Debates of the Senate

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OFFICIAL REPORT
(HANSARD)

Wednesday, June 3, 1998

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

CONTENTS

(Daily index of proceedings appears at back of this issue.)

OFFICIAL REPORT

CORRECTION

Hon. Anne C. Cools: Honourable senators, I rise to make a correction to the *Debates of the Senate* of yesterday, June 2, 1998. In my speech at page 1611, column 1, lines 17 and 18 read "The quorum of this committee is 13 members", and column 2, line 30 reads "a quorum of 13 members." The number 13 should be the number 12.

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THE SENATE

Wednesday, June 3, 1998

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

[*Translation*]

SENATORS' STATEMENTS

INTERNATIONAL TRADE

TEAM CANADA'S TRIP TO ITALY

Hon. Marisa Feretti Barth: Honourable senators, it is with pleasure that I rise to speak about my participation in Team Canada's trade mission to Italy.

As you are probably aware, the objective of this mission was to increase trade between our two nations.

In order to develop this as yet untapped potential, Prime Minister Jean Chrétien and Italy's Prime Minister, Romano Prodi, signed a declaration of renewed partnership.

This declaration commits the two countries to more visible and systematic bilateral relations, and identifies priority sectors for more effective and more vigorous cooperation: political and economic relations, research and technology, cultural relations, youth programs and legal affairs.

One of the trip's objectives was to eliminate the trade gap between the two countries, which now favours Italy two to one.

We must use every available means at our disposal to develop new trade opportunities. Family connections and friendships between our multicultural communities and their country of origin are one such means.

With a million and a half members, the dynamic Italian-Canadian community is one of our most important assets.

Although this mission was primarily economic in nature, I also used the trip to learn more about an area of great interest to me, that being the seniors sector.

I was able to meet with Rita Camilli, the person responsible for social policy in the City of Rome, to discuss seniors' programs.

I also visited a seniors' residence run by the St. Egidio community.

This trip resulted in many economic and commercial dividends, although a journalist tried to play down its importance by focussing on tortellini and tagliatelli, very special dishes in Italy that I even thought of buying for him and for which he might thank us. This was a truly productive trip and I met many Canadian businessmen on the flight who were delighted with it and with the opportunity to meet their Italian counterparts.

[*English*]

THE HONOURABLE GILDAS L. MOLGAT

CONGRATULATIONS TO SPEAKER ON AWARD OF DOCTORATE BY ST. BONIFACE COLLEGE, UNIVERSITY OF MANITOBA

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, on Tuesday, June 2, Speaker Molgat received an honorary Doctor of Laws degree from the University of Manitoba. As a matter of fact, it was presented last night during convocation ceremonies at Collège universitaire de St. Boniface in the Cathédrale St. Boniface.

I do not need to enunciate the many reasons why Speaker Molgat would receive such an honour; they are well known to all of us.

I merely wish to note the distinction which you have brought to this chamber, Your Honour. How proud your colleagues are of all your endeavours.

[*Translation*]

Our most heartfelt congratulations, Your Honour.

[*English*]

The Hon. the Speaker: Thank you very much, Senator Graham and colleagues.

Hon. Anne C. Cools: Honourable senators, may I be the second senator to congratulate His Honour. I think now he shall be known as His Honour Senator Speaker Doctor Molgat!

SPECIAL JOINT COMMITTEE ON CHILD CUSTODY AND ACCESS

Hon. Anne C. Cools: Honourable senators, yesterday I spoke about the Special Joint Committee on Child Custody and Access. This committee, as we know, is a progeny of the Senate's peculiar constitutional function and is the result of the enormous public support expressed for the Senate during debate on Bill C-41 in 1997.

I described the excellent work of senatorsin participating in the work of this committee, and I indicated my pride and joy in the Senate. I underscored the fact that the Senate and Commons has a duty to honour the high expectations which have been placed on this committee by the public. I had expressed concerns, as we know, about the continuing lack of quorum at the meetings of this committee, which lack is disabling the committee's work. I even asked honourable senators to intervene with members of the other place to ensure that the committee's work is carried out.

In addition, I have already articulated my anxiety that there might not have been a quorum for that particular vote on May 4, 1998. Last night, I promised honourable senators here that I would re-examine the matter closely. I did so, and I am pleased to confirm that, yes indeed, there was a quorum at the exact moment of that vote. That particular concern of mine has been alleviated.

I emphasize again that the Senate has an entitlement to the full support of the other place for this committee. The Senate has a duty to the public and to the millions of concerned people in this country to see that these matters are given the care, attention and the study that they properly deserve.

NATIONAL ACCESS AWARENESS WEEK

Hon. Brenda M. Robertson: Honourable senators, the week of May 31 to June 6 marks National Access Awareness Week. This week provides the opportunity to celebrate the accomplishments of individuals, community groups, government departments and private businesses who have improved access and services for people with disabilities and, at the same time, have generated public awareness concerning the obstacles that still prevent full integration for people with disabilities into all aspects of life.

This year, National Access Awareness Week is focusing on the theme "Awareness Plus Action Equals Opportunity." As I said in the Senate on February 18, we as a society acknowledge the right of disabled persons to live in a Canada that promotes and protects equality, that encourages self-reliance and independence and provides the opportunities for full participation in civic and community affairs.

Honourable senators, the Senate should be no less committed to the value of equality than Canadian society in general, and that is why it is most fitting that tomorrow the Standing Senate Committee on Internal Economy, Budgets and Administration will be considering the matter of barriers to full access to the Senate for disabled Canadians. I am confident that all senators join with me, and with Senator Carstairs, who has spoken so passionately about disability issues in this chamber, in congratulating members and staff of the committee for identifying accessibility as a priority and to express the hope that in the not too distant future the Senate will be viewed by all Canadians as a model of equality and as one of the most accessible institutions in the country.

ROUTINE PROCEEDINGS

EXCISE TAX ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Lowell Murray: Honourable senators, I have the honour to present the report of the Standing Senate Committee on Social Affairs, Science and Technology on Bill S-10.

Wednesday, June 3, 1998

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

EIGHTH REPORT

Your committee, to which was referred Bill S-10, *An Act to amend the Excise Tax Act*, has, in obedience to the Order of Reference of Thursday, March 19, 1998, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LOWELL MURRAY, P.C.
Chairman

•(1340)

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Murray, for Senator Di Nino, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

PRIVILEGES, STANDING RULES AND ORDERS

FIFTH REPORT OF COMMITTEE PRESENTED

Hon. Shirley Maheu: Honourable senators, I have the honour to present the fifth report of the Standing Senate Committee on Privileges, Standing Rules and Orders.

Wednesday, June 3, 1998

The Standing Committee on Privileges, Standing Rules and Orders has the honour to present its

FIFTH REPORT

On December 16, 1997, the Senate authorized your committee "to examine and report upon any and all matters relating to attendance in the Senate."

The issue of attendance is complex and multi-faceted — there are statutory and constitutional provisions, past decisions and policies of the Senate, as well as public policy considerations. The work of Senators comprises much more than simply attending sittings in the chamber. Your Committee believes that the question of attendance should be addressed in a comprehensive way, rather than merely looking at one or two individual components.

It is also important to appreciate from the outset that the Senate publishes far more detailed attendance records than any other legislature in Canada, except the Northwest Territories. Since Confederation, the Senate — like its predecessor, the Legislative Council of Canada — has listed the names of those members in attendance in each day's *Journals*. This can be contrasted with the House of Commons and all provincial legislative assemblies, which do not list the names of those in attendance.

The number of sitting days is not an accurate reflection of the workload of the Senate. It is, however, relevant that the Senate sits for more days than many provincial legislatures. For instance in 1997, the New Brunswick Legislative Assembly sat for 32 days, while the Alberta Legislative Assembly sat for 38 days. In the same year — despite a federal general election and the consequent dissolution of Parliament — the Senate had 56 sittings and the House of Commons 93. On average the Senate sits for approximately 70 days a year.

The remuneration of Members of Parliament is set out in the *Parliament of Canada Act*. Provision is made for a deduction from the sessional allowance and expense allowance of Parliamentarians for every sitting beyond 21 that they do not attend a sitting of the Senate or House of Commons.

In 1990, the Standing Committee on Standing Rules and Orders recommended the introduction of a Senators' Attendance Register which would be available to the public and contain information respecting Senators' attendance in the Senate and at committees, participation on parliamentary delegations, public business and illness.

Your committee now recommends that the policy establishing the Senators' Attendance Register recommended by the Committee to the Senate in its Fourth Report dated May 10, 1990, and adopted by the Senate on May 24, 1990, be amended as shown in Schedule I to this Report. Your Committee recommends that the amended policy come into force on July 1, 1998.

Your committee further recommends that the Senate make a regulation under the authority of section 59 of the *Parliament of Canada Act* increasing the amount of the deduction to be made for non-attendance to a total of $250 per sitting day, composed of a deduction of $190 to be made from the sessional allowance payable after all statutory deductions and a deduction of $60 to be made from the expense allowance.

Your Ccmmittee therefore recommends:

(a) that the Senate, pursuant to section 59 of the *Parliament of Canada Act*, make the *Senate Sessional Allowance (Deductions for Non-attendance) Regulations* in the form attached as Schedule 2;

(*b)* that section 1 of the *Senate Sessional Allowance (Deductions for Non-attendance) Regulations* be adopted as Rule 138 of the *Rules of the Senate*; and

(c) that the Clerk be instructed to transmit copies in both official languages of the *Senate Sessional Allowance (Deduction for Non-attendance) Regulations* to the Clerk of the Privy Council for registration and publication under the *Statutory Instruments Act.*

Your Committee intends to continue its examination of issues relating to the attendance of senators.

Respectfully submitted,

SHIRLEY MAHEU
Chairman

(*For text of schedules see today's* Journals of the Senate, *Appendix, p. 754.)*

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Maheu, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

CANADIAN PARKS AGENCY BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-29, to establish the Canadian Parks Agency and to amend other Acts as a consequence.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Carstairs, bill placed on the Orders of the Day for second reading on Monday next, June 8, 1998.

NUNAVUT ACT
CONSTITUTION ACT, 1867

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-39, to amend the Nunavut Act and the Constitution Act, 1867.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Carstairs, bill placed on the Orders of the Day for second reading on Monday next, June 8, 1998.

CANADA PENSION PLAN INVESTMENT BOARD

REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE—
NOTICE OF MOTION TO ELICIT RESPONSE OF GOVERNMENT

Hon. David Tkachuk: Honourable senators, I give notice that tomorrow, Thursday, June 4, 1998, I will move:

> That within 90 days of the adoption of this motion, the Leader of the Government shall provide the Senate with the response of the Government to the Eleventh Report of the Standing Senate Committee on Banking, Trade and Commerce, entitled: "The Canada Pension Plan Investment Board: Getting it Right," tabled in the Senate on March 31, 1998.

[*Translation*]

OFFICIAL LANGUAGES ACT

PROGRESSIVE DETERIORATION OF FRENCH SERVICES
AVAILABLE TO FRANCOPHONES OUTSIDE OF QUEBEC—
NOTICE OF INQUIRY

Hon. Jean-Maurice Simard: Honourable senators, I give notice that on Thursday, June 11, 1998, I will call the attention of the Senate to the current situation with regard to the application of the Official Languages Act, its progressive deterioration, the abdication of responsibility by a succession of governments over the past 10 years and the loss of access to services in French for francophones outside Quebec.

[*English*]

QUESTION PERIOD

NATIONAL DEFENCE

ACTION TAKEN FOR INAPPROPRIATE BEHAVIOUR
BY MEMBERS OF ARMED FORCES IN FORMER YUGOSLAVIA—
GOVERNMENT POSITION

Hon. Donald H. Oliver: Honourable senators, in the fall of 1994, ten soldiers from the Canadian Armed Forces were photographed posing with Nazi flags during a peace-keeping mission in the former Yugoslavia. Eight of these soldiers, according to the Land Force Western Area, are currently serving in the armed forces. The investigation that followed the incident deemed the actions to be inappropriate but did not find that racism or neo-Nazism was apparent.

My question is for the Leader of the Government in the Senate and it is: What disciplinary action was taken against these soldiers, and is the investigation complete at this time? Also would Senator Graham advise us as to whether any of these people who posed have been promoted to the rank of officer?

Hon. B. Alasdair Graham (Leader of the Government): I thank the honourable senator for his question. Obviously I do not have the detailed information that would be required at the present time. I will take his question as notice.

Senator Oliver: As further supplementary questions for the honourable leader, could he also determine who conducted the investigation, whether it was the Judge Advocate General's office, the military police or some other investigative body? Also, what, if any, recommendations did the investigative body have regarding punishment for the misconduct of the soldiers involved?

Further, the "Nazi Flags Fact Sheet" released by the Land Force Western Area cited that, and I quote: "...it is clear that posing with the flags was inappropriate." Would this government, particularly the Ministry of National Defence, retract this "soft" description of soldiers posing in front of Nazi flags and condemn the action in stronger language befitting the type of society in which we live?

Senator Graham: I shall answer for the minister. I find the action of posing in front of a Nazi flag not only inappropriate but repugnant. I shall be happy to pursue the matter further, and to seek out the information that my honourable friend has requested.

HUMAN RESOURCES DEVELOPMENT

CHANGES TO CANADA PENSION PLAN—FAILURE TO MAKE APPOINTMENTS TO INVESTMENT BOARD—ENDORSEMENT OF CANDIDATES NAMED BY NOMINATING COMMITTEE—GOVERNMENT POSITION

Hon. David Tkachuk: Honourable senators, my question is to the Leader of the Government in regard to the appointment process for the Investment Board of the Canada Pension Plan. The government has not yet appointed anyone to chair this board. Could the minister advise the Senate as to the reasons for this delay?

Last December, we were told that the bill to set up this board was a matter of urgent concern, in order that the changes to the Canada Pension Plan could be in place by this fall. It is already June, and nothing has been done. Is it possible that qualified candidates are not able to be found? Is the government waiting until Parliament rises so that they will not have to answer questions from the opposition?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, certainly no one is ducking questions from the opposition. There is no shortage of questions from the opposition on any item.

Senator Tkachuk does raise a valid point. I shall enquire as to why that particular position has not been filled. I shall also urge my colleagues responsible to act with great dispatch to ensure that the position is not only filled, but filled with the most qualified person available.

Senator Tkachuk: Honourable senators, I would ask that Senator Graham expand upon his answer to that question. The minister had an urgent need to have this bill passed last June in order to have the Canada Pension Plan Investment Board, together with its office and management, up and running and prepared to make investment and policy decisions by this fall. As the summer approaches, only two months are left in which this can be accomplished.

Any appointment decisions to this board would benefit from an examination by the members of the House of Commons and the Senate when those appointments are made, so that the people of Canada will have confidence that the right decision has been made.

Could the Leader of the Government ask those responsible to release the name of the successful appointee prior to the summer break? If this question is not answerable, then I would ask further: If the decision has not yet been made, why not?

Senator Graham: Again, I will seek further information. I recall the very excellent spirit of cooperation that we had when the Canada Pension Plan legislation was passed. The Minister of Finance not only came to the chamber for the examination of the bill in Committee of the Whole, but he met with the leadership of the opposition. In fact, he met with the entire opposition caucus. I know that he appreciates the cooperation of all members in this chamber for the passage of that legislation which was considered urgent at the time.

On the basis of that, I shall consult with my colleague and determine what has caused the delay in the appointment. I shall not only urge upon him the necessity of making the appointment as soon as possible, but I shall endeavour to bring the name of that person to the chamber at the earliest possible date.

Hon. Donald H. Oliver: Honourable senators, I have a supplementary question to the question posed by my colleague Senator Tkachuk.

When the Senate Banking Committee was in Halifax, it was told by one of the witnesses that the government had already received the report of the nominating committee for the CPP Investment Board. That was two and a half months ago.

Could the Honourable Leader of the Government advise the Senate, first, when the membership of the board will be announced, and second, will the minister assure the Senate that, following the recommendations of the Banking Committee's March report, only those names on the list prepared by the nominating committee will be approved?

Senator Graham: I shall attempt to bring in an affirmative response to both of those questions.

Senator Oliver: As a further supplementary, the Banking Committee recommended that all directors be chosen from the list selected by the nominating committee, and not only the ones chosen during the first round. Could the government leader advise the Senate as to whether or not any decision has been made concerning how future vacancies will be filled?

Senator Graham: It is to be hoped with the most qualified persons available. However, I shall bring that information forward.

CHANGES TO CANADA PENSION PLAN—FAILURE TO MAKE APPOINTMENTS TO INVESTMENT BOARD—REQUEST FOR STATUS REPORT

Hon. Terry Stratton: Honourable senators, my question is to the Leader of the Government in the Senate, again in regard to the Canada Pension Plan.

In view of the spirit of cooperation that was extant in this chamber when the minister appeared here for examination of the CPP bill in Committee of the Whole, would it not be appropriate to provide to us a status report or an update as to the present situation of the Investment Board?

We are concerned about the minister's representation of the urgency of having the Investment Board operational by the fall of this year. If this board is to be operational by the fall, certain milestones and measuring points must be in place as to what would needs to be accomplished between now and then. Therefore, it would be appropriate to ask to receive in this chamber a status report before we rise for the summer. Would that be possible?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, that is a fair question. I shall attempt to provide such a status report.

As honourable senators will recall, one of the urgencies in passing the legislation before December 31, 1997, was to enable the government to start collecting premiums as of January 1, 1998.

NATIONAL DEFENCE

AWARDING OF CONTRACT WITHOUT TENDER—
POSSIBLE VIOLATION OF NORTH AMERICAN FREE TRADE
AND NATO AGREEMENTS—GOVERNMENT POSITION

Hon. J. Michael Forrestall: Honourable senators, my first question is for the Leader of the Government in the Senate. We are all aware of the discussion in recent days about the untendered award to Bombardier of a contract worth close to $3 billion.

My question is a follow-up to questions raised here in the chamber yesterday by Senator Kelleher and others. Under Chapter 10 of the North American Free Trade Agreement, or NAFTA, the governments of Canada, the United States and Mexico agreed to respect certain government procurement obligations. Given that the Department of National Defence is covered by NAFTA's procurement provisions, would the government leader consult with the Prime Minister and advise the Senate whether the untendered $2.85-billion Bombardier contract violates any of the government's NAFTA treaty obligations?

Further, Article 1010 of the NAFTA stipulates that except under clearly defined, limited circumstances, the Department of National Defence and other covered entities must publish an invitation to participate for all procurements. Would the Leader of the Government indicate why that part of the agreement was not adhered to?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, to my personal knowledge, Article 1010 has not been violated. However, I shall attempt to elicit further assurances from the Prime Minister and from the minister responsible for my honourable friend.

Senator Forrestall: I am sure the minister knows that we have similar agreements under NATO arrangements. We have also side-stepped those as if the treaty was of no particular value to us.

This question requires an answer. I realize it is a difficult call. I spent two and a half hours this morning on the Internet, and I could not pull up the necessary title. I leave it in the honourable senator's good hands to determine which sections of the NAFTA and the NATO agreements we may have violated. If there has been no violation, could we have an assurance to that effect?

FOREIGN AFFAIRS

REPORT OF ISRAELI AIRCRAFT IN PAKISTANI AIR SPACE—
POSSIBLE LINK TO RECENTLY DEMONSTRATED
NUCLEAR CAPACITY—GOVERNMENT POSITION

Hon. J. Michael Forrestall: Honourable senators, I have another question, on a slightly different matter. A news report today is indicating that aircraft, believed to be Israeli F-16s, have been spotted in Pakistan's air space. Does the minister have any details in his briefing notes today as to whether or not this report is true, particularly as to whether or not these aircraft might be flying out of Indian airfields? All of this has to do with the speculation about pre-emptive action with respect to the nuclear arsenals in that part of the world and the capacity to build them.

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, on Senator Forrestall's first point, if he took two and a half hours and did not come up with the answer, I can say it would take the Leader of the Government in the Senate at least two and a half days to get to the point where he is, with the same equipment.

With respect to the report of Israeli F-16s flying into Pakistani air space, I have also been apprised of such rumours. I have nothing official to report. The world is watching these events with fear, but also with anticipation — and I might say even hope — that things in that part of the world will settle down, that cooler heads will prevail and that the negotiating skills and the influence of the free world will come to bear, and that there will not be an outbreak of hostilities in that very important part of the world.

INDUSTRY

AGREEMENT ON INTERNAL TRADE—MEASURES TAKEN TO
REDUCE OUTSTANDING INTERPROVINCIAL BARRIERS—
GOVERNMENT POSITION

Hon. James F. Kelleher: Honourable senators, my question is for the Leader of the Government in the Senate. I know he will be happy to hear from me again today. During the federal election campaign last year, a the Department of Industry admitted in a memorandum which came to light that its agreement on internal trade addressed only 13 per cent of the interprovincial trade barriers identified in a conference board study. The Department of Industry memorandum dated January 20, 1997, also stated that the agreement could potentially address another 56 per cent, if current negotiations were successful.

Will the leader consult with the Prime Minister and provide a detailed update to the Senate regarding exactly what has been done since January 1997 to address all of these outstanding barriers?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I certainly shall. I want to commend Senator Kelleher for bringing these matters to the attention of the chamber. Obviously Canadians in every province would like to see closer cooperation so that these internal trade barriers are removed. As the honourable senator indicated today, we have freer trade with many of our neighbours, and with countries around the world, and it would be most helpful, not only to individual Canadians but to the economy of each and every province, if we had better cooperation on this front.

I know it is the direct responsibility of the Minister of Industry. I have discussed this matter with him on a number of occasions. The points the honourable senator raises are valid. As I indicated yesterday, the premiers will be meeting in August. It is hoped that preparatory meetings will be held prior to that occasion. I anticipate that these matters will be on the agenda at that particular time, but, again, I will bring the honourable senator's representations forward.

Senator Kelleher: I thank the honourable leader for his very kind answer. Notwithstanding that, I still have a supplementary. The Department of Industry memorandum also admitted that even if all of the current negotiations were successful, the agreement could not address the remaining 31 per cent of these costly interprovincial trade barriers. Most of these barriers that lie outside the scope of the agreement that the Prime Minister signed relate to specifications and standards, licensing and distribution.

In their 1993 Red Book, the Liberal Party of Canada recognized that interprovincial trade barriers were costing Canadians about $6 billion every year, and the Prime Minister promised that his government would be committed to the elimination of interprovincial trade barriers within Canada and that it would address the issue urgently. Will the leader therefore consult with the Prime Minister and report back to the Senate on precisely what has been done to address these outstanding barriers that are so harmful to Canadian job creation and international competitiveness?

Senator Graham: Honourable senators, I shall certainly undertake to do that, at the earliest possible time.

CHILD CUSTODY AND ACCESS

SPECIAL JOINT COMMITTEE— REQUEST FOR PROGRESS REPORT FROM CO-CHAIR

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, my question is to the co-chair of the Special Joint Committee of the House of Commons and the Senate on Child Custody and Access. Yesterday, honourable senators will recall, there was debate on the work of that special joint committee. A number of matters were raised. One of the questions I had asked, which is more appropriately asked of the co-chair from this chamber, was on the work progress of the committee, among some other issues that were raised.

Could the honourable senator give this house a progress report?

Hon. Landon Pearson: Honourable senators, I thank the honourable senator for his question. The committee is charged to report by November 30, and I see no reason why we cannot do that. We have now come near to completing our hearings, both in Ottawa and throughout the country. We have heard from well over 500 witnesses so far, and the number will probably reach 600 by the time we have finished.

Honourable senators, this gives me an opportunity to say that, while I share my colleague's pride in the efforts of the members of the Senate and their attendance and attention during the committee, when we were travelling the country, there was only enough money for 14 members to travel, so the attendance records of some members may not reflect that fact. I think that, as a whole, the Senate has done extraordinarily well in paying attention to this extremely important issue.

I should like to take a moment to clarify something that my colleague Senator Cools mentioned regarding the question of the Parliamentary Secretary to the Minister of Justice. It is true that Beauchesne's 768 reads:

> A "Note" adopted by the House as part of Standing Order 104(2) indicates that a Parliamentary Secretary shall not be a member of a standing committee which has responsibility for reviewing the department of the Minister to whom the Member is Parliamentary Secretary.

However, the Committee on Child Custody and Access is not a standing committee. It is a special joint committee, which ceases to exist at the moment its final report is presented to the house. Moreover, this committee is not reviewing the Department of Justice. On the contrary, we are examining a set of issues which fall partly under the responsibility of the Minister of Justice and partly under other federal and provincial departments. Therefore, I do not believe that there is any reason why Eleni Bakopanos should not be a member of this committee.

•(1410)

SPECIAL JOINT COMMITTEE—POSSIBILITY OF INTERIM REPORT— POSITION OF CO-CHAIR

Hon. Anne C. Cools: Honourable senators, I have a question for the Senate's co-chair of the Special Joint Committee on Custody and Access. I wonder if she or the committee as a whole has contemplated the possibility of an interim report in order to bring colleagues in this chamber, and in the other chamber, abreast of the issues that are being placed before the committee?

Hon. Landon Pearson: In answer to my honourable colleague, on June 15, we will be meeting to discuss what issues we would like to put together in a preliminary draft. At that time, it may be appropriate to discuss whether we want some of that material released publicly prior to the time of our eventual report.

Senator Cools: I would like to ascertain from the co-chair how it is possible to raise issues at the committee if there is a persistent and chronic lack of quorum.

Senator Pearson: I am hopeful that we will have the opportunity on this particular day, June 15, to raise all kinds of questions.

Senator Cools: Am I to understand from the co-chair that I must wait until June 15 to be able to enjoy a quorum of members at the committee?

Senator Pearson: No. I merely said that there would be an opportunity at that time. I did not say there would not be an opportunity beforehand.

Senator Cools: Honourable senators, there is a meeting this afternoon at 3:30 p.m. I should have thought that immediately this afternoon some of the concerns being raised here would go forward to the committee. My central point, which I was hoping would be addressed today, is the persistent, consistent, insistent and stubborn lack of a quorum of members at these committee meetings.

Senator Pearson: In answer to that question, honourable senators, the meeting this afternoon has been set for the hearing of witnesses. I have spoken, as I think have many of us, to colleagues in the House with the hope that a quorum will be present. It is not within our power to guarantee that. There will always be a quorum for hearing evidence, but the quorum for decision-making, which is 12, may or may not be there.

Senator Cools: Honourable senators, I come back to my original question: What will the Senate do about the persistent lack of a proper quorum of 12 at these meetings? It is not enough to say or to believe that the substitute number of six members is sufficient. All that the committee does is hear witnesses. That number of six members frequently diminishes to less. Let us be quite clear: That number of six members for the hearing of witnesses is a bottom line number. It is supposedly a guarantee that attendance at a meeting to hear witnesses never drops below that number. However, this committee consistently drops below that number of six members and is never 12, a quorum.

I am still interested in knowing what we, as a Senate chamber, will do to ensure that the work of this committee receives the attention and the care it deserves from the other place.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on May 6, 1998, by the Honourable Senator Michael Forrestall regarding the solicitation by Canadian Forces Personnel Support Agency; and a response to a question raised in the Senate on May 12, 1998, by the Honourable Senator Marcel Prud'homme regarding the issuance of building permits for the new Saudi Arabian embassy in Ottawa.

NATIONAL DEFENCE

SOLICITATION BY CANADIAN FORCES PERSONNEL SUPPORT AGENCY—GOVERNMENT POSITION

(Response to question raised by Hon. J. Michael Forrestall on May 6, 1998)

Corporate cash and products are only solicited and accepted for activities that have not traditionally been financed through public funding. These include, but are not limited to certain social activities related to the military Sports Program, special concerts organized for troops overseas, and the production costs for the family calendar issued by the Military Family Support Program.

Corporate sponsorship is a very small part of the overall personnel support program funding package. The total revenue raised from corporate sponsorship — including all cash and products — was approximately $215,000 last year.

All corporate donors must sign a "legal letter of understanding" in which it is made clear that the Canadian Forces is not and will not be endorsing their products.

The United States and most Western European Armed Forces accept corporate sponsorship for similar types of activities.

There is no shame in supplementing the quality of life of our military personnel through corporate sponsorship in areas where taxpayers should not be expected to foot the bill.

FOREIGN AFFAIRS

ISSUANCE OF BUILDING PERMITS FOR NEW SAUDI ARABIAN EMBASSY IN OTTAWA—GOVERNMENT POSITION

(Response to question raised by Hon. Marcel Prud'homme on May 12, 1998)

The department has fully supported the proposal by the kingdom of Saudi Arabia to build an embassy on Sussex Drive in close proximity to the Pearson Building. The hearings that are taking place now are part of the municipal approval process to which building proposals are subject.

The department is monitoring the process and, while it cannot intervene in the process it will provide any information or advice required.

ANSWER TO ORDER PAPER QUESTION TABLED

NATIONAL DEFENCE—
INVESTIGATIONS INTO THE ACTIVITIES OF CANBAT II

Hon. Sharon Carstairs (Deputy Leader of the Government) tabled the answer to Question No. 83 on the Order Paper—by Senator Forrestall.

BUSINESS OF THE SENATE

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, perhaps we can get some clarification as to our work plan over the next few days so that all honourable senators will know the agenda for next week.

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, with cooperation from both sides and with the concurrence of Senator Prud'homme — and I am sorry that I was not able to get in touch with Senator Lawson — there is agreement that we will complete second reading stages of Bill C-19 and Bill C-36 no later than Monday, June 8. That means that both the Standing Senate Committee on Social Affairs, Science and Technology, to which Bill C-19 will be referred, and the Standing Senate Committee on National Finance, to which Bill C-36 will be referred, will be able to begin hearings on Tuesday of next week. That is why earlier this afternoon I moved second reading of Bill C-29 and Bill C-39 for Monday night rather than Friday. As a consequence, we will not be sitting this Friday.

ORDERS OF THE DAY

[*Translation*]

BUDGET IMPLEMENTATION BILL, 1998

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Bryden, seconded by the Honourable Senator Pearson, for the second reading of Bill C-36, an Act to implement certain provisions of the budget tabled in Parliament on February 24, 1998.

Hon. Roch Bolduc: Honourable senators, I am delighted to be able to speak on behalf of the Official Opposition in the Senate concerning Bill C-36, or the Budget Implementation Act, 1998.

On March 18, I voiced some reservations concerning the February 1998 budget, particularly with respect to taxes and the debt. Today I will just make a few comments on some of the dozen or so components of this omnibus bill. We know that this bill addresses the Canadian Millennium Scholarship Foundation, the Canada Development Investment Corporation, the Work Force Adjustment Directive, which requires a legislative amendment, Indian bands, Canada Education Savings Grants, the Tobacco Tax, the Air Transportation Tax, the Child Tax Benefit, student loans, employment insurance, the Guaranteed Income Supplement, and international financial institutions. We therefore have a bill here which addresses a dozen or so different areas.

I must stress that this is a bad way to pass legislation. It is legislative laziness to make a catch-all bill like this. It is even a problem for lawyers, so imagine what it is like for the general public! It makes it look as if the government were trying to conceal its sins.

Let us start with the Canadian Millennium Scholarship Foundation Act. Honourable senators, the most controversial provisions of Bill C-36 are those that address the creation of the Canadian Millennium Scholarship Foundation.

There are two reasons for this. Many Quebecers, myself included, feel that Ottawa must not interfere in education, as it plans to with the millennium scholarships. Education is a provincial jurisdiction, if anyone needs reminding. In 1964, 34 years ago, under Premier Lesage we in Quebec built our own system of loans and bursaries with an opting-out formula. This settled a dispute, one which the government is now reopening. I am sure that Senator Bacon is not in favour of this measure.

Let us not forget that this is a government which is reducing its financial contribution to provincial programs such as health, education and welfare by some $6 billion annually.

The amounts injected into the provinces via direct expenditures are far from equaling the reductions made to the program.

[*English*]

The second controversy concerns how the $2.5 billion will be booked. For the third time in three years, the Auditor General has stated that the government is fudging the books. In 1996, it was $1 billion in GST harmonization payments. Last year, it was $800 million for the Innovation Foundation. This year, it is the $2.5 billion for the scholarship fund. Next year, will it be a home care foundation? In each case, an expenditure is booked to the wrong year, allowing the government to juggle its reported deficit. If I were to sign a pledge today promising to donate $1,000 to the foundation next year, could I claim it on this year's tax return? Could an engineering company put a new computer in next year's capital budget and then deduct it on this year's tax return?

•(1420)

No, you cannot claim a tax deduction on the basis of intent, but the government has a different set of rules.

[*Translation*]

In the report he tabled in April, the Auditor General wrote, and I quote:

> Business firms cannot depart from objective accounting standards...to hide losses or to hide profits. Parliamentarians should expect no less from the government...
>
> If individual governments of the day are free to choose whatever accounting policies and practices they wish, readers will have no confidence that the financial statements are consistent or comparable over time. And without such confidence, the credibility of all financial statements is compromised.

[*English*]

Honourable senators, opposition members in the other place were also concerned about the governance structure of the new foundation. Indeed, some parts of this bill make the CPP Investment Board look like a shining example of transparency and accountability. If the government intends to create this foundation, it ought to at least do it right. The laws governing boards and agencies must set out a proper framework for accountability and transparency. In order for boards and agencies to be accountable, they must report fully to the public and to Parliament. Transparency means that the stakeholder — that is to say, ordinary Canadians and their representives in Parliament — must have free access to enough information that would allow them to judge the make-up of the board, and the board's conduct of its business. Transparency requires, among others things, that the top salaries be made public, that conflict of interest rules be clearly stated, and that the auditor be independent.

[*Translation*]

It is as if the government said to us: "Don't worry. The foundation will operate at arm's length from the government. That is why it will not be accountable like the other agencies or have to meet the most stringent transparency criteria."

In reality, however, the government is saying to the foundation: "Here is $2.5 billion. Not to worry, you can spend it as you like and conduct business as you wish, because no one can fault you should you ever end up in a mess. Forget about the parliamentary reviews, the Access to Information Act and the Auditor General."

We have to look, honourable senators, at the autonomy of the foundation, since the government appoints the chairman and a third of the directors.

Doubtless, the other two thirds will be appointed by the directors, who were themselves appointed by the minister, and most of the money will come from the federal treasury. Although the annual report and the results of the five-year review will be tabled in Parliament, no review mechanism has been provided. The Auditor General even noted in his April report, and I quote:

> A second concern relates to what we would call the essential nature or substance of these types of entities.... Questions that we will address in this study will include whether, in substance or in fact, such entities operate at arm's length from the government.

[*English*]

Honourable senators, how would the foundation manage the enormous bank of personal information that it will collect, given that the Privacy Act does not apply to it? Each year, hundreds of thousands of students will file information that includes not only their name, address and postal code, but such personal data as their marks and their family income. Some applicants may have legitimate fears for their safety, and may not want information that would reveal where they are living or where they are headed to be released to anyone. Someone in the foundation may be tempted to pass on its list to others, with data sorted by family income. That would be an invasion of privacy. Those who apply for a scholarship should be able to do so with confidence that the information they provide on their forms will not be released without their consent. Perhaps the officials can address this issue in committee.

Honourable senators, allow me to highlight just a few of the governance problems that opposition members in the other place attempted to address with their amendments. First, there is the matter of what is to be included in the foundation's annual report. If you want to monitor an organization to ensure that it is doing its job and not abusing the trust placed in it, the more information you have, the better. The foundation will be required, by law, to keep its costs down, so that this can be monitored should the annual report not deal with such matters as how much the board pays its senior employees and who is receiving consulting contracts.

Opposition members in the other place also suggested that the five-year review be conducted by someone independent of the foundation. Another opposition amendment would have referred the annual report and the five-year report to the appropriate committee of the House of Commons and Senate for review. Should we, as parliamentarians, not have the opportunity to judge these reports?

The government envisions that this foundation will continue for several years into the future. However, Bill C-36 only provides for a single five-year review. There is no requirement for any review ever to be done after that. If the foundation continues indefinitely, should there not be a review every five years and not just after the first five years?

[*Translation*]

Honourable senators, the foundation will not only grant scholarships, it will also be responsible for investing $2.5 billion. Another government agency making investments. Efforts must be made to ensure these funds are not used to buy shares in something like Bre-X.

Should there not be criteria for the board members, including some knowledge of the investment industry, in addition to the requirements already provided for in Bill C-36, such as knowledge of the education sector and of how the economy works?

[*English*]

Bill C-36 gives the foundation the power to pick its own auditor. The rule almost everywhere is that the stakeholders or their representative choose the auditor. In the case of a private corporation, the stakeholders are the shareholders. In the case of Crown corporations, cabinet acting on behalf of Canadians, as the stakeholder, chooses the auditor. In the case of the foundation, the government has created the legal fiction that the foundation's members are the stakeholders and thus may pick the auditor. If this were a foundation or institution created from the bottom up, this would be a legitimate argument. If the members were picked directly by the provinces or other stakeholders, rather than following consultation, it would be a legitimate argument. In the case of this foundation, the government's logic is hard to swallow. The stakeholders are the Canadian public because it is $2.5 billion of their money that is at stake. Should the minister, acting on behalf of Canadians, not choose the auditor, and should the Auditor General not be listed as an eligible auditor?

[*Translation*]

Bill C-36 being an omnibus budget implementation bill, other elements deserve our attention, but I will reserve the right to come back to the millennium scholarships later.

Honourable senators, Bill C-36 authorizes the government to provide financial assistance not to exceed $2.5 billion US in respect of any particular foreign state and $5 billion US in respect of all foreign states.

Two questions come to mind in this respect. First, is this not the kind of decision that would better be made on a case-by-case basis by Parliament? There is no way of knowing what country may be benefiting from Canada's money months or years down the road.

For example, if the government were to decide that a country known to violate human rights like Nigeria should receive Canadian assistance, would it not be better that Parliament have a say in this, through the supply process for instance? I am not convinced that Senator Grafstein will agree with me on this.

Second, before approving funding for this kind of assistance program, would it not be better that the minister be required to make sure that our money goes to countries with similar values? Especially since the policy formulated by the government after the joint committee report was tabled in 1996 does require that Canadian values be reflected in our foreign policy. But there are no such guarantees in here.

Opposition members in the other place asked that the approval of such an expenditure be conditional on two requirements being met. First, we should insist that receiving countries be respectful of human rights or at least show substantial improvement in this respect.

Second, we should demand that receiving countries sign the land-mine treaty since this is one of Canada's initiatives.

Government officials will perhaps be able to explain to us in committee why the government would not be required by law to examine a country's human rights track record before issuing a cheque.

In addition, before signing tax conventions with other countries — a bill was passed about this yesterday, and then people realized the government was signing an agreement with Vietnam, a known police state — I take this opportunity to point out that we should also obtain an assurance from the Department of Foreign Affairs that taxpayers' personal information will not be floating around in other countries.

Honourable senators, for some time now, I have taken an interest in the funding mechanisms of Canada's assistance programs and in what guides its relations with international organizations. Decision-makers, whether elected or not, have great leeway, far too great in my view. I know that Senator Stewart agrees with me. It is perhaps time to establish a set of guidelines for them, which could include respect for fundamental Canadian values. I think that the members of our Foreign Affairs Committee who studied this issue will agree with me, not just the deputy chair, Senator Andreychuck, but also the committee chairman, Senator Stewart.

[*English*]

Honourable senators, despite a cumulative surplus of almost $20 billion in the Employment Insurance account, the government refuses to lower premiums to the level actually needed to run the program. Some are now even suggesting that the government may be breaking the law by keeping premiums at their current level; premiums which are, by the way, money of employers and employees and not money belonging the Canadian government. Four years ago, the Minister of Finance said in his first budget that "payroll taxes are a barrier to jobs."

[*Translation*]

Honourable senators, it is true that EI premiums have gone down slightly since 1993. They are admittedly not such a heavy burden when one thinks of the increase in CPP and QPP premiums.

The combined EI and pension premiums paid by Canadian employers rose from $6.70 to $7.02 per $100 in earnings. These combined premiums will rise to $7.54 in the year 2000, if the government does not lower EI premiums. It has not declared its intention to do so. Does the government really believe that all this will have no impact on employment?

The national unemployment rate for young people in Canada is just under 16 per cent. In Quebec, it stands at 18 per cent. In an attempt to improve the situation, Bill C-36 proposes that employers who hire young people be exempted from paying premiums.

[*English*]

•(1430)

The intent is good, but the road to hell is paved with good intentions.

Most employers do have a sense of loyalty to their employees, and place a high value on retaining skilled and experienced workers. However, the government cannot promise us that everyone feels that way. Honourable senators, giving employers an incentive to fire middle-aged breadwinners and replace them with their offspring is certainly a creative approach, but it is not the kind of approach we should be taking. Changing the faces of the unemployed is not the answer. If a premium break is the way to create jobs, then give a premium break to all Canadians.

Honourable senators, a couple of months ago, Senator Tkachuk raised the matter of some changes to the income test for the Guaranteed Income Supplement that would have the effect of "nickeling and diming" Canada's poorest seniors. This point was pursued as well by Progressive Conservatives members in the other place.

There is a very steep income test for the supplement, which is paid on top of the basic Old Age Security to very low-income seniors. Benefits are cut at the rate of 50 cents of benefits for every $1 of income. Any change in the clawback rules can have a big impact.

The income test has always given a bit of a break to low-income seniors who earn a few extra dollars to make ends meet. For example, if a senior earns $2,500, Ottawa only counts $2,000 for the GIS income test. Instead of having $1,250 chopped off the supplement through the 50 per cent rule, only $1,000 is lost. Bill C-36 removes that break from those who make extra money to help pay the bills. The government says that the new rules could save the government about $14 million per year. Some very low-income couples could lose as much as $500 per year.

A second change concerns the way in which Ottawa calculates the GIS clawback. Today, the amount taken off the monthly GIS cheque is rounded down to the nearest dollar. For example, if the income test would cause a senior's monthly GIS to be cut by $150.90, only $150 is taken off. Under Bill C-36, the full 150.90 will be lost. This will save $9 million, or about $6 per low-income senior. While this is a relatively small amount, it is a cold-hearted move.

The government is now backing down, saying, in the words of its press release, that its changes will have "unintended consequences." This will be corrected, not through an amendment to this bill but through some future bill. Honourable senators, if consequences are unintended, you do not prepare briefing notes in advance outlining how much money you will save.

Bill C-36 does include one other change which is less controversial. It will push back the benefit year to a July-to-June period from an April-to-March period. This will allow seniors to apply for their supplements through the tax system, thus reducing red tape. To the extent that it makes life easier for seniors, this third change is welcome. However, it should be noted that one downside is that low-income seniors whose incomes have fallen will need to wait three extra months before their benefits are adjusted to reflect this change.

Honourable senators, I realize that my time is running out, but allow me to reflect on a few other aspects of Bill C-36. This bill allows Ottawa to sell its interests in Hibernia. As many here will remember, the former government picked up this interest or share when it stepped in to save the Hibernia project. The intent was never to hold on to this interest. If a buyer can be found, then it is appropriate for the federal government to let go.

Bill C-36 fixes a loophole in the separation benefits paid to departing public servants, something with which we have no problem. Perhaps officials will have an explanation as to why this loophole crept into the system in the first place.

[*Translation*]

Another measure concerns the improvement of the child tax benefit. In this regard, honourable senators, two things must be borne in mind. First, the number of children living in poverty is the highest it has been in 17 years. Clearly, something is not right.

In addition, as I mentioned earlier, the government has cut $6 billion from transfer payments for social programs provided by the provinces. I have already pointed out, honourable colleagues, that the amounts the government is trying to re-inject into the system do not compensate for the budget cuts faced by the authorities the Constitution empowers to deal with such matters.

We could also talk of the provisions to reduce the student debt load, which we support. Nevertheless, there is room to ask to what extent the government is responsible for the very problem it is now trying to resolve.

I would like to return, honourable senators, to the matter of the scholarships, because much of the budget speech focused on it.

Opinions on the subject are strongly divided in Canada. Some want a national body or a national system. As if bigger meant better. The Canada Council is mentioned as an example, but here we are in a very sensitive provincial jurisdiction. I say that because I have experienced it, and I know it is very sensitive. Basically, the government, while not acting illegally, is abusing its spending power, claiming that the groups want money.

After cutting support to higher education, the government is offering scholarships to students. I do not think it is up to the federal government to define the priorities of higher education policy.

Were I to have permission to continue, I would show that it is a false priority. The main problem does not lie here. Second, it also has a negligible impact on access to higher education. There are 900,000 undergraduates in our universities, and the government is going to give out 100,000 scholarships. That is one in ten.

Third, the general disapproval in Quebec and elsewhere is the result of misconstrued federalism.

I would like to mention what the Montreal *Gazette* had to say about this on June 3. The people there are not considered to be PQ supporters. I think everyone recognizes that. I quote:

[*English*]

> In Quebec, the verdict on the proposed fund is nearly unanimous. The Bouchard government, the opposition parties, the business community, student federations, professors, CÉGEP and universities all agree that the $2.5-billion scholarship fund announced in February's federal budget doesn't make sense for Quebec. Rarely has there been such consensus on a single issue in this province.

[*Translation*]

How do we deal with this? Is this just another squabble with the Government of Quebec? That is just what Quebec wants. Now is not the time to give ammunition to the Quebec government, with a provincial election expected in the fall. Strategically, it makes no sense for the federal government to be inflexible on this. Something should be done about this. What can we do? I tried to come up with three or four possible solutions, including the following:

[*English*]

Many in Quebec want the province to be able to opt out of the millennium scholarship fund, with the province able to use the money to address its own educational concerns.

[*Translation*]

That is what was done in 1964. It worked, and we have been hassle free for 35 years. I cannot understand why the government is changing its policy in this respect now. Especially since this would be in keeping with a 34-year tradition. This is a sensitive issue, which should be dealt with carefully. You will no doubt recall all the fuss I made in this place when the military college in St-Jean was closed down. I felt it was unfair. It made me angry and I said so. Now, I am telling you this is a similar situation. I do not raise this kind of issue very often. I try not to be too much of a nationalist, but let me tell you that this is not acceptable to us. This is the first option. It is not likely to succeed because the government made its bed when Prime Minister Chrétien decided he wanted to make a grand gesture to mark the year 2000, and that was that.

There may be other options. Perhaps there could be some kind of administrative withdrawal right.

[*English*]

The federal government, in turn, says that it is willing to collaborate with the province and let them choose the scholarship recipients in Quebec.

Clause 29(1) of the bill, which I read very carefully as an old civil servant, states:

> If the Foundation is satisfied that it is consistent with its objects and purposes to do so, the Foundation may enter into an agreement with a provincial minister respecting
>
> *(a)* the criteria for the determination of financial need and merit; and
>
> *(b)* the provision to the Foundation of names of residents of the province who are determined under those criteria to be qualified to receive a scholarship from the Foundation...

[*Translation*]

That being so, I figure:

[*English*]

Perhaps we could have an administrative arrangement. However, the operative words in the bill are "may enter into an agreement" not "shall enter into an agreement." To date, the government has insisted that the foundation will operate at arm's-length, which means that it cannot tell the foundation what to do. Whether or not there is an agreement with Quebec is up to the foundation, not the government.

•(1440)

Why permit an administrative body with such a wide area of discretion in such a sensitive issue? The government should accept a reasonable compromise and not engage in a political battle when Quebec is going into an election, probably this fall.

The National Assembly in Quebec has passed, at the request of the Liberal Party in Quebec, a unanimous motion stressing a principle for administrative agreement. That principle includes, first, an equitable sharing of fellowships among students of various parts of Canada — based probably on demographic parameters — second, selection of students by the province; third, transmission of the list to the foundation; and, fourth, issuing of cheques by the foundation, with visibility for the federal government.

[*Translation*]

Can you ask for anything better than that?

[*English*]

It is up to the federal government to show that it is ready for a peaceful solution to the difficulty that has been created.

Hon. John G. Bryden: Honourable senators, I wish to ask a question, if I may.

Other than that, Senator Bolduc, do you have any difficulty with the bill?

Senator Bolduc: No. It is very good.

On motion of Senator Stratton, debate adjourned.

CANADA SHIPPING ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Mercier, seconded by the Honourable Senator Milne, for the second reading of Bill C-15, to amend the Canada Shipping Act and to make consequential amendments to other Acts.

The Hon. the Speaker: Honourable senators, if no other honourable senator wishes to speak, then I will proceed to call the second reading motion.

It was moved by the Honourable Senator Mercier, seconded by the Honourable Senator Milne, that this bill be read the second time.

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

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

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

CANADA LABOUR CODE CORPORATIONS AND LABOUR UNIONS RETURNS ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Maheu, seconded by the Honourable Senator Fitzpatrick, for the second reading of Bill C-19, to amend the Canada Labour Code (Part I) and the Corporations and Labour Unions Returns Act and to make consequential amendments to other Acts.

Hon. Mabel M. DeWare: Honourable senators, I welcome the opportunity to participate in the second reading debate on Bill C-19. I follow the lead of Senator Maheu, who has already spoken to it on behalf of the government. I listened with interest to what she had to say, and I hope all honourable senators will now listen to me.

First, I wish, again, to underline the scope of the Canadian Labour Code because I think it is important, as is the legislation that proposes to amend it.

Honourable senators will recall that the code applies to some three-quarters of a million workers and their employers in the federal private sector. This figure may not seem terribly significant until you consider that the federal private sector includes broadcasting, banking, telecommunications, international and interprovincial transportation and grain handling, among others. I should not have to point out that these are key industries. Labour problems in any one of them could have a negative impact on other industries and on our national economic outlook. Therefore, we must examine with great care any changes that could affect their viability.

Part I of the Canadian Labour Code, which Bill C-19 seeks to amend, provides a framework for collective bargaining in these and other sectors, as well as for private sector employers and employees in the territories. Part I has not been overhauled since the early 1970s. With the dramatic social, technological and economic changes that have taken place since then, I doubt many people would argue against the need to update it now. However, I do not believe that Bill C-19 in its present form is equal to this very important challenge.

I should also like to say a few words about the process that brought Bill C-19 before us. It started in June 1995, as some of you will recall, when the Minister of Labour appointed a task force of labour relations experts chaired by Andrew Sims to independently review and recommend changes to Part I of the Canadian Labour Code. Its report, called "Seeking a Balance," was released in February 1996, and contained 70 recommendations. After consulting employer, union and business representatives, the government then introduced Bill C-66, which was examined by this chamber in the last Parliament.

After the 1997 election, the government made some minor changes to the bill before introducing it as Bill C-19 in the Thirty-sixth Parliament. This was done after a last-minute round of further consultations which appeared to have been rushed, not to mention limited in scope. Those changes were made in response to many of the key concerns raised about Bill C-66. While I still have serious reservations, their introduction has made me hopeful that the government will be willing, once more, to listen to the voice of reason. I remind honourable senators that we are now that voice.

I urge my colleagues on both sides of this chamber to give Bill C-19 the time and attention it requires in order to ensure fairness in federally regulated labour relations today and in the future.

Senator Maheu spoke about Bill C-19 as though it were the best thing since sliced bread. However, go outside the federal bureaucracy and away from the government benches both here and in the other place and you will not find many people who agree with her. Labour is not exactly thrilled about Bill C-19 but will take it because that is what it can get.

Employers have major difficulties with this bill. Strong concerns were raised that Bill C-19's predecessor, Bill C-66, would tilt the balance of the federal labour law in favour of labour. Those concerns have not been addressed in the current bill. While employers say that Bill C-19 represents a slight improvement, they are far from happy with a number of its provisions. For example, officials of the Port of Saint John, in my own province of New Brunswick, are deeply concerned that parts of Bill C-19, such as its guarantee of successor rights to non-unionized employees, will weaken the port's ability to compete to the point where its future may be threatened. This is very serious, given that port operations are one of the economic linchpins of New Brunswick and other provinces.

What is more, the government seems unable in this case to even please itself. *The Globe and Mail* reported on April 23, 1998, that federal cabinet ministers from British Columbia are up in arms because of Bill C-19's potential to prolong strikes or lockouts at the West Coast ports and have unsuccessfully lobbied the Minister of Labour to take action.

Frankly, I cannot understand why the government seems intent on going ahead with Bill C-19 in it is present form, given the devastating impact it could have on labour relations in federally regulated industries for years to come and, consequently, on Canada's economy overall.

I should like to briefly discuss several provisions of the bill which I believe are in serious and immediate need of attention by this chamber. It is not my intention to go through Bill C-19 clause by clause at this point or to propose specific amendments. That will be the task of the Standing Senate Committee on Social Affairs, Science and Technology and of us all thereafter. Rather, I simply want to outline some of Bill C-19's key, correctable weaknesses so that honourable senators may begin to consider the bill in the critical light of reason.

To begin, Bill C-19's provision regarding the use of replacement workers remains extremely contentious and potentially harmful. The original provision in Bill C-66 was widely interpreted as a *de facto* ban on the use of replacement workers. That was subsequently clarified in the bill before us to state:

> 94 (2.1) No employer or person acting on behalf of an employer shall use, for the demonstrated purpose of undermining a trade union's representational capacity rather than the pursuit of legitimate bargaining objectives...

a replacement worker.

•(1450)

As honourable senators will recall, the Sims report recommended that there should be no general prohibition on the use of replacement workers. Yet this key part of a task force recommendation regarding replacement workers is not reflected in Bill C-19, for nowhere in the bill is it stated that employers can use replacement workers. Indeed, as Senator Maheu admitted in this chamber last week, clause 42 represents "a compromise solution."

Honourable senators, the wording of the new partial ban on replacement workers leaves a number of questions unanswered. It gives the Canadian Industrial Relations Board the authority to impose such a ban, but it is not at all clear how the board is to decide whether replacement workers undermine a union's ability to represent employees. According to organized labour, for example, any use of replacement workers undermines a union's representational capacity. Neither is it clear whether the provision would prevent an employer from transferring workers from other parts of its operations during a strike. As a result, Bill C-19 could dangerously interfere with a company's right to operate during a strike.

Another provision from Bill C-66 which was modified in Bill C-19 and further amended in the other place also remains a serious concern, and that is the provision which allows unions to have access to personal information about off-site workers, of which there is a growing number. In response to reservations expressed by the Privacy Commissioner, Bruce Phillips, the government clarified the original provision to give the Canadian Industrial Relations Board the direction to instruct employers to forward union material to off-site workers rather than to let the unions do so. However, the board would still have been able to order employers to give the names and addresses of its off-site workers to union organizers, something which employers are not required to do for employees who work at their place of business. Not only was privacy still in issue, but there were concerns about discrimination as well.

Privacy Commissioner Bruce Phillips said that the provision overrode the federal Privacy Act by stripping individuals of their right to withhold consent. As a result, the government was finally forced to amend Bill C-19 in the other place and, as it now stands, employees would have the opportunity to refuse to have their names and addresses released to trade union representatives. However, honourable senators, there is a world of difference between giving people the option of simply withholding their consent and requiring that their express consent be obtained. The onus should not be on off-site workers to refuse to consent to have their names and addresses released, but rather on the Canadian Industrial Relations Board to obtain their consent.

Another serious shortcoming of Bill C-19 is the discretion it gives to the Canadian Industrial Relations Board to allow union certification even if the majority of employees is opposed. Authority to do so would be exercised if the board felt that, in the absence of unfair labour practice, the union would have had such support. I, and my colleagues on this side of the chamber, recognize that clause 46 infringes on the democratic power of workers. It potentially allows a minority of workers to impose their will on the majority, and that is not what Canada is all about.

Our colleague Senator Maheu even acknowledged these concerns during her speech last week. She went so far as to note that:

> The minister is aware of the senator's concern, and has agreed to monitor carefully the application of this provision.

Honourable senators, this indicates a surprising and well-founded reservation on the part of someone who is speaking on behalf of the government which produced the bill in question. I remind all present that such reservations can only now be allayed through the vigilance of this chamber.

A further area of concern lies in Bill C-19's introduction. For the first time, there is a provisional treatment for grain during work stoppages at ports. I wish to make it clear that we support ensuring the continued movement of grain during strikes and walkouts because this does represent a national interest. However, we feel that this chamber should take the opportunity, presented by this study of Bill C-19, to consider the possibility of extending this protection to other sectors. We are not convinced that the government carefully considered all the relevant factors because of the fact that we had so many witnesses come before the committee on Bill C-66 requesting us to so do.

Bill C-19's guarantee of successor rights to non-unionized employees is another provision of great concern. In particular, it could have unintended negative consequences, especially on small businesses. This provision stipulates that if a company contracts out to non-unionized workers some work that was previously done by unionized employees, they are then automatically covered by union contracts providing for the same wages and benefits. This could have a serious impact on competitiveness in key sectors of the Canadian economy.

Finally, I wish to point out our dissatisfaction with the provisions of Bill C-19 which repeals Part II of the Corporations and Labour Unions Returns Act. Part II of that act requires all labour unions in Canada to file financial information with Statistics Canada. The government says its repeal will allow Statistics Canada to collect information and make it publicly available through more cost-effective methods. However, we are concerned about lack of accountability. Canadians will be deprived of knowing just how big unions are, or what they do with their money. Honourable senators might be surprised to learn that unions in Canada are a $5-billion-plus industry.

Before closing, I would like to make two things clear: First, my discussion of Bill C-19's shortcomings is by no means exhaustive. Second, we believe that Bill C-19 does have some merit. I would not propose for a moment that we tear it up and start over again from scratch; far from it. For example, we welcome the changes that cut red tape and give the Canadian Industrial Relations Board some flexibility to deal quickly with urgent matters. Rather, we believe that positive changes can and must be made within the legislative framework provided by Bill C-19. Indeed, honourable senators, we have no wish to throw the baby out with the bath water; we simply wish to drain the tub.

I would also make it clear that our concerns are not grounded in partisanship or affected by an internal bias. We simply wish to ensure the best possible prospects for hard-working Canadians in the federally regulated sector and their hard-working employers, because it is the Canadian economy as a whole that will benefit as we enter the 21st century.

I urge my colleagues in this chamber to help the government achieve in legislation the balance in Bill C-19 that the Sims task force was seeking with its report.

Hon. J. Michael Forrestall: Honourable senators, I listened attentively to my colleague's remarks. There is one area which she overlooked, probably due to the shortness of the time allotted to her, and that is seniority and rights. I have always understood that one of the most sacred parts of negotiating relates to the process for recognizing seniority, but very clearly the bill places that in some jeopardy.

•(1500)

With respect to airline pilots, for example, seniority rights govern what routes they fly, where their home base is, whether they are in the left-hand seat or the right-hand seat, their levels of pay; all of the perks and penalties. That is a negotiation tool, it is not a tool of arbitration. Since I know this concerns a large number of people, would the honourable senator share some thoughts with respect to Bill C-19 on this question of the board's capacity to direct seniority?

Senator DeWare: Honourable senators, I thank Senator Forrestall for his question. I have some information on seniority rights which I did not incorporate into my speech. However, I would be pleased to present that data now.

The potentially dangerous effects of this legislation on seniority rights were brought to the attention of Parliament in the context of Bill C-66. We heard many witnesses on that bill. Concerns were also raised in committee during the study of Bill C-19 in the other place. Unfortunately, the government ignored these concerns then and ignored them again during the extra consultations last summer. The government appears to be ignoring them in this bill. I hope that the Senate will not ignore these concerns, as they are important to many sectors of society.

Clause 7 of this bill will imbue the Canadian Labour Relations Board with the power to change the collective agreement. I do not need to point out that seniority rights are a key element of the terms of employment between workers and management. Therefore, allowing any change to those rights would seriously undermine the collective bargaining process.

The airline pilots are a prime example. Their association told Parliament on several occasions, both during consideration of Bill C-66 and Bill C-19, that they were very concerned. They explained that an airline seniority list determines all aspects of a pilot's career. Seniority determines what aircraft pilots will fly, where planes are flown, when promotions occur, what shifts are worked and when pilots may take holidays.

In the international airline industry, it has been an established practice that pilots joining an airline are added to the bottom of the seniority list. They often take significant pay cuts, but it is an opportunity for them to fly for a major airline. Regardless of the number of years of experience, any pilot joining a major airline will still go to the bottom of the list. I am told this is the way it should be. The system works fine. Those in the know, know what to expect. Everybody seems to play by the same rules. One can see why they have such a concern with the seniority rights aspects of this bill.

It has been suggested to the association representing Air Canada pilots that they could merge their seniority lists with those of connector airlines. This would result in the pilots of connector airlines reaping the benefits without having started at the bottom of the heap, which is where the Air Canada pilots had to start. This could also block the career advancement of hundreds of Air Canada pilots.

A change of this magnitude would fundamentally alter the terms of employment between pilots and their employer. Therefore, it should be determined by free, collective bargaining, not by a body such as the Canada Industrial Relations Board.

I cannot understand, with all the information that has been given to the government and all of the witnesses who have testified about seniority rights, why the government has not taken this into consideration. These concerns are definitely not contained in this bill.

Hon. Erminie J. Cohen: Honourable senators, I was surprised to learn, when Senator Kinsella questioned Senator Maheu about Bill C-19, that the government failed to correct any instances of gender-specific language, contained in Part I of the Canada Labour Code.

I realize the waterfront could not be covered today in the honourable senator's address on this issue, however perhaps Senator DeWare might wish to comment on this aspect at this time.

Senator DeWare: After Senator Kinsella's remarks the other day, we did research this issue to determine what happened. There was a press release on November 6. The labour minister promised Bill C-19 would be modernized. The suggestion was that Part I of the Canada Labour Code would be brought into the 1990s. Numerous gender-specific references fly in the face of that suggestion.

As Senator Kinsella mentioned last week in questioning Senator Maheu, clauses 105, 106 and 107 refer to the minister as "he" or "him," and other examples are "fishermen" or "businessmen." The achievement of gender-neutral language in federal statutes is neither new nor revolutionary. This is a task that began over a decade ago.

In December 1987, under the leadership of the former Progressive Conservative Party, an bill to bring into force the *Revised Statutes of Canada* became law. That legislation provided the authority to go through all the statutes of Canada and to revise the language in line with the Charter of Rights and Freedoms.

When the *Revised Statutes of Canada* of 1995 were published, it was found that the problem of gender-specific language had not been corrected in many of the statutes and it was obvious that extra vigilance was required.

Honourable senators, I do not understand how the government could overlook 10 years of progress in achieving gender-neutral language in federal statutes. We are completely baffled that this piece of legislation would come to this place, to open up the act and make all these amendments, and not correct the language to make it gender-neutral.

For example, representatives from the Canadian Autoworkers Union and the Canadian Labour Congress made known their concerns when they appeared as witnesses before the committee on Bill C-19.

Honourable senators, that the government should allow the continued existence in federal statutes of exclusionary language is nothing short of disgraceful. Therefore, I call upon the government to take immediate action to correct these glaring deficiencies in Bill C-19, before this legislation becomes law.

Hon. Donald H. Oliver: Honourable senators, I have a question for the honourable senator in relation to off-site workers.

The honourable senator has acknowledged that there has been controversy surrounding Bill C-19's provisions regarding off-site workers and possible infringements to their rights to privacy and security. The honourable senator also spoke about the less than desirable way in which the provisions as amended would operate. I would appreciate it if the honourable senator would expand on some of the comments she made in her speech.

Senator DeWare: Last year, the Privacy Commissioner appeared before the committee. He was very concerned about consent and felt that the off-site worker provision was not correct. The government has addressed some of these concerns in this bill, however, only after the Privacy Commissioner, Bruce Phillips, rapped them on the wrist about it.

It is abundantly clear that this proposed legislation was poorly thought out in the first place, or the government would not have needed to backtrack. However, there is still a concern that under Bill C-19 workers would be required to expressly refuse to allow their names and addresses to be released to union organizers if they did not wish them to be. They would not be given an opportunity to expressly consent to their release.

In case anyone feels I am splitting hairs here, I have a case I should like to mention. A similar situation arose a few years ago regarding what came to be known as "negative option billing" by cable television companies. As honourable senators will recall, cable companies began, gratuitously at first, providing new packages of services to their customers. If the customer did not make the effort to inform the company that they did not want the service, then they automatically began to receive the service and they were automatically billed for it.

In response to a great hue and cry from customers, a member of the other place introduced a private member's bill, Bill C-216, to outlaw this offending practice. Bill C-216 was given extensive consideration in the other place. The same government which drafted the legislation now before us, clearly stated that it opposed negative option billing.

Honourable senators, the mechanics that affected consumers' pocketbooks with negative option billing are the same as Bill C-19's off-site worker provisions which affect workers' privacy and security.

I find it strange that the government should prove to be so inconsistent on such issues, especially when what is being proposed by Bill C-19 has such important implications. Perhaps the government could explain, either to this chamber or to the Standing Senate Committee on Social Affairs, Science and Technology, its rationale for developing the off-site worker provision and why it did not choose to amend that provision in a fairer manner.

•(1510)

Hon. John G. Bryden: Honourable senators, I congratulate my colleague from New Brunswick for her magnificent, extemporaneous answers to obviously unexpected questions. It is an interesting technique. Believe me, we would have extended the honourable senator's time without her being rudely interrupted by her fellow colleagues.

I should like to ask a question. As Senator DeWare is aware, I have been involved in the labour management field for a very long time.

Senator Kinsella: You should have been the sponsor of the bill.

Senator Bryden: Do not ask why not.

Is it likely, in the honourable senator's opinion, that there will be additional evidence brought before the Standing Senate Committee on Social Affairs, Science and Technology that will add to the debate as against what we already have on record from the previous hearings?

Senator DeWare: Honourable senators, I hope so. We certainly have witnesses who have requested to come before us on this bill. We must seriously consider the sexist language and determine if it can be corrected by the government. They should bring in a proposal. That does not take a lot of work. The seniority rights are still very important. People are concerned about the replacement workers, and we will hear more about that. I am sure we will see the honourable senator at the committee meetings.

On motion of Senator Kinsella, debate adjourned.

A BILL TO CHANGE THE NAMES OF CERTAIN ELECTORAL DISTRICTS

SECOND READING—DEBATE ADJOURNED

Hon. Philippe Deane Gigantès moved the second reading of Bill C-410, to change the name of certain electoral districts.

He said: Honourable senators, this is the sort of bill we get occasionally changing names of various constituencies for geographical reasons because ridings have changed. This bill would change the name of 18 ridings. The changes are proposed to reflect more accurately the geographical factors of the electoral districts. The bill passed all stages in the House by a unanimous motion adopted on Thursday, May 28, and was introduced in the Senate on the same day.

Montreal area MPs are particularly concerned with the speedy passage of this bill, since suburban areas will be undergoing changes in telephone area codes and those MPs wish to avoid the costs of reprinting stationery twice, once when the area code changes and once when the riding name changes.

Considering the great concern of senators opposite with saving money, I am sure they will give it fair consideration in the Standing Senate Committee on Legal and Constitutional Affairs when I move that it be sent to that committee.

On motion of Senator Kinsella, debate adjourned.

[*Translation*]

CANADA ELECTIONS ACT

BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED

Hon. Fernand Robichaud moved that Bill C-411, to amend the Canada Elections Act, be read a second time.

He said: Honourable senators, the bill in question contains some elements that will clarify certain important points concerning candidates' reporting of campaign expenses incurred during a federal election.

This bill would allow the Chief Electoral Officer to authorize the late filing of a candidate's elections return and particularly corrections of the return if filed within the prescribed time.

It would also allow the Chief Electoral Officer to authorize the presentation and payment of a claim after the prescribed time.

Honourable senators, as you know, all candidates must comply with the Canada Elections Act and file a declaration reporting their election expenses to the returning officer for forwarding to Elections Canada. After auditing this report, the Chief Electoral Officer recommends to the Receiver General that the candidate be reimbursed for allowed expenses. Please note that a court order is required if the report submitted within the time specified contains one or more errors or omissions. This would remedy the lack of flexibility in the current act. If a candidate or his official agent does not succeed in obtaining leave from a judge, Elections Canada has the power to declare the report false, which would constitute an offence liable to severe sanction. Needless to say, if the candidate's infraction were a minor one, this would appear to be too heavy a penalty.

Honourable senators, in his report to Parliament, the Chief Electoral Officer pointed out that the judge's order that candidates must obtain in order to have late-filed expenses allowed is costly and complicated, and he recommended that he instead be given administrative authority for use in the case of amended expense claims and unpaid claims filed after the deadline.

This bill provides that any candidate or official agent must submit a written explanation for the late filing, the error or the omission to the Chief Electoral Officer, who would have the authority to examine the return and take corrective action as he deemed appropriate.

The Chief Electoral Officer indicated that, unless this bill is passed in the near future, several candidates will have to obtain a judge's order. Passage of this bill would save candidates time and money.

Although the Canada Elections Act generally requires a six-month delay after Royal Assent, the Chief Electoral Officer may waive this requirement by publishing a notice in *The Canada Gazette*.

Honourable senators, I am certain that you realize the benefits of this bill and I urge you to support it.

On motion of Senator Kinsella, debate adjourned.

[*English*]

BUSINESS OF THE SENATE

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I understand that there is agreement on both sides of the chamber that we allow all other items to stand so that committees can sit as scheduled.

The Hon. the Speaker: Honourable senators, is it agreed that all other items stand?

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, we agree that all other items on the Order Paper stand where they are and not lose a day. I refer to the items that are limited by the 15 days, for example.

Senator Carstairs: Honourable senators, that is agreed.

The Senate adjourned until tomorrow at 2 p.m.

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