but depending on how the Department of Finance decides to treat a particular country. That is a concern for us, that officials in Finance can set tariffs without reference to any real process for doing so.

Finally, I should like to talk about a related issue very briefly, an issue that was brought to the fore when this bill received scrutiny by the Banking, Trade and Commerce Committee. That issue is remission orders. These are waivers on import duties that certain industries can apply for if they feel they will be negatively affected by a tariff rate.

For instance, certain textiles — shirts, for example — are subject to remission orders. Remission orders reduce the duties in whole or in part on the imported good, providing the affected industries with transitional assistance to help them remain in business. Remission orders give them time to adjust to the increased competition.

As I understand it — and the government can correct me if I am wrong — the remission orders are due to expire at the end of this year. That expiry, it is felt, will give affected Canadian manufacturers the time necessary to adjust to a more open and freer trading regime. We are not so sure, neither were the witnesses who appeared before the Banking Committee, some of whom appealed to the committee quite vehemently. Their worry is that, when these particular remissions expire, their industries and companies will face a huge problem. This is an important issue, honourable senators, and one that we need to take seriously.

The heart of the matter is that, while it is very important to encourage economic growth in the developing world, we need to approach this in a way that does no harm to our own industries. There may be better ways to do this than remission orders, for instance, free trade agreements in which various tariff issues and remedies are negotiated ahead of time. However, until they are settled upon, we are stuck with the remission remedy.

Let me simply say, in conclusion, honourable senators, that in a rush to improve the lot of those in the developing world — and we should indeed be in a rush to do so — let us not forget those who toil in the Canadian industry.

The Hon. the Speaker *pro tempore***:** Are honourable senators ready for the question?

Some Hon. Senators: Question!

The Hon. the Speaker *pro tempore***:** It was moved by the Honourable Senator De Bané, seconded by the Honourable Senator Gill, that this bill be read the third time.

Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

• (1430)

PUBLIC SAFETY BILL 2002

THIRD READING—MOTION IN AMENDMENT—DEBATE SUSPENDED

On the Order:

> Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Léger, for the third reading of Bill C-7, to amend certain Acts of Canada, and to enact measures for implementing the Biological and Toxin Weapons Convention, in order to enhance public safety,
>
> And on the motion in amendment of the Honourable Senator Nolin, seconded by the Honourable Senator Lynch-Staunton, that the Bill be not now read a third time but that it be amended, on page 103, by adding after line 26 the following:
>
> *''Review and Report*
>
> 111.2 (1) Within three years after this Act receives royal assent, a comprehensive review of the provisions and operation of this Act shall be undertaken by such committee of the Senate, of the House of Commons or of both Houses of Parliament as may be designated or established by the Senate or the House of Commons, or by both Houses of Parliament, as the case may be, for that purpose.
>
> (2) The committee referred to in subsection (1) shall, within a year after a review is undertaken pursuant to that subsection or within such further time as may be authorized by the Senate, the House of Commons or both Houses of Parliament, as the case may be, submit a report on the review to Parliament, including a statement of any changes that the committee recommends.''

Hon. Joseph A. Day: Honourable senators, I rise to speak briefly with respect to Senator Nolin's motion to amend Bill C-7. That motion to amend appears in our Order Paper for today.

I have taken the opportunity to carefully review the proposed amendment. I find it to be very similar to a review clause that appears in the Anti-terrorism Act.

Permit me, first, to thank Honourable Senator Prud'homme for his comments last evening with respect to the amendment, as well as Honourable Senator Banks, who spoke last evening with respect to the amendment following Senator Nolin's comments. I thank Senator Nolin for his insight and the time he spent speaking to this important government bill.

Honourable senators, this review clause was dealt with by the Standing Senate Committee on Transport and Communications, and both ministers who appeared before the committee dealt with the bill. Let me first deal with a question that was posed by Senator Banks during his comments. He asked: What harm would it do to have a review clause like this in the legislation? Honourable senators will appreciate that, from a legal point of view, the greater the number of clauses that appear in legislation, the more opportunity courts have to review and interpret. Unless it is necessary — and if it is necessary, then it should be there — a clause such as this also has an impact with respect to the agenda of Parliament and the government.

The question that really should be put to this chamber and to honourable senators is whether this review clause is necessary. I suggest to honourable senators that it is not necessary. Oversight is certainly an important issue to the government and is very important to the ministers who appeared before us. During my speeches at second and third reading, I discussed the many — and there are many — forms of oversight that appear with respect to different parts of this proposed legislation. I would remind honourable senators that this bill amends 23 different statutes. Thus, oversight with respect to certain statutes will be different from oversight with respect to others.

It is important for us to remember that the Senate, as well as the other place, can conduct a review of any legislation at any time, provided it is within its mandate to do so. If this body gives a mandate to a committee to review legislation, then that committee can review it at any time. The proposed amendment that is before us reads that "within three years" the legislation shall be reviewed, if the Senate decides to give that mandate to a committee.

I would suggest, honourable senators, that this body does not have to wait three years to review this proposed legislation. There are portions of this proposed legislation that, undoubtedly, honourable senators will want to keep a close watch on and will be asking questions about when the Commissioner of the RCMP or the Director of CSIS appear before their committee, or when one of the responsible ministers appears.

That is my first point, honourable senators. We have the mandate now.

Honourable senators, this proposed legislation is necessary. The Deputy Prime Minister said that there are gaps in our safety net to deal with emergency situations. This proposed legislation is urgently needed. That is what the minister told us.

Terrorism and emergencies are not going to go away. Regrettably, the Western world has witnessed many emergency-type situations in the past. The bill before us is designed to deal with the possibility of such events happening again.

I would remind honourable senators that there is parliamentary oversight, in addition to this chamber having authority to give a mandate to its committees to review any of this legislation. Deputy Prime Minister Anne McLellan has proposed the creation of a national security committee of parliamentarians. Senator Kenny is our representative on the planning committee for this new committee. The Deputy Prime Minister pointed out that this committee will be made up of members of this chamber and of the other House who will be sworn in as Privy Councillors. The committee will have authority to review all of the activities not only under this proposed legislation but also under the Anti-terrorism Act and any other incidental legislation.

Honourable senators, the objective of Senator Nolin's proposed amendment is to create parliamentary oversight. I have just reviewed two ways in which parliamentary oversight will exist: first, in the normal inherent right to review legislation; and second, in respect of the national security committee of parliamentarians, which I believe will create new ground vis-à-vis parliamentary oversight.

Honourable senators, in consideration of those two types of parliamentary oversight, and having in mind that the Anti-terrorism Act deals with Criminal Code activities, as opposed to Bill C-7, which is not Criminal Code-oriented — not to mention that the Anti-terrorism Act was enacted very quickly after September 11, whereas this bill has gone through several reiterations — it is my submission that the answer to the question that I posed earlier, that is, whether this proposed amendment is necessary or desirable, is that it is not necessary, nor is it desirable. I would urge honourable senators to vote against the proposed amendment.

Hon. A. Raynell Andreychuk: Honourable senators, I wish to speak briefly to the amendment proposed by Senator Nolin.

Indeed, an oversight in the review process is necessary. I disagree with Senator Day's comments. Yes, we have the right to oversee all legislation. However, I would suggest that one could look at our records to see how often a review has been initiated that has not been mandated in legislation. If this process were so successful, we would not have put into legislation all the oversight clauses we have in the past decade, much of it initiated by senators in this place.

We have seen that that general power to investigate or to review simply has not worked, because of our workload and because once legislation is enacted it seems to fall off our radar or away from our scrutiny.

It was at one point deemed appropriate, and I would submit it is appropriate here, that we have a particular trigger — three years — to review legislation. In fact, I am not so certain that this in itself is as efficient as it should be. I would remind honourable senators that the Anti-terrorism Act will, early this fall, reach its three-year mark. We are coming up to an election, which will be followed by a period of restructuring, regardless of who wins the election, and I predict the three-year period will pass before any review starts. Thus, I believe we do need reminders and triggers in the legislation.

• (1440)

Senator Day has pointed out that Bill C-36 had to do more with criminal legislation. With respect, I think more criminal legislation is dealt with in Bill C-7 than there was in Bill C-36, because the innovative clauses in Bill C-36 were subject to a sunset clause, not to review. This bill encompasses more new issues. We have slowly built in review mechanisms to deal with circumstances where people are apprehended and held without public knowledge. There are no such mechanisms in Bill C-7. As I tried to point out, the interim orders are a new and innovative tool. We do not know how they will be used and we will have no immediate scrutiny with respect to them. We will have only after-the-fact scrutiny.

Senator Austin said that he hoped for bipartisan support for changes to security. Here we are, on Bill C-7, making very reasonable requests for changes and input, and we are served with a notice of time allocation. That is hardly the way to assure me that the government is listening to our concerns. There is nothing built into this proposed legislation to allow for scrutiny.

With regard to the interim orders, as I pointed out, one can go to the courts, but one cannot appeal on the merits. Interim orders are broad, sweeping and much misunderstood, and we have no mechanism to review their appropriateness. We do not even know if they are constitutional.

In my speech yesterday, I did not touch on a matter that is most troubling, that is, the use of emergency measures. These emergency measures do not have to be disclosed to the public. We do not know how they will operate. The Canadian Bar Association said that the word "measure," as opposed to "interim orders" or something else, is not a legal term. "Measure" is used in normal conversation, but it has no meaning in criminal law. This is new.

Honourable senators should be worried that government will be given the tool of emergency measures to act to shut down activities and to intrude in people's lives when we are not even sure what the word "measure" means. We will not even know that emergency measures are being taken because there is no requirement for public accountability.

In light of these and other concerns, citizens should at least be given the assurance that there will be some review. Should the government be given all of the powers provided for in legislation, if that is deemed appropriate, at least we would have the comfort of knowing that the Senate has done its job of checking on the executive to ensure, three years hence, that these powers were necessary and are being used appropriately. If such a review in three years determines that these initiatives truly and significantly enhance our safety and security, I will be the first to support their continuance.

The Hon. the Speaker *pro tempore*: Are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker *pro tempore*: It being 2:45 p.m., pursuant to the order adopted by the Senate on April 27, 2004, I must interrupt the proceedings for the purpose of putting all questions necessary to dispose of third reading of Bill C-250.

Debate suspended.

CRIMINAL CODE

BILL TO AMEND—THIRD READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Joyal, P.C., seconded by the Honourable Senator LaPierre, for the third reading of Bill C-250, to amend the Criminal Code (hate propaganda),
>
> And on the motion in amendment of the Honourable Senator St. Germain, P.C., seconded by the Honourable Senator Stratton, that the bill be not now read a third time but that it be amended, on page 1, in clause 1, by replacing lines 8 and 9 with the following:
>
> "by colour, race, religion, ethnic origin or sex.".

The Hon. the Speaker *pro tempore*: The bell to call in the senators will be sounded for 15 minutes so that the vote will take place at 3 p.m.

Call in the senators.

• (1500)

Motion negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Angus	Meighen
Cochrane	Merchant
Cools	Plamondon
Forrestall	Sibbeston
Kelleher	St. Germain
Lawson	Stratton
Lynch-Staunton	Tkachuk—14

NAYS
THE HONOURABLE SENATORS

Adams	Hubley
Atkins	Jaffer
Austin	Joyal
Bacon	Kenny
Banks	Kirby
Biron	Kroft
Bryden	Lapointe
Callbeck	Lavigne
Carstairs	Léger
Chaput	Losier-Cool
Christensen	Maheu
Cook	Mahovlich
Corbin	Massicotte
Day	Mercer
Doody	Morin
Downe	Munson
Fairbairn	Murray
Ferretti Barth	Pearson
Finnerty	Phalen
Fitzpatrick	Ringuette
Fraser	Robichaud
Furey	Rompkey
Gauthier	Smith
Gill	Spivak
Graham	Stollery
Harb	Watt—53
Hervieux-Payette	

ABSTENTIONS
THE HONOURABLE SENATORS

Andreychuk	Nolin
Johnson	Prud'homme
LeBreton	Rivest—6

The Hon. the Speaker *pro tempore*: Honourable senators, the question is on the main motion of the Honourable Senator Joyal seconded by the Honourable Senator LaPierre, for third reading of Bill C-250, to amend the Criminal Code (hate propaganda).

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

Senator Cools: No, never. It is a bad bill.

The Hon. the Speaker *pro tempore*: Will those in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore*: Will those opposed to the motion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore*: In my opinion, the "yeas" have it.

And two honourable senators having risen:

• (1510)

Motion agreed to on the following division:

YEAS
THE HONOURABLE SENATORS

Adams
Andreychuk
Atkins
Austin
Bacon
Banks
Biron
Bryden
Callbeck
Carstairs
Chaput
Christensen
Cook
Corbin
Day
Doody
Downe
Fairbairn
Ferretti Barth
Finnerty
Fitzpatrick
Fraser
Furey
Gauthier
Gill
Graham
Harb
Hervieux-Payette
Hubley
Jaffer
Johnson
Joyal
Kenny
Kirby
Kroft
Lapointe
Lavigne
LeBreton
Léger
Losier-Cool
Maheu
Mahovlich
Massicotte
Mercer
Morin
Munson
Murray
Nolin
Pearson
Phalen
Prud'homme
Ringuette
Rivest
Robichaud
Rompkey
Smith
Spivak
Stollery
Watt—59

NAYS
THE HONOURABLE SENATORS

Angus
Cochrane
Cools
Forrestall
Lawson
Merchant
Plamondon
Sibbeston
St. Germain
Stratton
Tkachuk—11

ABSTENTIONS
THE HONOURABLE SENATORS

Kelleher
Lynch-Staunton
Meighen—3

Motion agreed to and bill read third time and passed.

[*Translation*]

QUESTION OF PRIVILEGE

SPEAKER'S RULING

The Hon. the Speaker *pro tempore***:** Honourable senators, at 8 p.m., yesterday evening, Senator Cools was recognized to speak on a question of privilege. The senator had given proper written and oral notice earlier in the day as required by rule 43. The object of the question of privilege involved several claims as to the validity of proceedings of last Thursday, April 22 on Bill C-250, An Act to amend the Criminal Code (hate propaganda). These proceedings, according to Senator Cools, were irregular and out of order. As such, they breached the privileges of the senator as well as other senators who were thus deprived of their right to debate. It is the senator's position that the *Rules of the Senate* do not provide any opportunity for any closure or guillotine motion to be moved by a private member or on a private member's bill. In addition, Senator Cools claimed that as Speaker, I had acted improperly to curtail debate on Bill C-250 last Thursday when I recognized one senator over several others who had sought to be recognized.

Other senators expressed themselves with respect to the question of privilege. Senator Lynch-Staunton, the Leader of the Opposition, also challenged the nature of the proceedings of last Thursday. Although he accepted that Senator Murray's motion was in order, Senator Lynch-Staunton decried the fact that the Senate had been deprived of an opportunity to debate that motion through the use of the previous question. As he explained it, the result was that closure was imposed on Bill C-250 without the chance for further debate. Senator St. Germain and Senator Di Nino concurred with the views of Senator Lynch-Staunton and also questioned the right of a member to move closure because of the possible impact it could have on the rights of senators to participate in debate.

[*English*]

Senator Joyal then intervened to challenge some of the arguments that had been presented. The senator disputed the assertion that only a minister could propose a closure or a guillotine motion. He also cited rule 48 to explain how the previous question is permissible under current Senate practice. Shortly thereafter, Senator Austin, the Leader of the Government in the Senate, spoke to the question of privilege stating that the government had played no role in using the rule in the deliberation of Bill C-250. With respect to the possible use of closure on a private member's bill, Senator Austin suggested that the matter was a serious one that deserved the attention of the Standing Committee on Rules, Procedures and the Rights of Parliament.

On the question as to which senator should have been recognized in debate last Thursday, Senator Austin cited rule 33, which provides a mechanism to resolve such a dispute when two or more senators are seeking to participate in debate at the same time.

[*Translation*]

Senator Cools then replied to some of these arguments contesting her position on the question of privilege. The senator rejected Senator Austin's suggestion about the use of rule 33 given what she described as the confused circumstances of last Thursday's proceedings. Senator Cools also dismissed the proposal to have the Rules Committee review the use of closure or the guillotine as it applies to private members' business since it would not be good enough to address the current problem facing the Senate. As to the position taken by Senator Joyal, Senator Cools contended that the fact that a practice is not forbidden in the *Rules of the Senate* does not mean that it is allowed in the context of the grand tradition of Parliament.

It was at this point that I agreed to take this question of privilege raised by Senator Cools under advisement.

[*English*]

I wish to thank honourable senators for their participation in this question of privilege. As you can appreciate, this is a difficult matter for me to address, since my actions as Speaker have been called into question. Nonetheless, I feel duty bound to deal with the issue of the question of privilege raised by Senator Cools. I believe that it is best to do this as expeditiously as possible. To delay a ruling would not serve the interests of the Senate. In the end, however, it will be up to the Senate to determine if my ruling, like my actions in the Chair, meets the standards required of the position.

Senator Cools has rightly reminded the Senate that the role of the Speaker in consideration of a question of privilege is limited to assessing whether there is a prima facie case, that is, whether the subject of the alleged breech is sufficiently serious to warrant further consideration by the Senate. My ruling is not intended to determine whether a breach of privilege has in fact occurred but to assess the nature of the alleged breach. In order to do this properly, I will confine myself to the facts and events of last Thursday and determine whether they were within the rules and practices of the Senate. This would allow me to determine whether a "grave and serious breach" has occurred as required by rule 43(1). If the events of last Thursday were outside our rules and practices, then it would seem to me that a prima facie question of privilege will have been established and Senator Cools would then have the right to move a motion to seek corrective action.

[*Translation*]

Let me begin then with an assessment of the motion of Senator Murray. The intent of the motion was very clear. By its terms, debate on Bill C-250 would be limited and all questions to dispose of the bill would be put at a set time. The motion does not pretend to use rule 39, which allows the government to seek time allocation with respect to an item of government business. Instead, it is a substantive motion, requiring one day's notice under rule 58(1)(i), creating a special order to deal with the disposition of a particular bill. Is such a motion in violation of the rules and practices of the Senate? While there is no doubt that it is unusual, I do not think so. Since the Senate has complete control over the disposition of the motion, it maintained its fundamental privilege to determine its own proceedings.

• (1520)

It did not happen as a result of a decision by the Speaker. Therefore, there is no prima facie question of privilege based on this motion.

A question has been raised with respect to the fact that Senator Joyal was recognized after Senator Murray had moved his motion. It has been argued that, as Speaker, my actions interfered with the rights of other senators who had wanted to speak in debate. This allegation is based, at least in part, on the fact that Senator Joyal moved the previous question. While it is true that other senators did seek to be recognized, Senator Joyal was among them and so I called on him. This was not unwarranted and it is within the rules and practices of the Senate. Senator Joyal was, in fact, the seconder of Senator Murray's motion. Citation 462 of the sixth edition of Beauchesne's at page 137 points out that "the mover and the seconder are recognized first." While it is not usually the case in the Senate for seconders to seek recognition immediately following the mover of a motion, there is no binding prohibition to prevent it. I saw Senator Joyal rising and I called on him to speak in the debate. Did my action constitute a prima facie breach of privilege? I do not think so.

Senator Austin suggested during his intervention, that in any dispute about who should be recognized for the purposes of debate, it is in order to invoke rule 33 to request that a particular senator "be now heard" or "do now speak." Such a question is put without debate or amendment and it allows the Senate itself, not the Speaker, to decide who will speak next in debate. This did not happen last Thursday. Consequently, Senator Joyal properly had the floor. He promptly moved the previous question, which is allowed under rule 48. This rule stipulates that when a question is under debate, it is permissible among other things to move the previous question. There is no restriction on the application of the previous question so long as there is no amendment outstanding to the original question. It can be applied to bills or motions whether sponsored by the government or a senator. Furthermore, rule 48(2) explains that the previous question is debatable and that it has the effect of preventing the introduction of an amendment to the original motion.

If carried, the previous question will immediately terminate debate on the original motion. If defeated, however, the original motion is dropped from the Orders of the Day. The outcome is a decision of the Senate. It is not imposed by the senator who moved the previous question. No senator was improperly deprived of a right to speak in debate, either on the previous question or the motion of Senator Murray since it is perfectly in order to address the motion of Senator Murray while speaking on the previous question moved in relation to it.

As I mentioned, the only limitation was that it would not have been possible to move an amendment to Senator Murray's motion while the previous question was before the Senate.

This is where there seems to have been some confusion about the operation of the previous question. In reviewing the *Debates of the Senate* of April 22, various exchanges among the senators leave the impression that some senators thought that the previous question had completely deprived them of their right to speak in debate. This is my reading of the exchanges that are recorded between Senator Stratton and Senator Robichaud on page 894, before Senator Robichaud explained how the motion of the previous question actually operates, on page 895.

Shortly thereafter, Senator Stratton moved to adjourn the debate on the previous question. This motion was defeated on a recorded division and the sitting of the Senate was then suspended for approximately two hours. When the Senate resumed at 8 p.m., there was debate on the previous question by Senator Stratton. In the course of his brief remarks, he stated that "the previous question forces an immediate vote." He then moved a motion to adjourn the Senate, which was defeated on another recorded division. What follows are several pages of debate on the merits of the previous question as a procedural tactic before the motion was put to the Senate as a question and the vote was deferred until Tuesday, yesterday, at 5:30 p.m.

Do the debates and proceedings of last Thursday afternoon and evening substantiate in any way the finding of a prima facie question of privilege? I do not think so. While there was some misunderstanding about the nature of the previous question, this confusion does not itself invalidate the use of that motion. As I have already mentioned, the *Rules of the Senate* specifically allow for it without regard to the nature of the motion to which it can be applied. More important, perhaps, the rules do not restrict how soon it can be applied; it can be proposed at any time as long as there is no amendment outstanding to the motion. With respect to the opportunity to debate, the parliamentary authorities admit that the previous question does not deprive members of the opportunity to debate. On the contrary, they often note how members who have already spoken to the main motion can speak again once the previous question is moved. That this did not happen in this case, because the previous question was moved so quickly, does not constitute a breach of our rules and is not a prima facie question of privilege.

Rule 43(1) states that an alleged question of privilege must meet certain criteria if it is to be given priority of consideration over all other business before the Senate. Among them is one "to correct a grave and serious breach." Based on my review and explanation of the events which occurred in the Senate last Thursday, I do not find that there is any prima facie evidence to support the allegation of a question of a privilege. Accordingly, it is my ruling that there is no prima facie question of privilege.

[*English*]

PUBLIC SAFETY BILL 2002

THIRD READING—MOTION IN AMENDMENT—VOTE DEFERRED

On the Order:

> Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Léger, for the third reading of Bill C-7, to amend certain Acts of Canada, and to enact measures for implementing the Biological and Toxin Weapons Convention, in order to enhance public safety,
>
> And on the motion in amendment of the Honourable Senator Nolin, seconded by the Honourable Senator Lynch-Staunton, that the Bill be not now read a third time but that it be amended, on page 103, by adding after line 26 the following:
>
> "*Review and Report*
>
> 111.2 (1) Within three years after this Act receives royal assent, a comprehensive review of the provisions and operation of this Act shall be undertaken by such committee of the Senate, of the House of Commons or of both Houses of Parliament as may be designated or established by the Senate or the House of Commons, or by both Houses of Parliament, as the case may be, for that purpose.
>
> (2) The committee referred to in subsection (1) shall, within a year after a review is undertaken pursuant to that subsection or within such further time as may be authorized by the Senate, the House of Commons or both Houses of Parliament, as the case may be, submit a report on the review to Parliament, including a statement of any changes that the committee recommends.".

The Hon. the Speaker *pro tempore***:** Are honourable senators ready for the question?

Hon. Senators: Question!

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker *pro tempore***:** Those in favour of the motion in amendment will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore***:** Those opposed to the motion in amendment will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore***:** In my opinion, the "nays" have it.

And two honourable senators having risen:

• (1530)

Hon. Terry Stratton: In accordance with rule 67(2), I would like to defer the vote until 5:30 p.m. at the next sitting of the Senate.

Hon. Rose-Marie Losier-Cool: As tomorrow is Thursday, would the honourable senator agree to having the vote at five o'clock?

Senator Stratton: I would prefer to follow the rule and have the vote at 5:30 p.m.

The Hon. the Speaker *pro tempore*: Accordingly, the vote is deferred to the next sitting of the Senate, at 5:30 p.m.

LOUIS RIEL BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Joyal, P.C., seconded by the Honourable Senator Gill, for the second reading of Bill S-9, to honour Louis Riel and the Metis People.—(*Honourable Senator Maheu*).

Hon. Shirley Maheu: Honourable senators, there have been many fine speeches on the subject of Louis Riel and the contribution of the Metis people to our national life. These speeches have recounted the facts of Riel's political career, his military endeavours, the details of his trial and execution and the ongoing controversy about his appropriate place in Canadian history. In particular, I commend the efforts of our former colleague Senator Chalifoux in this regard and the current sponsorship of this bill by Honourable Senators Joyal and Gill.

It would be remiss of me not to mention the determination of the Honourable Denis Coderre to address the issue of Riel's rightful place in Canadian Confederation.

It is not my purpose today to review this material or reinvent any of the details of the debate. I wish to say, however, that I believe that Louis Riel was more than simply a catalyst in the development of our nationhood. He was one of the founders of our nation and remains an important icon for many in the generations that followed him.

I support, without equivocation, the efforts of so many to honour the memory of Louis Riel, and I deplore the stubborn resistance of those who choose to continue to deprive his name of a dignified place in our nation's history.

Many soldiers left their homes across our young nation to fight in the Second Riel Rebellion at Batoche, northern Saskatchewan, in 1885. It was a galvanizing event for both the government of Sir John A. Macdonald and for Canada's Metis.

One of the largest contingents was from Ontario's Midland Battalion of the Midland District. This included recruits of divisions from Kingston, Belleville, Lindsay, Port Hope and the Millbrook area southwest of Peterborough.

The Millbrook division was made up of 41 soldiers, a rather large number considering the small local population at the time. Two young army lads from this division by the names of Ed McCurry and Ira Nattress were among those who actually captured Riel, took him to Regina, and guarded him while he was on trial. In the end, they returned to Millbrook, Ontario.

These lads did not return to Millbrook empty-handed. They took with them what was considered by many at the time to be the great prize of the Second Riel Rebellion, namely, the Bell of Batoche.

This silver-plated bell had been baptized and given the name Marie Antoinette by the local clergy. It had engraved on it the imprimatur of the reigning bishop. It weighs 40 kilograms — that is 88 pounds — and originally cost $25. It was placed in the church of St. Antoine de Padoue in 1884. The church and the rectory remain today on the grounds of the Batoche National Historic Site, the only structures not destroyed during the rebellion.

The Bell of Batoche was the clarion call for the Metis to attend mass. The lads from Millbrook, after having participated in the capture of Riel, removed the bell and took it to their hometown. The Bell of Batoche had been in the Batoche church for only one year.

Millbrook is in the heart of Ontario's Orange belt, which runs from the Chatham-London area north through Stratford, across to Orangeville, Barrie, Midland and Orillia, on to Lindsay and Peterborough, south to Millbrook, Bowmanville, Port Hope and Cobourg, and ends farther east in Trenton and Belleville, with a spin-off north to Perth, near Ottawa.

Coincidentally, the Orange belt of Ontario is also the snow belt of southern Ontario. It is in this region that some of Ontario's most fertile soil produces marvellous cash crops, being the result of all the winter precipitation. As well, this is the strongest area of traditional support for the Progressive Conservative Party anywhere in Ontario and it rivals any other comparable area of support for that party in Canada.

It is not a coincidence that this is also the area where there has been little support for the rehabilitation of the good name of Louis Riel. It is this area that so strongly supported the provincial electoral victories of Drew, Frost, Robarts, Davis and Harris. It is this gang that never saw Canadian Confederation as broad enough to include the realities of Canadian Aboriginal history and, in particular, Metis history and its focal and pivotal figure, Louis Riel.

The Bell of Batoche, brought by Ed McCurry and Ira Nattress, was deposited in Millbrook, in the heart of the Orange belt, and put on display as one of the semi-sanctified spoils of war. The bell hung for many years in the Millbrook Fire Hall and later in the Royal Canadian Legion branch on the main street of Millbrook, where a picture window was constructed on the front of the building to display the bell. Afterward, the good burghers of Millbrook could view the Bell of Batoche on their way to shop or to work during the week, and especially on their way to church on Sunday.

Needless to say, there was no Roman Catholic Church in the village of Millbrook for any of them to walk to. This reality is symbolic of another element in the long-term challenge to give Riel a dignified place in the pantheon of names of those we should honour as the creators of today's Canada.

There is more to this story, honourable senators. One night in 1991, the Bell of Batoche was stolen from the Royal Canadian Legion in Millbrook. The thieves have never been apprehended. The Ontario Provincial Police have information that the bell was whisked away under cover of darkness in a pickup truck with Saskatchewan licence plates. This occurred 106 years after the bell was originally stolen from the church at Batoche in 1885.

The bell has not reappeared in Batoche, however, or in Saskatchewan or anywhere else, but there is a certain former senator who retired from our chamber not too long ago who believes that the Bell of Batoche is not lost forever and is being kept safely and secretly out of sight until the appropriate moment when it will be returned to the church from which it was taken during the rebellion.

Intense feelings remain about the conflict at Batoche. The community was completely destroyed during the rebellion and has never been rebuilt. The defeat of the Metis led to the execution of the charismatic Riel.

I have a vision that dignifying the memory of Louis Riel and at the same time returning the Bell of Batoche to its rightful place could form the basis of a solemn national ceremony of remembrance and reconciliation. Such an event should be led by the Governor General in the company of both the Prime Minister and the Leader of Her Majesty's Loyal Opposition. Their combined presence would illustrate an extraordinary symbolic recognition of the injustices of 119 years ago.

• (1540)

Finally, I believe that to hear the Bell of Batoche ringing again in the Metis heartland from its rightful home in the church would be the truly moving culmination of a significant chapter in our nation's history.

Let us act together now, in this chamber, to pass this legislation to honour Louis Riel and the Metis people.

On motion of Senator St. Germain, debate adjourned.

ROYAL CANADIAN MOUNTED POLICE ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Nolin, seconded by the Honourable Senator Lynch-Staunton, for the second reading of Bill S-12, to amend the Royal Canadian Mounted Police Act (modernization of employment and labour relations). —(*Honourable Senator Rompkey, P.C.*).

Hon. Gerard A. Phalen: Honourable senators, as a supporter of the collective bargaining rights of Canadian workers, I am pleased to rise before you today to express my support for Bill S-12, to amend the Royal Canadian Mounted Police Act regarding the modernization of employment and labour relations.

The following paragraph of the preamble to Bill S-12 is a good synopsis of why we in this chamber should support this proposed legislation. It states:

> AND WHEREAS the Parliament of Canada considers that good staff relations and the constructive and transparent settlement of disputes within the Royal Canadian Mounted Police are in the best interests of Canada, help to maintain a responsible and effective national civilian police force and enhance public protection;

A number of concerns about this bill have been brought to my attention by some of my colleagues. I should like to use my time today to address those concerns.

One of the first concerns one hears when one raises the subject of unionization for the RCMP harkens back to the 1945 Order in Council regarding the Rules and Regulations for the Government and Guidance of the RCMP, which read in part:

> Membership in any organization or union, which by its nature may influence or constrain the individual concerned against the impartial exercise of his duty is prohibited to members of the Force.

I, for one, strongly believe in the impartiality and the loyalty of the RCMP and do not believe that union membership jeopardizes this.

There are two reasons for my belief. First, we have a lengthy history in this country of police unionization. All of our provinces, for many years now, have allowed their police forces to form associations and bargain collectively on behalf of their members. While the majority of our provinces allow their police officers to join police associations, four of our provinces even allow their police officers to join public unions. Nevertheless, we enjoy some of the best police services in the world. Even our own security forces here on Parliament Hill have had the right to unionize for many years. I see no evidence that this has caused any breakdown in the exercise of their duties.

Second, although the 1990 Federal Court decision in *Delisle v. The Royal Canadian Mounted Police Commissioner* and the subsequent 1999 Supreme Court decision ruled that the Charter did not give members of the RCMP the right to form accredited associations for the purpose of collective bargaining, both courts ruled that members of the Royal Canadian Mounted Police, like all Canadians, do have the right to form and belong to employee associations.

Honourable senators, that court decision was 14 years ago. I see no evidence in the last 14 years that belonging to an employee association has caused any breakdown in the impartiality or the loyalty of the RCMP.

Another concern that has been brought to my attention is the possibility of a strike by members of the RCMP. First, let me make it clear that the legislation strictly prohibits members of the RCMP from striking. In fact, section 35.2 clearly states:

> No employee shall participate in a strike.

Furthermore, section 35.4(1) states:

> Every employee who contravenes section 35.2 is guilty of an offence and liable on summary conviction...

Is fear of a strike legitimate in Canada? In researching this issue, I was surprised to learn that police forces in five different provinces have had the right to strike, yet it was interesting to learn that the last two police strikes in Canada were in 1984, in my own hometown of Glace Bay, Nova Scotia, and in 1985, in Chatham, New Brunswick. Honourable senators, despite the number of police forces who have had the right to strike, it has been almost 20 years since there has been a police strike in Canada.

The concern has been raised with me that, if we allow the RCMP to unionize, then surely the Armed Forces will be next. Upon review of the RCMP Act and the National Defence Act, we see a number of distinctions between the roles of the members of those two bodies, as well as distinctions in the status of their members.

Section 18 of the RCMP Act defines the role of its members as peace officers, as well as their role in law enforcement. Alternatively, sections 273.6 and 275 of the National Defence Act do not give law enforcement duties to members of the Armed Forces. Instead, they allow only for the Armed Forces to come out in aid of the civil power to restore public order or to protect the national interest.

Honourable senators, that is a clear distinction. The RCMP is a civil authority empowered to uphold the laws of our country, while the Armed Forces is charged with defending Canada from foreign threat and can only be called upon within Canada as an aid to civil authority and not in a law enforcement capacity.

The other significant distinction between members of the RCMP and members of the Armed Forces is their employment status. Members of the RCMP are considered employees and public servants. Officers of the Armed Forces are not, for legal purposes, considered employees. Instead, they hold commissions in the Armed Forces and serve at the pleasure of Her Majesty. This difference in the status of members of the Armed Forces is such that, if they were to go on strike, they would have left their posts and would be charged with desertion.

The final concern I will address is whether the current systems for dealing with staff grievances and serious disciplinary actions are adequate.

In the case of grievances, the Commissioner's Standing Orders for grievances sets out two levels for employee grievances. In all cases, section 2(1) of the Standing Orders defines the person responsible for dealing with the grievances at level one as an officer or senior manager of the RCMP designated by the commissioner. Level two, the final level in the grievance process, is set out in section 32(1) of the RCMP Act, which states:

> The Commissioner constitutes the final level in the grievance process and the Commissioner's decision in respect of any grievance is final and binding.

In matters of formal discipline, discharge and demotion, grievances are referred to a committee, but section 32(2) clearly states:

> The Commissioner is not bound to act on any finding or recommendations set out in a report with respect to a grievance referred to the Committee.

Honourable senators, systems for dealing with employees' grievances such as these are completely unacceptable for the simple fact that the final level in the process is the Commissioner of the RCMP himself, and there is not external, independent, final binding review. When the final decision-making power lies within the organization itself, it is neither transparent, independent nor impartial.

• (1550)

Honourable senators, the system in place for our own security services in the Senate provides for an external and binding final level in the grievance procedure before the Public Service Staff Relations Board.

Bill S-12 would abolish the current systems for dealing with grievances and serious disciplinary actions and replace these systems with grievance procedures under which the final level would be an external independent arbitration procedure. Under this procedure, when a grievance has been through all the levels of the internal grievance procedure, it could then be referred to an external arbitration board. This new procedure would be supervised by the Public Service Staff Relations Board and the final decision would be binding.

Honourable senators, I believe that the members of the RCMP who protect us both here on Parliament Hill and throughout Canada should have the same rights as other government employees to join employee associations and bargain collectively. I also believe that the RCMP must be given a transparent and independent grievance system. These dedicated men and women deserve these benefits and it is time we pass legislation to bring their employee relations system into the 21st century.

Some Hon. Senators: Hear, hear!

The Hon. the Speaker *pro tempore*: Are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker *pro tempore*: It was moved by the Honourable Senator Nolin, seconded by the Honourable Senator Lynch-Staunton, that this bill be read the second time.

Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker *pro tempore***:** When shall this bill be read the third time?

On motion of Senator Stratton, bill referred to the Standing Senate Committee on National Finance.

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

MOTION TO AUTHORIZE COMMITTEE TO STUDY PRIVATE MEMBERS' BUSINESS— ORDER STANDS

On the Order:

> That the Standing Committee on Rules, Procedures and the Rights of Parliament study the manner in which Private Members' Business, including Bills and Motions, are dealt with in this Chamber and that the Committee report back no later than November 30, 2004.—(*Honourable Senator Cools*).

An Hon. Senator: Stand.

Hon. Sharon Carstairs: Honourable senators, I should have liked to ask the Honourable Senator Cools when she intends to speak to this item. Honourable senators, this item has been on the Order Paper since February 19. I simply want the Standing Committee on Rules, Procedures and the Rights of Parliament to conduct a study on Private Members' Business, something that is long overdue.

Honourable senators, I shall be moving the previous question at the next sitting.

Hon. John Lynch-Staunton (Leader of the Opposition): The honourable senator cannot do that; she has spoken. The mover of a motion cannot move the previous question.

Order stands.

CULTURE OF LIBERAL GOVERNMENT

INQUIRY—DEBATE ADJOURNED

Hon. Marjory LeBreton rose pursuant to notice of February 11, 2004:

> That she will call the attention of the Senate to the culture of corruption pervading the Liberal government currently headed by Prime Minister Paul Martin.

She said: Honourable senators, I wish to speak to this inquiry that I have put down, which will drop off the Order Paper today. However, honourable senators, I am mindful of the four o'clock time frame for committee meetings. Hence, I am in your hands. I can start my 15-minute speech now, or with the indulgence of the chamber, I can make this speech tomorrow.

Senator Robichaud: Say a few good words and take the adjournment.

Senator LeBreton: I shall be happy to do so.

Honourable senators, as I have said to many of my colleagues, this is the most difficult speech that I have ever had to write; it is a work in progress. Every time I think I have finished writing the speech, another headline appears that causes me to rewrite it. The fact that I have this ongoing work in progress proves that there is a culture.

Honourable senators, I shall take the advice of the Honourable Senator Robichaud and move the adjournment of the debate.

On motion of Senator LeBreton, debate adjourned.

[*Translation*]

OFFICIAL LANGUAGES

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY ON OPERATION OF OFFICIAL LANGUAGES ACT AND RELEVANT REGULATIONS, DIRECTIVES AND REPORTS

Hon. Maria Chaput, pursuant to notice of April 21, 2004, moved:

> That, notwithstanding the Order of the Senate adopted on February 19, 2004, the date for the final report by the Standing Senate Committee on Official Languages on its study of the operation of the Official Languages Act be extended from June 30, 2004, to March 31, 2005.

Motion agreed to.

The Senate adjourned until Thursday, April 29, 2004, at 1:30 p.m.

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