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(HANSARD)

Tuesday, June 9, 1998

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

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

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THE SENATE

Tuesday, June 9, 1998

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

[*Translation*]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I call your attention to the presence in our gallery of a very distinguished delegation from the Conseil de la Nation, the Algerian Senate, led by Mr. Bachir Boumaza, the Speaker of this council. He is accompanied by several very distinguished members of the council, a number of whom are former ministers. The ambassador of the People's Democratic Republic of Algeria has joined them for the occasion. We are very pleased to welcome this delegation.

[*English*]

SENATORS' STATEMENTS

QUEBEC

PLIGHT OF ENGLISH-SPEAKING QUEBECERS

Hon. Dalia Wood: Honourable senators, I rise to speak today for English-speaking Quebecers. As Janice Kennedy wrote in *The Ottawa Citizen* yesterday:

> Anglo-Quebecers may be the most passionate Canadians but they are also the most undervalued. Accustomed to being ignored by the rest of the country..., they have actually gotten used to feeling abandoned.

I have not abandoned English-speaking Quebecers. I have been rising to defend their interests since my Senate appointment. However, I can understand how they are feeling, because I often feel that way myself. When I rise in this chamber to speak out about the injustices done to English-speaking Quebecers, I rise alone. I have also been abandoned by my fellow politicians in the Senate and the House of Commons, who have been remiss in their defence of this minority. Let me give you an example.

On June 3, *The Gazette* reported an incident at a Châteauguay council meeting where partitionists were confronted with masked Raymond Villeneuve supporters who were chanting such things as "Canadians go home." A 58-year-old woman was whacked on the head with a sign as she tried to peacefully leave the meeting. Charges have not and probably will never be laid. However, that is not the travesty I wish to underline.

Honourable senators, Villeneuve supporters also set fire to a small Canadian flag. Did anyone rise to condemn the action? No. Had the roles been reversed, had partitionists burned a Quebec flag, much ink would have flowed and many words of appeasement would have been spoken. It is no wonder that English-speaking Quebecers feel abandoned.

Honourable senators, the abandonment continues with regard to the Quebec school board elections. Even something that is supposed to be in the English-speaking community's direct interests — linguistic school boards — can be turned into a reminder of the injustices and pettiness that this minority has had to endure.

We approved the change to linguistic school boards in Quebec, stating that this would be great for English-speaking Quebecers. For once they would be able to have their own schools and vote for their own school boards. What a fairy tale. The Quebec government structured the system so that everyone except those who had children in English schools would be put on the list to vote for French school trustees. That meant that every English-speaking Quebecer who was eligible to vote for the English trustees but did not have school-aged children had to register to be put on the English list. The result was chaos. Advance polls held Sunday were a disaster for English-speaking Quebecers. At some polling stations, one out of every two people were turned away, despite their efforts to ensure their names were on the voting list. Even Member of Parliament Sheila Finestone, who had filled out the proper transfer form twice, was not entitled to vote. The chief electoral officer's spokesman said that the problems were not major.

This confirms that English-speaking Quebecers' right to vote is not a major preoccupation for the Government of Quebec, as if we did not already know that.

Honourable senators, this must stop. English-speaking Quebecers deserve the support of the Senate and the House of Commons as much as French-speaking Canadians outside Quebec. If we do not give them that support, they will disappear unnoticed and alone.

[*Translation*]

ALGERIA

COMMITMENT TO PROCESS OF DEMOCRATIZATION

Hon. Lise Bacon: Honourable senators, on behalf of Senator De Bané, I am pleased to draw your attention to the presence in our gallery of a delegation of Algerian parliamentarians. I am pleased to welcome them on your behalf.

As you all know, over the last few years, Algeria has been going through some difficult times. However, in spite of numerous obstacles, Algeria is firmly engaged in a democratization process. Its democratic institutions are getting stronger every day. On May 9, in London, the ministers of foreign affairs from the G-8 countries stressed the efforts made by the Algerian government. In a joint statement, the ministers noted:

> ...with satisfaction Algeria's attachment to human rights and democracy, and the efforts made by the government of that country to strengthen democratic institutions.

Honourable senators, as you well know, Canada did not wait for the G-8 statement to show its support for true democracy in Algeria.

The Honourable Don Boudria, on behalf of the government and both Houses of Parliament, has already taken a number of concrete actions to express Canadians' great satisfaction with the democratic progress made in Algeria. The minister, who headed a parliamentarian delegation that included some of our fellow senators, was able to see that democratic institutions are indeed in place, and that Algerian authorities are determined to make sure they work effectively.

In a press release issued shortly after his return from Algeria, the minister also noted the courage, the very high quality and the determination of Algerian parliamentarians.

Allow me, on your behalf, to pay tribute to our guests who, under difficult circumstances and even at the risk of their lives, work relentlessly to preserve ideals and values that we sometimes take for granted.

[*English*]

• (1410)

THE SENATE

PROS AND CONS OF BEING TEMPORARY WHIP

Hon. Philippe Deane Gigantès: Honourable senators, I should like to talk to you today, if I may, on fear, evanescence and power. For three hours and 25 minutes yesterday, I was whip. I hope it will never happen to me again. I would not wish it on any of you. It allowed me to understand the real nature of evanescence, which I am sure Senator DeWare also understands.

Senators are evanescent. They are there one minute; you turn, and they are gone. Where are they? You send your staff to chase them around, and they cannot be found. You say to yourself, "What do I do?" You go back to the reading room and you find two of your colleagues drinking — milk! To their great surprise, I took the glasses of milk from their lips and said, "Inside!" With a very surprised look, they actually came inside. I must say I was even more surprised to see that they were drinking milk.

At a certain moment, my former leader, the quintessential steel fist in an elegant velvet glove, Senator Joyce Fairbairn, asked, "May I go out to have a cookie?" I had the joy of saying no, and she stayed there.

Finally, I had the apotheosis of being able to walk arm-in-arm down the Senate aisle with Senator DeWare, who has promised to explain to me the mysteries of curling, even though I do not have any hair.

ROUTINE PROCEEDINGS

CANADA LANDS SURVEYORS BILL

REPORT OF COMMITTEE

Hon. Ron Ghitter, Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources, presented the following report:

Tuesday, June 9, 1998

> The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its
>
> THIRD REPORT
>
> Your Committee, to which was referred the Bill C-31, An Act respecting Canada Lands Surveyors, has, in obedience to the Order of Reference of Tuesday, May 26, 1998, examined the said Bill and now reports the same without amendment.
>
> Respectfully submitted,
>
> RONALD D. GHITTER
> *Chair*

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

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

MACKENZIE VALLEY RESOURCE MANAGEMENT BILL

REPORT OF COMMITTEE

Hon. Charlie Watt, Chairman of the Standing Senate Committee on Aboriginal Peoples, presented the following report:

Tuesday, June 9, 1998

The Standing Senate Committee on Aboriginal Peoples has the honour to present its

FOURTH REPORT

Your Committee, to which was referred the Bill C-6, an Act to provide for an integrated system of land and water management in the Mackenzie Valley, to establish certain boards for that purpose and to make consequential amendments to other Acts, has, in obedience to the Order of Reference of March 26, 1998, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

CHARLIE WATT
Chairman

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

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

NUNAVUT ACT CONSTITUTION ACT, 1867

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Charlie Watt, Chairman of the Standing Senate Committee on Aboriginal Peoples, presented the following report:

Tuesday, June 9, 1998

The Standing Senate Committee on Aboriginal Peoples has the honour to present its

FIFTH REPORT

Your Committee, to which was referred the Bill C-39, an Act to amend the Nunavut Act and the Constitution Act, 1867, has, in obedience to the Order of Reference of June 8, 1998, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

CHARLIE WATT
Chairman

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

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

[*Translation*]

ADJOURNMENT

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(*h*), I move:

That when the Senate adjourns today, it do stand adjourned until Wednesday, June 10, 1998 at 1:30 p.m.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

CANADA-FRANCE INTER-PARLIAMENTARY ASSOCIATION

MEETING HELD IN PARIS, FRANCE—
REPORT OF CANADIAN DELEGATION TABLED

Hon. Gérald-A. Beaudoin: Honourable senators, I have the honour to table the report of the twenty-eighth annual meeting of the Canada-France Interparliamentary Association held in Paris, France, from March 1 to 8, 1998.

INTER-PARLIAMENTARY UNION

NINETY-NINTH CONFERENCE HELD AT WINDHOEK, NAMIBIA—
REPORT OF CANADIAN GROUP TABLED

Hon. Gerald J. Comeau: Honourable senators, I have the honour to table the Canadian group's report of the ninety-ninth conference of the Inter-Parliamentary Union, held at Windhoek, Namibia, from April 5 to 11, 1998.

[*English*]

• (1420)

ALGERIA

APPEARANCE OF DELEGATION BEFORE
SENATE FOREIGN AFFAIRS COMMITTEE

Leave having been given to revert to Senators' Statements;

Hon. Marcel Prud'homme: I would remind honourable senators that this afternoon at 4:00 p.m. the Standing Senate Committee on Foreign Affairs will have the honour of receiving a delegation of the Council of the Nation of Algeria.

QUESTION PERIOD

FISHERIES

REPLACEMENT PROGRAM FOR THE ATLANTIC GROUNDFISH STRATEGY—GOVERNMENT POSITION

Hon. Ethel Cochrane: Honourable senators, several weeks ago people in Atlantic Canada were expecting an announcement from the government about a program to replace the Atlantic Groundfish Strategy when it expires in August. That announcement has been delayed. The Minister of Human Resources Development and the minister responsible in the Province of Newfoundland stated that the announcement would be made in early June.

My question for the Leader of the Government in the Senate is: Since, by my calendar, early June has now come and gone and August is rapidly approaching, when can we expect to see a replacement program for TAGS?

Hon. B. Alasdair Graham (Leader of the Government): I would inform the honourable senator that there have been ongoing discussions among the various departments involved in the issue. Last week officials from the federal government visited the provinces concerned and met with their counterparts. They have now returned with their report, and the observations and representations that were made are now being considered. I am hopeful that a final decision will be made very soon.

HUMAN RESOURCES DEVELOPMENT

MONITORING OF CURRENT PLIGHT OF PREVIOUS TAGS BENEFIT RECIPIENTS—GOVERNMENT POSITION

Hon. Ethel Cochrane: Honourable senators, in April, over 2,000 clients were cut off from receiving TAGS benefits. Has the Department of Human Resources Development been monitoring what has happened to those people since then? Has any effort been made to determine how they are paying for their food and shelter? Is the government concerned about their fate?

Hon. B. Alasdair Graham (Leader of the Government): I would assure my honourable friend Senator Cochrane that officials in the Department of Human Resources Development are indeed monitoring that situation, as are other officials in their respective departments. It is a matter of great concern to the Government of Canada, as it is to the provincial governments and, hopefully, an appropriate solution will be found.

POST-SECONDARY EDUCATION

MILLENNIUM SCHOLARSHIP FOUNDATION—PRIVACY SAFEGUARDS ON COLLECTION OF DATA FROM SCHOLARSHIP APPLICANTS AND RECIPIENTS—GOVERNMENT POSITION

Hon. A. Raynell Andreychuk: Honourable senators, in the course of its work, the Millennium Scholarship Foundation will gather personal information about hundreds of thousands of Canadians each year. Canadian students will be required to provide information that not only includes their name, address and postal code, but also personal details as to their academic standing, their family income and, perhaps, other matters.

Mishandling of such information could very well cause some applicants to be in jeopardy, for example, women with abusive husbands or, vice versa, men with abusive wives. Other criminal activity may haunt some of these applicants. Indeed, some applicants may well have their own reasons for not wanting to be tracked down, whether it be by a stalker or for some other reason. The Privacy Act will not apply to the foundation.

Would the Leader of the Government in the Senate advise us what safeguards will be put in place to ensure that abusers cannot track down these applicants and will not be given lists of scholarship applicants or recipients?

Hon. B. Alasdair Graham (Leader of the Government): The honourable senator raises a valid concern. If it has not been taken into consideration already, which I am sure it has, I will bring it to the attention of those most directly concerned.

Such information of a very personal nature should not alone determine whether or not a person is awarded a scholarship under the millennium fund.

Senator Andreychuk: I am also concerned that the foundation will fall into the non-governmental category and information it gathers may be collected by direct mail companies. If this foundation is truly arm's length, as the government says it will be, then there will be nothing to stop this foundation from trading information it collects with other foundations and other NGOs. Indeed, for an added fee, it may even agree to sort information by family income or other demographic criteria before sending it to direct mail companies. This could constitute an invasion of privacy.

Would the Leader of the Government in the Senate report back to this chamber with information regarding what measures will be taken by the foundation to ensure that those who apply for a scholarship will be able to do so in confidence, and that the information they provide will not be released without their consent?

Today, a number of volunteer organizations tell their donors they will not give out names or other information except by consent but that information is being distributed. It is an area of concern which goes beyond that related to this foundation. I would see assurance that this foundation will not violate the privacy of the applicants.

Senator Graham: I fully expect that will be covered by any guidelines and, while the foundation will operate at arm's length from the government, I would assure the Honourable Senator Andreychuk that all applicants will be able to apply with the utmost confidence that their privacy will be respected.

THE SENATE

PENDING ANSWERS TO ORDER PAPER QUESTIONS—GOVERNMENT POSITION

Hon. Colin Kenny: Honourable senators, I have a question for the Leader of the Government in the Senate. I have the dubious distinction of having the oldest question on the Order Paper. I know that the Leader of the Government has been diligent in getting the answers to these questions, however, this particular one, No. 23, dates back to October 1, 1997.

May I ask for the assistance of the Leader of the Government in the Senate in obtaining the answer to question No. 23, and then the burden of seeking a response to the oldest question will fall to Senator Forrestall?

Hon. B. Alasdair Graham (Leader of the Government): I have already acknowledged my embarrassment with respect to the intervention and the questions raised by the Leader of the Opposition, Senator Lynch-Staunton. I have had two meetings this week in that regard. I hope to be able to furnish answers to the questions asked by Senator Kenny, as well as to other questions the answers to which have also been long delayed, if not by the end of the week, then certainly by early next week.

[*Translation*]

POST-SECONDARY EDUCATION

MILLENNIUM SCHOLARSHIP FOUNDATION—TERMS OF REFERENCE FOR AGREEMENTS WITH PROVINCES—GOVERNMENT POSITION

Hon. Roch Bolduc: My question is for the Leader of the Government in the Senate and concerns the Canadian Millennium Scholarship Foundation.

[*English*]

Many in Quebec want to have the alternative of opting out of the Millennium Scholarship Foundation, with the province able to use the money to address its own educational concerns. The federal government, in turn, says it is willing to collaborate with the province and let them choose the scholarship recipients in Quebec.

Clause 29 of the bill does allow the foundation to enter into agreements with the provinces concerning both the criteria for financial need and merit and the provision of the names of those who meet the criteria. However, the operative words in the bill are that the foundation "may" enter into an agreement, and not "shall" enter into an agreement.

Today the government has insisted that the foundation will operate at arm's length, which basically means that the government cannot tell the foundation what to do. Will the minister confirm that the government is in no position to direct the foundation to enter into any agreement with any province, and that any decision to do so is entirely up to the foundation?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, discussions have taken place between the Government of Canada and the governments of all of the provinces, including the Province of Quebec. Several questions were raised yesterday by Senator Rivest with respect to any specific studies that were made before reaching the conclusion to establish the Millennium Scholarship Foundation. I can say that numerous factors were taken into consideration before that decision was made. In particular, statistics have indicated significant increases in tuition fees over the past several years, as well as increases in the level of student debt. Representations were made by first ministers, by ministers of education and by student representatives.

The government has responded to all of those representations with respect to the arm's-length position of the independent foundation. I am sure there will be discussions before the foundation is finally established as to the terms of reference under which it will operate and the concerns of all honourable senators. In particular, I am sure that concerns expressed by senators in this chamber within the last several weeks while this legislation has been under consideration will be put before the members of the independent foundation and they will be given appropriate thought and consideration.

[*Translation*]

Senator Bolduc: Does the minister think it reasonable for such an independent organization to enjoy such broad discretionary powers? There is a question of a possible agreement with the provinces, and therefore of regulations being established to define criteria, and so forth. Does the minister think it reasonable for an independent organization to set policy?

[*English*]

Senator Graham: Honourable senators, I suppose if the shoe were on the other foot, we would be criticized for controlling the foundation too much. You would then be in a situation where you would be saying this on the one hand, and that on the other hand.

I am sure the people who are appointed to the foundation will be representative of all aspects of Canadian society and the regions of the country, and that they will be people who will take into consideration the concerns that have been expressed by Senator Bolduc and others in this chamber.

THE ENVIRONMENT

RATIFICATION AND SIGNING OF KYOTO AGREEMENT ON GREENHOUSE GAS EMISSIONS LINKED TO STAND OF UNITED STATES—GOVERNMENT POSITION

Hon. Ron Ghitter: Honourable senators, my question is for the Leader of the Government in the Senate. Last week, the Standing Senate Committee on Energy, the Environment and Natural Resources had an opportunity to visit Washington. It was a wonderful opportunity to meet with a wide variety of groups, particularly relating to the Kyoto agreement. I am sure honourable senators who have been to many of these meetings will agree with me that the position of the United States of America is that Kyoto is dead.

From the point of view of the Presidency and the White House staff with whom we met, it is clear that the President would not even risk taking that agreement to the Senate for at least another two years, if then. If that is the case, and I believe it is the case, is it still the position of the Government of Canada that they will not ratify Kyoto until the United States does so?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, that is my understanding. That was an agreement reached in consultation with all of the provinces.

Senator Ghitter: Honourable senators, would it not be more advisable to have another strategy because, after all, there is work to be done, there is organization to be accomplished, and there is a serious problem out there. I do not think it is appropriate or advisable for the government to hide behind the skirts of the United States of America and blame their lack of action on them. Is it not time we had a made-in-Canada policy to ratify Kyoto and get on with it, rather than sitting back and blaming the Americans?

Senator Graham: It is not a question of ratification; it is a question of signing. I understand that signing the protocol meant that Canada was willing to consider ratification, and that we would not take any action in the meantime that would undermine the protocol. However, Canada would be legally bound by the protocol only after ratification.

I want to assure all honourable senators that discussions are continuing between the federal government, the ministers responsible and the provincial governments to further activity on this particular front.

Senator Ghitter: Does that mean that, notwithstanding the lack of ratification by Canada of the protocol or of the accord in Kyoto, it is the intention of the Government of Canada to meet the disciplines within the Kyoto accord, and then meet the guidelines and the reduction in emissions by the year 2010, as was agreed?

Senator Graham: As my honourable friend knows, the federal and provincial energy and environment ministers met in Toronto late in April. They agreed on a consultation process to develop a national implementation strategy by the end of 1999. As I mentioned before, the provinces have been kept fully informed. They were quite aware that Canada was signing the protocol, and that was done with the agreement of all the provinces concerned.

NATIONAL DEFENCE

PURCHASE OF CLOTHING AND EQUIPMENT IN PUBLIC SECTOR FOR TROOPS—GOVERNMENT POSITION

Hon. J. Michael Forrestall: Honourable senators, I hesitate to bring the dialogue crashing down to another level. My question is for the Leader of the Government in the Senate. Can he find out if, in fact, the Central Quartermaster Stores in Montreal were compelled to go to the Montreal Region army surplus shops in order to purchase combat clothing for the recruit corps, so that the troops would be properly dressed and prepared to go into the field?

Hon. B. Alasdair Graham (Leader of the Government): The honourable senator surely does come up with the most imaginative questions. Sometimes, Senator Forrestall, I think you sleep at National Defence Headquarters, although that is a rather grizzly thought. I must say that you are extremely well informed. I would beg leave to take notice of that particular question.

[*Translation*]

POST-SECONDARY EDUCATION

MILLENNIUM SCHOLARSHIP FOUNDATION— STATE OF NEGOTIATIONS BETWEEN QUEBEC AND FEDERAL GOVERNMENTS—GOVERNMENT POSITION

Hon. Jean-Claude Rivest: Honourable senators, I wish to return to the subject of millennium scholarships. Yesterday, the minister told us that no specific studies had been done before the decision was taken, and today he tells us that they looked at the numbers, but that he has no documents to produce.

At the Finance Committee this morning, the government spokesperson told us that neither the Government of Quebec, nor student associations, nor school administrators, nor college and university management, nor teachers, nobody in the education sector had asked the Canadian government to interfere in this very particular way in the education sector. The government went ahead anyway.

Formal discussions were held with the Government of Quebec after, and not before, the decision was made. Given Quebec's right to opt out, granted by Lester B. Pearson in 1964 to Jean Lesage, then premier of Quebec, and the resolution passed unanimously by both sovereignists and federalists in the National Assembly, and supported by all education stakeholders in Quebec, why has this very specific proposal for resolving this important conflict been rejected by the Canadian government, which persists, unfortunately, in its desire to take unilateral action in a sector outside its jurisdiction?

[*English*]

• (1440)

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, it is unfortunate that the negotiations between the Province of Quebec and the Government of Canada with respect to the millennium fund were broken off by the Province of Quebec. It might have been possible, had those negotiations continued, to have found a solution. I do not say that we are beyond finding a solution at this particular time. I know that the Prime Minister has written to Premier Bouchard in this respect.

You should know as well, honourable senators, that when the first ministers met in December, they considered, among other things on a very heavy agenda, the costs of education. They agreed on the importance of lessening student financial burdens. They appealed to the Government of Canada to lend some kind of assistance, as have provincial ministers of education.

The need for additional student financial assistance was confirmed by the Special Senate Committee on Post-Secondary Education, chaired by former senator Lorne Bonnell, in an excellent report tabled in this chamber in December of 1997. That report stated that the federal government should provide grants to low-income borrowers in difficult financial situations.

In addition, in the round table on student assistance, which is a coalition of education groups, representatives of students from right across the country recommended in early 1997 the implementation of up-front grants for students in financial need. That is exactly what the Government of Canada is attempting to do in providing for the millennium scholarships to render assistance directly to students who are most in need.

[*Translation*]

MILLENNIUM SCHOLARSHIP FOUNDATION—FORMAL DEMANDS OF GOVERNMENTS OF QUEBEC AND OTHER PROVINCES—REQUEST FOR TABLING OF DOCUMENTS

Hon. Jean-Claude Rivest: Could you indicate to this house, along the lines of what the minister has just indicated, the recommendations and demands of Quebec's education sector representatives which in any way support or call for this specific type of intervention by the federal government? You will readily understand that representatives of all provinces called for the federal government to correct its decision to reduce transfer payments. I would like to see the minister table in this house a specific recommendation from the Government of Quebec or the educators of Quebec or other provinces, but particularly from Quebec, calling for the Canadian government to implement the Millennium Scholarship Foundation. Could he table a formal request rather than studies or demands?

[*English*]

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I shall be very happy to table whatever information is available. As I indicated, this issue was raised by all of the provinces at the first ministers conference in December. Last fall, student debt load was the number one issue at the national stakeholders working session on students. This issue was raised by individual students, who have a very heavy debt load, and by educators from right across the country.

The Government of Canada has responded with what it considered the best way at the time, and it is providing an enormous and tremendous opportunity to lighten the debt load to students by dealing with them directly, no matter where they live in Canada.

MILLENNIUM SCHOLARSHIP FOUNDATION—ALLEVIATION OF CURRENT STUDENT DEBT LOAD—GOVERNMENT POSITION

Hon. A. Raynell Andreychuk: Honourable senators, on the same topic, the leader has referred to the special committee of the Senate. While the Senate committee talked about federal grants, it was always with the proviso that it be through existing federal-provincial mechanisms. As well, the feedback at the stakeholders meeting, as I understood it, was the same as what our committee received. The students were not concerned about where the money came from. They were concerned about their existing problem.

Was it not the responsibility of the government to have taken these pleas for help with regard to debt load and put them into the federal-provincial context?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, based on the agreed criteria, the foundation will establish a contract with appropriate provincially designated authorities for the selection of recipients. I think that is, first and foremost, a very important consideration. The provinces will have a direct say with respect to who the recipients are.

Hon. Terry Stratton: Honourable senators, my question is addressed to the Leader of the Government in the Senate. That fund will be great for those students who enter university in the year 2000. The concern I have is that those students who graduate by the year 2000 will leave school with debts of around $20,000. The government, in its wisdom, is allowing not two years for the forgiveness of a loan through bankruptcy but is extending it to ten. The perception on the part of students is that of an uncaring government because they are saying, "That is fine for those students who enter school in the millennium and thereafter for 10 years, but what about me? Here I am prior to the millennium."

If the government intends to implement this plan, why not now?

Senator Graham: Honourable senators, on the other hand, I could ask Senator Stratton, if the millennium scholarship were to kick in this year, would he agree that it is appropriate and timely. I am presuming the answer is yes, because he is asking why it is not starting at the present time. As he knows, these things do not happen overnight. It takes time to set it up and get the funds in place. As has been pointed out, the funds —

Senator Lynch-Staunton: They have been on the books.

Senator Graham: Yes, they have been booked.

Senator Lynch-Staunton: Two years ahead of time, and the Auditor General told you that, too.

Senator Graham: That is the difference between this government and the previous government.

Senator Lynch-Staunton: We did not cook the books.

Senator Graham: Honourable senators, we are telling Canadians that we are booking this item so that Canadians will know exactly what our responsibilities are and what our indebtedness will be with respect to a particular program. That is a big change from what it was under the previous government. The money will be there and in place, and it will be there when the program starts. It will not be left for future generations to pay for.

Senator Stratton: Honourable senators, the leader did a wonderful job of dancing around the question, but he did not answer it. What about the students of today who are leaving university with high debts and are getting their debts extended out to 10 years? They cannot declare bankruptcy. Do you not think they feel a little left out in this whole situation? Do you not think they look at you and say, "You are being rather heartless about this. You have made me a scapegoat so you can have your big millennium fund two years from now"?

Senator Graham: The Honourable Senator Stratton may be right. It is a pity. This government has finally brought the finances of the country under control. The government inherited a $42-billion deficit. The last time I looked, the line on the graph was rising. However, when the government of Prime Minister Jean Chrétien took over, with Paul Martin at the helm in the Department of Finance, we brought the debt and the finances of this country under control so that we could plan and provide properly for the citizens of this country, and for the future.

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, before I call the Orders of the Day, I wish to introduce to you the pages on exchange with us this week from the House of Commons.

• (1450)

With us today is Katrina Peddle, who is from Corner Brook, Newfoundland. She is enrolled in the Faculty of Arts at the University of Ottawa, and is a French major.

[*Translation*]

Megan Weekes, from London, Ontario, is studying in the Faculty of Arts at Carleton University. Welcome to the Senate.

[*English*]

ORDERS OF THE DAY

THE SENATE

PENDING ANSWERS TO ORDER PAPER QUESTIONS—
POINT OF ORDER

Hon. J. Michael Forrestall: Honourable senators, my point of order concerns questions that remain outstanding on the Order Paper. Senator Kenny's question may be the oldest, but I am awaiting the answers to two or three questions that must be the second and third oldest.

With, perhaps, one exception, there is not any reason why these questions could not have been answered last fall. Once we conclude our business here and have gone home for the summer, we will probably not return until late September, and by then those questions will be virtually a year old. That is the surest way of killing the validity of a question. Circumstances may have changed so as to alter the purpose for asking the question. If the minister cannot answer them, may we have some assurance that he will rise in his place tomorrow and tell us why?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I do not know how many, *mea culpas* I will have to utter in this place with respect to the problem in providing answers to questions.

I have apologized, and I do so again. I wish to assure all honourable senators that I am taking whatever steps are necessary to alert my colleagues and the officials who are responsible for matters of this kind to bring forward appropriate answers as soon as possible.

BUSINESS OF THE SENATE

CONDUCT OF QUESTION PERIOD—POINT OF ORDER

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I should like to point out to His Honour the Speaker that, while he announced that the 15 minutes allotted for Question Period had expired, he stated that he would permit Senator Stratton to complete his questioning. Senator Stratton then stood up and said that he would yield to Senator Cools. However, suddenly, Question Period came to an abrupt end.

I ask you to reconsider and allow Senator Cools, as a result of Senator Stratton's courtesy, to pose her question instead of permitting Senator Stratton to complete his questions.

The Hon. the Speaker: Honourable senators, I did not hear the Honourable Senator Stratton make that statement. If it is the wish of the Senate to hear from the Honourable Senator Cools, then so be it. Is it the wish of honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Please proceed.

CHILD CUSTODY AND ACCESS

SPECIAL JOINT COMMITTEE—IMMUNITY STATUS OF WITNESSES AND MEMBERS OF COMMITTEE DURING HEARING—POSITION OF CO-CHAIRMAN

Leave having been given to revert to Question Period:

Hon. Anne C. Cools: Honourable senators, I have a question for the Senate's Co-Chairman of the Special Joint Committee on Child Custody and Access.

As senators know, both the constitution of this committee and the attendance at its meetings have greatly concerned me. As senators know, a quorum for this committee is 12 members, and hearing testimony from witnesses requires the attendance of six members. On June 3 last, at this special joint committee's meeting hearing witnesses, I was the sixth member, as I frequently am. Attendance fell to less than six members during the hearing of witnesses that day. One of those witnesses present inquired if he had immunity while appearing before this committee.

My question is: First, is that committee meeting on June 3 and that portion of the committee meeting with less than six members in attendance a proceeding of Parliament? Second, are those witnesses who were presenting at that meeting protected by parliamentary privilege, and also are the parliamentarians and staff of the special joint committee who were present at that meeting protected by parliamentary privilege from criminal or civil liability?

Hon. Landon Pearson: Honourable senators, that is a highly technical question which I will take under advisement.

CANADIAN HUMAN RIGHTS ACT

BILL TO AMEND—THIRD READING

Hon. Erminie J. Cohen moved the third reading of Bill S-11, to amend the Canadian Human Rights Act in order to add social condition as a prohibited ground of discrimination.

She said: Honourable senators, I rise today to emphasize the importance of Bill S-11, and to thank my colleagues Senators Kinsella, Chalifoux and Pépin for their input and encouragement through second reading. The debate at committee stage was insightful, animated and passionate; I enjoyed the process, with some apprehension.

Bill S-11 is a bill to amend the Canadian Human Rights Act in order to add "social condition" as a prohibitive grounds of discrimination. The Canadian Human Rights Act is the cornerstone of federal human rights law. It provides protection against discrimination and guarantees equal opportunity in areas of federal jurisdiction such as telecommunications and banking. It also provides a concrete expression of Canada's international human rights undertakings. Together with our Charter of Rights and Freedoms and provincial human rights legislation, the Canadian Human Rights Act promotes fundamental values of human dignity and equality.

There is, however, one glaring flaw in the act, a flaw which Bill S-11 will correct: namely, the absence of any direct recognition of poverty as a pervasive source of inequality and disadvantage in Canadian society.

The failure of the act to include "social condition" as a prohibitive grounds of discrimination reflects the social and economic marginalization of the poor and their lack of influence within the political system. Until this legislative omission is corrected, honourable senators, the poor will be subject to continued discrimination and prejudice.

The chief commissioner of the Canadian Human Rights Commission was quoted in *The Globe and Mail* on March 25, 1998 as saying:

> Poverty is a serious breach of equality rights which I believe has no place in a country as prosperous as ours.

We must also remember that the UN committee monitoring Canada's performance under the International Covenant on Economic, Social and Cultural Rights has expressed particular concern about Canada's lack of progress in dealing with poverty in recent years, and recommended that the human rights of the poor be given clearer protection under Canadian law.

In passing this bill, honourable senators, we provide protection for our most vulnerable citizens. While you or I may not fully understand the significance of this law, it is clear to me that those who live in poverty consider this to be an extremely important statement about their worth and their value as citizens in this country. If we cannot put more dollars in the pockets of poor Canadians, then the least we can do for them, in this fiftieth anniversary year of the International Declaration of Human Rights, is to acknowledge that poor bashing is unacceptable, and that protection from discrimination based on income is a right.

By taking a stand with Bill S-11, we agree that every Canadian is entitled to the dignity of the person. We can show the courage to fulfil our role as senators by changing the laws we know must change and to remember, honourable senators, that a journey of a thousand miles begins with a single step. We can take that step today, and leave the next step to the other place.

Some Hon. Senators: Hear, hear!

• (1500)

Hon. Thelma J. Chalifoux: Honourable senators, I applaud Senator Cohen's initiative in moving this amendment. In my work with social conditions in my community, I have found that there is absolutely no recourse for agencies working with the poor, no one to address any of their concerns. This amendment will enable agencies to address the discrimination which the poor in our communities face. I once again applaud Senator Cohen.

The Hon. the Speaker: It was moved by the Honourable Senator Cohen, seconded by the Honourable Senator Nolin, that the bill be read a third time now. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

TOBACCO INDUSTRY RESPONSIBILITY BILL

THIRD READING—MOTION IN AMENDMENT—
DEBATE ADJOURNED

Hon. Colin Kenny moved the third reading of Bill S-13, to incorporate and to establish an industry levy to provide for the Canadian Tobacco Industry Community Responsibility Foundation.

He said: Honourable senators, it is with a great deal of humility that I rise at third reading of this bill. I am very conscious of the many people in this room who have assisted in moving it forward. I think back to about one year ago when we were dealing with Bill C-71, the Tobacco Act. We were looking at the possibility of amending that act at that time. I see in this chamber colleagues on both sides who have been particularly helpful since that time in developing and improving this bill through debating it and questioning witnesses in committee. I am grateful for that.

One learns very quickly in this place that it is hard to do much by oneself. You need the assistance and cooperation of colleagues on both sides of the chamber to move a project forward.

In any event, we are now at third reading stage. Bill S-13 is designed to cure a fundamental omission in the Tobacco Act; that is, that not enough resources are being devoted by the government to young people as they are smoking or considering smoking. There is, in my view, a great distortion. Just over $2 billion a year is being earned from tobacco, yet the federal government is only allocating $20 million per year to attack the problem. Bill C-71 did not address this issue. The entire purpose of Bill S-13 is to address and correct this problem.

Honourable senators know that relatively few people — in fact less than 15 per cent — start smoking after the age of 18. The decision is made at the age of 10, 11 or 12. This bill is designed to address the 85 per cent of Canadians who make the choice to smoke as adolescents. The bill is intended to dent the terrible statistic of 40,000 Canadians who die every year from tobacco-related diseases; 40,000 families that are destroyed. It is an effort to provide focus where government can do the most good.

We heard testimony in committee from the State of California on Proposition 99. Very briefly, Proposition 99 is a tax of 25 cents per pack that was introduced there in 1988. In three years, smoking was reduced in the state by 38 per cent. That is a remarkable reduction in three years as a result of a tax of 25 cents a pack.

It is intriguing to look at what is going on in California today. In California today, 11 per cent of young people smoke. In Canada, on the other hand, 30 per cent of young people smoke. In California, they spend $4 per capita fighting tobacco. In Canada, we spend 33 cents per capita fighting tobacco. I do not think anyone on the committee was left with any doubt that by putting resources into the fight against tobacco addiction, we have an opportunity to reduce significantly the amount of smoking by young people in Canada. If they can do it in California, a state approximately the same size as Canada, in the face of very heavy tobacco advertising of the sort which cannot be done in Canada right now, we can do it here.

The American Cancer Society estimated that, as a result of the passage of Proposition 99, in the third year 2 billion fewer packs of cigarettes were smoked. The estimate was that thus far it has prevented 400,000 premature deaths.

Honourable senators, we have an opportunity, if we choose to support Bill S-13, to develop programs that are arm's length from government, that have stable funding, and that directly attack the problem of youth smoking. We have an opportunity, if we pass this bill now, to make inroads into a problem that recurs year after year and shows every likelihood of continuing to do so.

There is not much that I can add. The real substance of the bill is attacking the problem at the community level where the young people are and getting young people themselves involved in the fight. We have an example to the south of us that works, and we have a bill before us that gives us an opportunity to try this solution here.

I ask honourable senators to consider that and to support this bill. I believe that it is a useful bill. I believe it is a bill that will reflect well on the Senate. Most important, I believe that it is a bill that will save many Canadian children from the perils of cigarettes.

[*Translation*]

Hon. Pierre Claude Nolin: Honourable senators, I plan to be rather brief. There have been certain developments since we last had the chance to discuss this bill together, either here or in committee.

It would be important for us to recall the principles that lay behind Senator Kenny's drafting of Bill S-13. You will recall that, when we were looking at Bill C-71 last year, we identified two shortcomings in it. He has just referred to the increase in smoking among minors, and the influence the social environment can have on young people. All this works in favour of reducing the number of young people who smoke.

This afternoon I wish to address in particular the second objective of Bill S-13. You will recall that one of the shortcomings we identified last year in examining Bill C-71 was the whole issue surrounding tobacco company sponsorships. This led to our including in Bill S-13 a series of measures to assist cultural and sports organizations over a five-year period to make up for the loss of tobacco company support.

Since we looked at the bill in committee, the government has decided to introduce an amendment to Bill C-71, to defer the sponsorship ban for five years. We must therefore amend Bill S-13 accordingly.

MOTION IN AMENDMENT

Hon. Pierre Claude Nolin: I move, seconded by the Honourable Senator Kenny:

> That Bill S-13 be not now read the third time but that it be amended by striking out Part III, on pages 17 to 23.

The Hon. the Speaker: It is moved by the Honourable Senator Nolin, seconded by the Honourable Senator Kenny, that Bill S-13 be not now read the third time but that it be amended by striking out Part III, on pages 17 to 23.

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

[*English*]

• (1510)

Hon. Wilbert J. Keon: Honourable senators, I had hoped there would be another amendment to this bill, specifically, an amendment to change the name of the foundation. There is no question that there is broad-based support for this bill in the medical and social community. I have received a great deal of mail, a number of phone calls and several personal visits because of the reservations I expressed about this bill from the outset.

It deeply troubles me that the tobacco companies are getting a free ride on the backs of the poor, unfortunate nicotine addicts who are paying the fare for this foundation. I feel it is inappropriate for the Senate to support the establishment of a foundation called the "Canadian Tobacco Industry Community Responsibility Foundation" and that, rather, it would be much more appropriate for members of this chamber to support the establishment of an institution called the "Canadian Anti-Smoking Foundation."

Honourable senators, I felt obliged to rise to formally register formally this comment.

Therefore, I move that the name be changed to the "Canadian Anti-Smoking Foundation."

The Hon. the Speaker: Would the honourable senator indicate who has agreed to second his motion?

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, perhaps we could adjourn the debate on this matter until Senator Keon presents his amendment in written form.

The Hon. the Speaker: Is it agreed, honourable senators, that we adjourn the debate on the amendment before us, with the understanding that when we next meet, Senator Keon will present his motion in amendment?

Hon. Senators: Agreed.

On motion of Senator Keon, debate adjourned.

ROYAL ASSENT BILL

SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Lynch-Staunton, seconded by the Honourable Senator Balfour, for the second reading of Bill S-15, respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament.—(*Honourable Senator Cools*).

Hon. Anne C. Cools: Honourable senators, I wish to say at the outset that I thank Senator John Lynch-Staunton for bringing forward this initiative. I understand how difficult it is to conceptualize and to advance a bill. To him and to all present, I would say that I am prepared to support the bill at this stage to ensure that it is referred to committee for careful study.

I would ask senators to be patient and indulge me a little today because I am so eager to see the bill referred to committee that I had little time to prepare my intervention.

Honourable senators, Bill S-15 has the consequence of removing Royal Assent from Parliament and from this Senate chamber where it is now a parliamentary and a very public event. Passage of this bill will transport Royal Assent to Government House, Rideau Hall. This will result in yet another private, distant, remote and hidden exercise of Her Majesty's role in the peculiar parliamentary business that is the enactment of statutes, and it will further distance and obscure the sovereign's role and existence in the public business of our nation.

By the proclamation of Bill S-15, Royal Assent will become a written declaration, and this written declaration will be reported in each house of Parliament by the Speaker of that house or by the Acting Speaker.

• (1520)

Honourable senators, I should like to give a brief history of what I think is the finest system of governance in the world.

When we use terms such as "statute," "minister," "Crown," "Royal Assent," et cetera, it is important to anchor ourselves in the soil of our ancestors and to reacquaint ourselves, as much as possible, with our own historical connections. Last night I quickly went to review some of the material I keep at hand that points to our tremendous and fantastic cultural and parliamentary heritage.

One of the things I looked at was the old and trusted Anglican Church of Canada's *Book of Common Prayer* and I found one of the prayers, a collect for the Queen, which reads as follows:

> Almighty God, whose kingdom is everlasting, and power infinite: Have mercy upon the whole Church; and so rule the heart of thy chosen servant ELIZABETH, our Queen and Governor, that she, knowing whose minister she is...

I also found Psalm 72, verse 8 in the King James version of the Bible, "A Psalm for Solomon" in which we find the origin of Canada's motto, "from sea to sea." Verse 8 reads:

> He shall have dominion also from sea to sea, and from the river unto the ends of the earth.

If we were to review any psalm, for example Psalm 119, we would frequently see the term "statute," about 20 times, which is what we pass here on a daily basis. A statute is a statement of Parliament.

Honourable senators, my belief is that the Royal Assent ceremony is so important that, rather than conceal it far away somewhere in Government House, we should broadcast it, we should televise it, from right here in this chamber so that our country's citizens can view and experience this fine tradition of parliamentary responsible government. Canadian citizens deserve to share in this exercise of the Queen, the Queen in Council and the Queen in Parliament. Every Canadian should know and share in the experience of the words that are found at the beginning of this Bill S-15 and at beginning of every bill:

> Her Majesty, by and with the advice and consent of the Senate and the House of Commons of Canada, enacts as follows:

Honourable senators, I believe that every citizen of Canada should experience this democracy in action. I am not appealing to nostalgia but to the essence of the principles of our system of governance and also to the moral and intellectual foundation of our system of parliamentary responsible government. For many years the Governor General of Canada has been discouraged from personally performing this Royal Assent function here in this Red Chamber, sending in his stead his deputies, Deputy Governors General, the justices of the Supreme Court of Canada. All of this happens for the sake of administrative convenience, mostly because the administrators find the process too inconvenient. Of course, the authority is present in the Letters Patent of 1947 for the Governor General to deputize the justices of the Supreme Court of Canada, but over the last many years, the system has preferred to rely on the deputies for Royal Assent rather than upon the Governor General himself, to the extent that a visit from the Governor General to this chamber to perform Royal Assent has become indeed a special and unusual event.

Honourable senators should recall that it was not too long ago that the Governor General also came to this chamber, both to dissolve and to prorogue Parliament. The dissolution of Parliament and the prorogation used to occur right here in this chamber, the sovereign's own chamber. These two sovereign functions were public and parliamentary, and were seen and heard by all. These two functions have been banished to Government House now, where only a few persons, some in the Privy Council Office, know, guide, direct or even see these functions.

Until 1947, I believe, the Governor General himself had an office right here in the East Block. I believe the year was 1947 because it was in 1947 that Mackenzie King advised His Majesty King George VI to issue new Letters Patent, which are the Letters Patent currently in use. Section 7 of the Letters Patent of October 1, 1947 — they are still extant — the section deputizing individuals, states:

> ...we do hereby authorize and empower Our Governor General, subject to such limitations and directions, to appoint any person or persons, jointly or severally, to be his Deputy or Deputies within any part or parts of Canada, and in that capacity to exercise, during his pleasure, such of his powers, functions, and authorities as he may deem it necessary or expedient to assign to him or them...

Honourable senators, I know that many of these issues are becoming cryptic and arcane in a country like ours. It worries me deeply and greatly. I am also very concerned that the majority of Canadians have now lost sight of the fact that Canada is a constitutional monarchy and that many Canadians are hard put to answer the question as to who is the head of state of Canada. I thought that while bringing this point forward, I should assert the fact that Canada is a monarchy, so I turned to John Farthing's famous book he wrote in 1957, *Freedom Wears a Crown*, in which he asserts that part of the wondrous and magnificent freedom of this country of Canada has been precisely its attachment to the sense of a constitutional monarchy.

In his book, he included a copy of the fourth draft of the British North America Act — and I see Senator Lynch-Staunton smiling — as framed by the Fathers of Confederation, and it contained the following:

> The word "Parliament" shall mean the Legislature or Parliament of the Kingdom of Canada.
>
> The word "Kingdom" shall mean and comprehend the United Provinces of Ontario, Quebec, Nova Scotia, and New Brunswick.

> The words "Privy Council" shall mean such persons as may from time to time be chosen, summoned by the Governor-General, and sworn to aid and advise in the Government of the Kingdom.

That word "kingdom" was changed to "dominion" because the colonial secretary and the foreign minister at the time were concerned that the Americans, the Yankees south of the border, would take some objection to the description of Canada as a kingdom and would find much more acceptable the term "dominion" which they drew from Psalm 72.

As I said before, I laud Senator Lynch-Staunton's efforts in bringing forward the issue. There is no doubt about it, the debate is timely. I would also say to him that it is necessary.

I also became concerned when I read an article from the May 13, 1998, edition of *The Ottawa Citizen,* entitled "Sun sets on parliamentary tradition," in which Chief Justice Antonio Lamer of the Supreme Court of Canada is quoted on the subject of abolishing Royal Assent. The article reports that:

> Earlier in the day, Chief Justice Lamer said Supreme Court chief justices, including himself, have been writing the government since 1947 to have the ceremony abolished.
>
> "The main reason is we are busy, ... The little time we do have, when we are not sitting, we are doing something else."

In addition to the impropriety of those kinds of statements, I would submit to honourable senators that we are all very busy. We are living in an era where we should really check ourselves and do some very serious political, personal, moral and intellectual introspection as to being too busy to do what. People can say one is a traditionalist, one is a this and one is a that; there are many names to throw around.

• (1530)

The real issue is that, at some point in time, we must examine the moral and intellectual foundations of the system of government that we live in to try to wrap our minds around the real question of the ultimate source of power and authority in this country.

To that extent, I am grateful to Senator Lynch-Staunton for bringing forth this initiative. I look forward to the examination of the issue in committee and I trust that we shall arrive at some just and fair conclusions.

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 Lynch-Staunton, bill referred to the Senate Standing Committee on Legal and Constitutional Affairs.

[*Translation*]

CANADA ELECTIONS ACT

BILL TO AMEND—THIRD READING

Hon. Fernand Robichaud moved the third reading of Bill C-411, to amend the Canada Elections Act.

Motion agreed to and bill read third time and passed.

[*English*]

A BILL TO CHANGE THE NAME OF CERTAIN ELECTORAL DISTRICTS

THIRD READING

Hon. Sharon Carstairs (Deputy Leader of the Government) moved the third reading of Bill C-410, to change the name of certain electoral districts, as amended.

Motion agreed to and bill read third time and passed.

PRIVILEGES, STANDING RULES AND ORDERS

FIFTH REPORT OF COMMITTEE ADOPTED

On the Order:

> Resuming debate on the motion of the Honourable Senator Maheu, seconded by the Honourable Senator Ferretti Barth, for the adoption of the fifth report of the Standing Committee on Privileges, Standing Rules and Orders (attendance in the Senate), presented in the Senate on June 3, 1998.—(*Honourable Senator Pitfield, P.C.*).

Hon. P. Michael Pitfield: Honourable senators, the measure that we have before us is a far more important step than many of us may think. On its face, it may only deal with changes in the rules governing senators' attendance, but its ramifications go far beyond that. I would ask you to consider the proposals from two different points of view.

First, I should like to examine the practical consequences of what is being proposed, what will be their effect on senators and on the Senate. Second, I should like to consider the likely implications of the measure for the country as a whole.

To begin with, let me speak about the implications of the Rules Committee's proposals on senators in the Senate. I would congratulate the committee and its chairman. Their job is not an easy one. I hope no one will conclude that I think it is. I believe we are all concerned about the low esteem in which the Senate seems to be held in some quarters of the public and most especially as a result of the controversy flowing out of the Andrew Thompson affair and the grandstanding by the leader of the opposition in the other place.

In the past, such criticisms have been largely answered by an appeal to the facts. There are powerful arguments in favour of an upper chamber and good grounds upon which to defend the Senate, even as it stands. It is not difficult to demonstrate that a large part of the attacks on the ideas and on the institution are substantially built on half truths, ignorance and demagoguery. However, defending the Senate is a thankless task that no government can maintain for very long. The trouble is that, when the government stops making its case, almost invariably the government proceeds to adopt some of the ideas in what it found most interesting in what its opponents had to say. That is why the government, flip-flopping in their policies on the Senate, have introduced important contradictions in their ideas about the role, organization and agenda of an upper chamber. These contradictions come home to haunt us.

The contemporary Senate is a place increasingly different from what it has been. It seems to me it used to be more clearly focused than it is now on doing best what no one else could do well. That formula tended to cultivate the institution's credibility, especially when done in small steps, which it was.

This result was reinforced by a tendency to develop small heroes and to take on interesting studies. Then there were senators who pioneered what we now call committee work. Sometimes they undertook an early form of what came to be known as task forces, working in close conjunction with a minister or ministers, to develop an idea, make contact with interested players across the country, and so forth.

Come to think of it, those decades when people were building the modern Senate of Canada were almost the mirror image of the next 20 years of cutting it back: no pre-study, little cooperation and, starting with the introduction of Question Period in the Senate, vigorous emphasis on partisanship. It is often said that partisanship is the heart of parliamentary institutions. However, that surely is more the case in matters relating to the House of Commons than it is to the upper chamber.

The question is: Does an upper chamber, inevitably on a smaller scale, add something unique and necessary to a parliament simply by duplicating the House of Commons? If that is the argument — that all we are trying to do in the Senate is to play the game of the House of Commons on a lower scale — it seems to me that those who wish to abolish the Senate have a powerful case because, if the Senate does not add something useful and special, it is not necessary and we should get rid of it.

• (1540)

Canada's experience with its Senate is mixed. Consider the concerns of the Rules Committee and their proposed solutions. Senate attendance is a problem. It always has been, right from the beginning. For 50 years, the problem was contained by having different expectations and different calendars of business in one place than in the other. That policy worked, more or less, until a few years ago when the government snapped at the taunting of the opposition in the press. It decided to go the route of making the Senate in the pale image of the other place.

That was, in my book, a fatal mistake. The government is on a path that will encourage the measurement of the Senate by a standard that it never had, cannot have and should not have. It used to be that senators had some responsibility for carving their own careers, careers that included building bridges into academia, bringing a federal presence to the country, writing about public questions, drawing outsiders into the inside, and so forth. Now, increasingly, the Senate will be measured by attendance in the main chamber, Question Period and, if by legislation, by its partisan rather than its technical side. Senators will be held to a House of Commons standard periodically reinforced by increasing penalties by which it should not be judged.

The government should surely never have been suckered into this game. However, now the hand must be played. There will be a morale problem because the rules necessary to support the new regime implicitly suggest an unfortunate lack of trust. Senators are to be treated as children. They must bring excuse notes from home or from a minister. The Rules Committee tries to safeguard the position of senatorial equality by treating all the senators in the same way. The truth is that, equal though they may be, all senators are not the same. A party supporter with a caucus and resources behind him is not the same as an independent with no caucus and no resources. What to do with the "cross-bench" now? We are on a slippery path.

As when a government tries to administer a market, our friends who are condemned to try to remedy the situation are reaching for a rather complex system of specially defined terms. Attendance to the business, public business, friendship groups, official business, these have particular meanings. They invite a feast of red tape, returns, reports, registers embedded in a terminology few will readily understand. The unfortunate likelihood is that this opaque system of definitions will deliver those it is trying to protect — that is, the senators — into the hands of those who must interpret it to the public, namely, the press. Where else will the public look for a description of who the good guys are? Or is that being somewhat naive?

What lurks behind all these issues with regard to senatorial attendance is the basic question of the role of senators and ultimately of the Senate. That brings me to my second question.

However one may look at it, in the final analysis, when we speak of attendance or compensation we are speaking about the role of the Senate and of senators, of the institution and the individual. We have a view of the role in our minds and it is time we face up to that and stop ducking around corners to avoid officially coming to grips with it.

The measure of the importance — of the consequences — of our failure to do this is to remember that the Senate was, as conceptually it remains, one of the truly central cornerstones in the structure of Confederation.

Some Hon. Senators: Hear, hear!

Senator Pitfield: The Senate was to be a forum to work out differences. The rebellions, the threat of civil war, the hangings and the deportations were all fresh in memory. Everyone knew, through their own experience, of the hardship, the stagnation, the struggle punctuated by riots, plots and demonstrations and frustrations that followed the rebellions. On this subject, the founding fathers were neither fools nor idealists and yet they envisaged a Senate as a special place to give the Canadian federation a special meaning.

More to the point, at the very time Canadians were discussing union, they could see in dramatic detail the breakdown of the American federation. It was just 100 miles across the border. There, the largest and most terrible war the world had ever seen was being played out on their very doorstep, barely 100 miles from here. This institution, this chamber in which we are privileged to sit, was designed to provide an element of pacification, a broader view, a meeting-place for ideas, a counting house for their aspirations.

Unfortunately, no sooner was the Senate agreed upon than the storm it was intended to address broke upon it with such force and vigour that, for some years, no one really could do much more than to cope with the discontented former political leaders who came and went in the various capitals, the groups of allies and enemies all trying to get back the powers they lost or negotiated away.

Consequently, much that Canadians might have solved through political debates in an upper chamber, the vicissitudes of circumstances required — some might say "enabled" — the early prime ministers to do themselves. The Senate's vocation was swept into the closet of prime ministerial patronage, kept for the realities of dealing with other more immediate, more practical requirements. That the Senate survived and even prospered during this time is a reflection of its "think-tank" role, of the credibility brought to it by a long line of distinguished men, and eventually, women.

I will not duck including here the role of a handful of senators in every government in giving shape and form, in making party politics work. That is a most important calling, fraught with all sorts of difficulties but absolutely central to the operation of democratic politics, something to remember when dealing with press and with bureaucracy.

In every case, there are shortcomings and difficulties. However, in the end, these institutions must be left with the capacity to play their role.

• (1550)

The press is sometimes berated as arguably the single greatest bureaucratizing agent in post-industrial society but, in this case, the derailment of the Canadian Senate took place at the hands of the political parties themselves when they, in the major transitions of government in the first and second generations after the Second World War, each time cultivated an agenda, a structure and qualities of partnership in the Senate more confrontational than had previously existed. How can a house of passification be encouraged when war is escalating among the players?

I have spoken to many who have been involved in our parliamentary government since the war. I have met no one who does not say that there has been a really significant change in the nature of the Senate that took place. I have met very few indeed who feel that the change has been that much, if at all, for the better.

What we are doing is to gradually remake this place in the pale image of the other place. Indeed, it seems to me the pieces are before us and it depends how they are to be assembled. The fact is that the Senate awaits the coming of its opportunity. I believe the opportunity will come. I believe it is very much needed in the country. I envisage that the Senate will add a unique and different tone to the institutions of our country.

In the meantime, the Senate can be most useful. I submit that we who are privileged to serve here today carry a responsibility, not only for the present, but to safeguard the potential of the institution for tomorrow.

We must all do our best to ensure that the additions and the adaptations that are made to this institution in all good faith as they come from the Rules Committee, or from wherever, are made in a way that does not deprive the institution of its capacity to serve a greater future. We must ensure that we do not lock this institution into a certain attitude of what I have called "a pale image of the other place" from which it cannot escape.

Hon. Senators: Hear, hear!

Motion agreed to and report adopted.

[*Translation*]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

TWENTIETH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the twentieth report of the Standing Senate Committee on Internal Economy, Budgets and Administration (*budget — Standing Committee on Foreign Affairs*), presented in the Senate on June 4, 1998.

Hon. Pierre Claude Nolin: Honourable senators, on behalf of Senator Rompkey, I move the adoption of the report.

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

Some Hon. Senators: Agreed.

Motion agreed to and report adopted.

NINETEENTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the nineteenth report of the Standing Senate Committee on Internal Economy, Budgets and Administration (*budgets of certain committees*), presented in the Senate on May 14, 1998.

Hon. Pierre Claude Nolin: Honourable senators, I move the adoption of the report.

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

Some Hon. Senators: Agreed.

Motion agreed to and report adopted.

[*English*]

THE SENATE

CONCERNS OF ALBERTANS—INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Ghitter calling the attention of the Senate to the concerns expressed by Albertans with regard to the Senate as an institution: (a) its effectiveness, usefulness and viability; (b) alternative means by which to select members of the Senate; (c) the nature of its regional representation, particularly a desire to see equal numbers of Senators representing each province; (d) the length of term of office; (e) the role which a revised Senate might take at a national level; and (f) the powers which would be appropriate for it to exercise in harmony with the House of Commons.—(*Honourable Senator Atkins*).

Hon. Norman K. Atkins: Honourable senators, I agree with almost all of the comments made by Senator Pitfield in his excellent presentation.

I rise today to take part in the debate on the inquiry set down by my good friend and colleague Senator Ghitter on the concerns of Albertans about the present state of the Senate. I would begin by assuring him and others that not only are Albertans concerned about the Senate and its place in the legislative system of our Parliament, but so are the people in Ontario and other parts of Canada. Some regions tend to give it more priority than others.

Senate reform is not a topic to which I have come lately. In fact, in February of 1990 I made a submission to the Ontario Select Committee on Constitutional and Intergovernmental Affairs on this subject. In preparing my remarks today, I reviewed that submission. I must admit that, surprisingly enough, I agree with most of what I said then. Unfortunately, as a result of the death of both the Meech Lake accord and the Charlottetown accord, some of the problems I addressed in early 1990 are still with us.

As a result of my work as a senator in Ontario, my roots in Atlantic Canada, and my political experience in virtually every region of this country, I believe I have developed a real appreciation of some of the concerns of Canadians. In order to appreciate where the Senate is going as far as its reform is concerned, let alone the means by which it should get there, it is important to recall the realities of the political and constitutional life which are at work.

Debate on the second chamber of Parliament pre-dates the founding of Canada itself. A number of reforms discussed in recent years, including the method of appointment, were canvassed at the Charlottetown, Quebec and London conferences more than a century ago. In addition to its mandate as the forum for the hoped-for sober second thought, the Senate was designed to provide an opportunity for the regions of Canada to influence the central decision-making process. This was as much to address a political concern as a constitutional one.

As George Brown noted at the time, Quebec's consent to representation by population in the lower house had been achieved at the cost of ensuring equal and regional representation in the upper chamber. The system that resulted may or may not have been the best in terms of logic or public administration, but it was the only system that secured sufficient approval on the part of the original four provinces to enable Canada itself to be formed.

If politics is, indeed, the art of the possible, as Bismarck believed, then the Senate represents the best that could be secured under the circumstances that prevailed in Canada in the 1860s.

The Senate reforms contained in the Meech Lake accord, or the Charlottetown accord proposed by the Canadian Committee for a Triple-E Senate, or those offered by any number of observers, must pass through the same filter in our time. The pace and scope of reform in the Senate's constitutional role will be directly proportional to the pace and scope of the political will on the part of the premiers, the federal government, and the people to effect such reform.

It is important to note what the Senate can and cannot do for the governing process and the regions of Canada. Let us first review what it can do.

• (1600)

The Senate can serve to raise public awareness and discussion of major pieces of legislation. Recent examples include the Pearson airport bill, the electoral boundaries redistribution bill, the harmonization sales tax bill, and the recent CPP legislation. The Senate can contribute to the legislative drafting process. For example, the Senate has managed to greatly alter legislation from the House of Commons in such areas as penal reform, the security service, the Judges' Act, and telecommunications.

The Senate can generate the ideas which may result in legislation introduced in the House of Commons. Senate reports covering such issues as family law, the media, the north, land use, ageing, and poverty have been adopted as the basis of subsequent government policy.

Honourable senators, let us now look at what the Senate cannot do.

The Senate cannot, simply by virtue of its method of appointment, ensure that regional grievances will be addressed. However, it is equally naive to believe that a directly elected Senate will suddenly resolve the provinces' regional economic disparity and fiscal interdependencies.

The Senate cannot afford the provinces an effective override of the elected House of Commons. The federal government would, in all likelihood, oppose any such proposal. Most Senate reforms are possible under the current system only with the approval of both Houses of Parliament. As the late senator and constitutional scholar Eugene Forsey noted, "A Senate strong enough to satisfy the provinces would be too strong to satisfy the House of Commons."

The Senate cannot be viewed in simply a constitutional light. Its role in the future of our system of government will be shaped not by constitutional theory but by the political realities of our time and the will of the Canadian people. To again cite Eugene Forsey, "The feasible solutions must be separated from those that are unlikely to secure the approval necessary for constitutional reform."

Finally, the Senate cannot be viewed in isolation. It can only be considered in the context of our entire system of government. You cannot alter one component without changing the whole. Change in the appointment to and authority of the Senate carries enormous consequences. These consequences affect the decision-making process of Parliament and the relationship between Ottawa and the provinces upon which the country is based.

Let us be honest with one another and the Canadian public: If we are talking about reform which would result in an elected Senate with equal representation from each province, we are talking about moving to a congressional form of government similar to that in the United States. One cannot simply add features of one system of government to another and hope to come up with something that is either workable or improved. For example, the Canadian parliamentary system allows for votes of confidence and daily Question Period where the executive is held accountable for its actions. In the United States, the only comparable check on executive power is the cumbersome method of impeachment. The two systems of government are not the same; therefore, how can we make the upper chamber the same?

Anyone who believes that an elected Senate with perhaps six senators from each province will not act to thwart the will of the House of Commons does not understand political realities. In such a scenario, maintaining the confidence of the Senate will become as important to government as maintaining confidence in the House of Commons, and the business of the country would simply grind to a halt. We will witness the dilution of national policies at the expense of parochial politics, as barter and trade-offs on legislation become commonplace.

However, when we speak of Senate reform, we must of necessity speak about reform of federal-provincial relations, the legislatures, the premiers, the federal cabinet, and both Houses of Parliament. Meaningful reform in the Senate cannot take place in isolation from these other parts of our parliamentary democracy. I believe that Senate reform cannot be seen as a one-shot panacea for personal, provincial or regional grievances, nor can it be used as a bargaining chip in the resolution of those grievances. It must be viewed as a constitutional and, therefore, political debate as wide-ranging as those preceding the Constitutions of 1867 and 1982. Now, as then, Canadians deserve a system of government in which the voice of the people is heard, meaningful input is encouraged, the consultative process is enhanced, and the best interests of all Canadians are served. If our system is to enjoy or regain respect and legitimacy, it must be perceived to meet the needs of the government.

In addition to Senate reform, this means reviewing the role of back-bench MPs in the House of Commons and giving them a meaningful role in the policy-making process. It also means reviewing the role of the federal bureaucracy and its relationship to both the government and Parliament. For what should deputy ministers be answerable to Parliament? I believe, as government continues to grow in size and complexity, deputy ministers should be answerable to parliamentary committees for the work of their departments. The answer to all of these questions will impact on the reform of federal institutions.

It is also too clear that the credibility of the Senate as currently constituted is less than we might hope. The origins of this condition are clear. They include such factors as the lack of practical sanctions available to the Senate, uncorrected perceptions of Senate activities, and the traditional method of appointment through which the central government can determine who will sit on behalf of the regions.

For several years now, I have acknowledged the need for and the principle of Senate reform. While I do not purport to be an expert on constitutional reform, such as my friend Senator Beaudoin, or for that matter Senator Stewart, for whom I have a great deal of respect, I have had the opportunity to review the workings of the Senate, federal-provincial relations, and the political process at work right across the country. These experiences have led me to identify a number of possible reforms which I will offer for your consideration. Some of these, I believe, we can implement through constitutional convention or through changes to our rules.

First, let me make it clear: I am in favour of an appointed Senate, not an elected one. I support the method of selecting senators contained in the Meech Lake accord. Under this method, the Prime Minister is bound to appoint persons from lists of candidates provided by the provinces where vacancies occur and who are acceptable to the federal government. I am told that this process was used by Prime Minister Mulroney during his administration between the time when the premiers had agreed to the Meech Lake accord and the time that it failed. This would ensure that the regions at least gain a greater say in selecting the men and women who will represent their interests in the upper house. There must be direct provincial involvement in this process if we want the Senate to, in any positive fashion, represent the provinces and regions of Canada.

The current fascination with an elected Senate, if implemented, will create more problems than it will ever solve. Through elections, senators will be beholden to their political parties, and the Senate will become more of a partisan political party house than it is at present. Elected senators representing national political parties will not act as representatives of their provinces. The Meech Lake accord method of selecting senators can be implemented informally without the necessity of a constitutional amendment.

• (1610)

Second, I believe that the time has come to increase the representation from Newfoundland and the four provinces west of Ontario. I would suggest that each of these five provinces be allocated an additional four seats, adding 20 to the total number of senators plus the one being created for the new territory of Nunavut. This would serve to give these provinces the same number of seats which each of Nova Scotia and New Brunswick have enjoyed since Confederation. The four seats in P.E.I. would remain the same. It would also recognize the changed circumstances and particular concerns of the regions in question.

The obvious result is that the western provinces, together with Atlantic Canada and the three seats in the north, would have more seats than Ontario and Quebec combined. In addition, it would strengthen the ability of the Senate standing committees to conduct their activities.

While no one likes to encourage increased government expenditures, I would submit that the relatively minor expenditures required would be more than offset by the potential easing of federal-provincial tensions realized through this measure.

Third, I have had to grapple with the issue raised by Senator Ghitter of fixed-term appointments. While at one point I might have supported a 10-year fixed, non-renewable term, I am now not convinced that this is the most appropriate route to follow. Through the appointment process, we wish to attract the best and brightest from all walks of life in Canada. I believe that a fixed term may inhibit this process. Therefore, I accept the principle that appointees be able to sit until age 75. However, I am open to further debate and could possibly be convinced otherwise.

Fourth, I believe that the compensation package available to senators should be reviewed. If we are to attract the best available women and men, senators should be treated in a manner similar to the members of the House of Commons.

The Hon. the Speaker: Honourable senators, I regret that I must interrupt the honourable senator at this time.

Is it agreed that leave be granted for an extension?

Hon. Senators: Agreed.

Senator Atkins: A review of salaries, expenses and pensions is necessary, but I believe that expenses should be comparable to those enjoyed by the House of Commons. While no one enters public life in Canada with the expectation of growing rich, compensation and pension arrangements should at least be sufficient to attract able and productive candidates

Fifth, in order to conclude the never-ending debate as to the practical sanctions that should be available to the Senate, I believe that we should come down firmly in support of the prominence of the House of Commons. It seems exceedingly unlikely that the people of Canada would or should see the wishes of the majority of their elected representatives thwarted by an elected upper house. However, a bicameral system is an important safety valve against excessive actions of governments which are elected with huge majorities.

For these reasons, I believe that the absolute veto power of the Senate over legislation should be reviewed. This could be effected through a suspensive veto, which would set a fixed period, for example, of six months, within which time period the Senate would be expected to consider and report legislation back to the House of Commons or approve it without amendment. Again, this could be implemented informally by a change to our rules.

Sixth, I believe that the legislative process could be improved through an increased role for the Senate and the so-called "pre-study" of proposed legislation. While the House of Commons is considering a bill, it can refer the subject-matter to the relevant committee of the Senate. The committee would then informally convey any concerns or suggestions to the appropriate committee of the House of Commons. Thus, the Senate will have aided the lower house in its deliberations. In addition, it will have done the necessary groundwork to ensure that the Senate could deal knowledgeably and promptly with proposed legislation once it is sent to the upper chamber.

I believe we should amend our Senate rules to officially incorporate this process. Of course, pre-study does not prevent standing committees from performing their formal legislative role upon receiving a bill from the House of Commons and recommending amendments, if necessary.

Seventh, following an experience in the Committee of the Whole with the Minister of Finance on the bill to establish the CPP Investment Board, and prior to that with the Minister of Labour on legislation to end the postal strike, I believe more use should be made of the Committee of the Whole. On both occasions, the work of senators, through probing questions, illustrated the valuable role the Senate plays in the legislative process. I also believe that the Committee of the Whole proceedings should be covered by television as a matter of general practice.

Eighth, and finally, standing committees of the Senate should travel more extensively in all regions of Canada. The work of these committees, in both legislation and in special inquiries, is vital to the parliamentary process. Through travel, through hearing from Canadians where they live, I believe Canadians will gain a greater appreciation of the role of the Senate. Again, this would be money well spent, as we have found out recently with the Standing Senate Committee on Agriculture in dealing with Bill C-4.

I believe that these reforms would, to a marked degree, de-politicize the Senate, enhance its effectiveness, address several of the root causes of regional concerns over the method of appointment, and garner the political support required for their implementation.

As I have indicated, most of these measures could be implemented without having to seek an amendment to the Constitution. I also believe that these reforms would help return the Senate to the role originally envisaged by the Fathers of Confederation.

With regard to those reforms which require constitutional amendment, we should wait until the national unity issue is clarified with the next Quebec provincial election or the referendum that might follow.

Finally, a word of caution. In my opinion, those who advocate more radical reform of the Senate should resist the temptation to look to other countries for the answer to our Canadian challenges. Each country evolves in response to its own history. For all the talk of the American, Australian and German upper houses, the simple fact is that they were all designed to meet the particular needs of each country. If they were all so great, then why are they not all the same? There are factors which distinguish each of these models from the Canadian experience and current Canadian realities and in some cases, especially in Australia, reforms brought to their second chamber have not turned out as well as first thought.

I believe our Fathers of Confederation were smarter than we sometimes give them credit. While one can argue that Senate reform may be necessary 131 years later, I would again stress that reform must be considered in the context of how it applies within our overall system of government.

For all its talk of Senate reform, reform will not come through shrill personal vendettas like the one we have recently witnessed from the leader of the Reform Party in the debate in the other place during debate on the Nunavut bill.

Also, from what I and others could see last weekend during Reform's recent assembly in London, it will not come from this same Reform Party — a party that is willing to sell its soul to the devil to achieve government, government at any cost. This is a political party that has absolutely no respect for the Constitution of Canada and its institutions of government. When you have no respect or understanding of parliamentary democracy, you cannot begin to change it. Reform will only come through calm, reasoned consideration of all the issues, with a solution arrived at by people who are willing to work within our parliamentary system to build it up and not by those who wish to tear it down.

As we witnessed with the results of the Charlottetown referendum, people are cautious about change. Canadians generally tend to want some evidence that these changes will work before they take the risk.

Hon. Senators: Hear, hear!

Hon. Philippe Deane Gigantès: Honourable senators, I wish to ask the honourable senator a question or two.

First, I would commend him for an excellent speech, which followed another excellent speech. The honourable senator is correct: Those who wish to make us into an American Senate do not know what they are doing or saying.

• (1620)

Has Senator Atkins considered the following: That the Prime Minister — and, this does not involve constitutional changes — consider for appointment to the Senate candidates proposed by provincial legislatures, but that those candidates should have a majority of the governing party and the opposition party in the provincial legislature? If, for example, a provincial government

were made up of members of the Reform party, no Prime Minister in his right mind would accept appointing Reformers to the Senate. They do not want the Senate. Why should we appoint people such as that to the Senate?

What would the honourable senator think of such an idea?

Senator Atkins: I believe that is an extension of the Meech Lake accord concept of appointment. I believe that the Prime Minister should retain the authority to make the final decision. He should be given a list developed through the legislative program. However, if he does not like the names on the list, he must have the option to refer it back for further submissions.

Senator Gigantès: My point is that a list coming from a province should come from the legislature and those on the list should have been voted for, both by the government in power in that province and the opposition. In other words, the legislature of a province must recommend someone whom both sides in the legislature like.

Senator Atkins: I certainly like that idea better than the one which Alberta is about to implement. I find that to be a reasonable and sensible suggestion. However, it may be going too far in the present circumstances in this country.

Senator Gigantès: There is a perception among the public, which I find deplorable, that it is like partisanship. You cannot have a democracy without two parties and if you have two parties you have partisanship. That is good and healthy and that is how democracies work.

However, this would provide people whom the public would perceive to be accepted by both sides. That does not mean that when people arrive in the Senate they will not take one or the other side of an issue, such as the basic one which we have discussed for centuries, that of whether to cut taxes or pay for more public services.

We might get around the disrespect for the political process which has been cultivated by the press, among others, if we follow the form of nomination that I suggest, with the Prime Minister having the last word.

Senator Atkins: I believe that is a reasonable proposal for consideration when we address reforms to the Constitution that involve the Senate, the House of Commons and our entire system of government.

Senator Gigantès: This would not require constitutional change.

Senator Atkins: No.

On motion of Senator Carstairs, debate adjourned.

HEALTH

COMMISSION OF INQUIRY ON THE BLOOD SYSTEM IN CANADA—COMPLIANCE WITH RECOMMENDATIONS—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Lynch-Staunton, seconded by the Honourable Senator DeWare:

That the Senate endorses and supports the findings and recommendations of the Commission of Inquiry on the Blood System in Canada;

That the Senate for humanitarian reasons urges the Government of Canada and the Governments of the Provinces and of the Territories to comply with these findings and recommendations; and

That a copy of this motion be forwarded to each federal, provincial and territorial Minister of Health,

And on the motion in amendment of the Honourable Senator DeWare, seconded by the Honourable Senator Kinsella, that the motion be not now adopted, but that it be amended in paragraph two by removing and replacing the words "to comply with these findings and recommendations" with the following:

> "to not exclude in determining compensation any person who has contracted Hepatitis C from blood components or blood products.",

And on the motion in amendment of the Honourable Senator Berntson, seconded by the Honourable Senator DeWare, that the motion be not now adopted, but that it be further amended in paragraph one by removing the words "the findings and recommendations" and replacing them with "Recommendation 1"; and adding after the words "in Canada," "and recognises the role of the Government of Canada in contributing to its implementation."—(*Honourable Senator Carstairs*).

Hon. Jerahmiel S. Grafstein: Honourable senators, I approach this debate with some delicacy and hesitation. I recognize, obviously, the anguish felt by the victims who have been tainted by our blood system. When this matter first arose, I did not intend to participate in this debate, as I had not done the proper homework. I began to read the three volumes of the Krever commission report but had not had an opportunity to read them in depth as the motion progressed.

As well, although I have tried to do so, I have not been able to obtain the positions of various provinces, in particular the Province of Ontario. I read the public statements but I understand that there were detailed discussions between the federal government and various ministers. Therefore, some of this debate was obviously not transparent.

Obviously the sentiments expressed by the Leader of the Opposition in the Senate are of great interest and great attraction. However, we are presented with a resolution, which complicates the matter for me. Senators will recall the history of this resolution. To sum it up briefly, we started with a broad resolution supporting a wholesale offer of approval of all 50 of the Krever recommendations. Through various amendments, the opposition has reduced that to focus on Recommendation 1.

I shall read the motion as amended. It is difficult reading the amended text and I hope that I have it correct. The resolution as amended reads as follows:

> That the Senate endorses and supports Recommendation 1 of the Commission of Inquiry on the Blood System in Canada and recognizes the role of the Government of Canada in contributing to its implementation;
>
> That the Senate for humanitarian reasons urges the Government of Canada and the Governments of the Provinces and of the Territories to not exclude in determining compensation any person who has contracted Hepatitis C from blood components or blood products.

What do we now have before us? What are the Leader of the Opposition and his colleagues suggesting? Is there a clear statement for us to deliberate upon, or is there an inherent inconsistency within the resolutions?

The resolution, in effect, calls for, first, an approval of Recommendation 1 of the Krever commission, and then it goes on to say that we are not to exclude, in determining compensation, any person who has contracted hepatitis C from blood components or blood products.

Recommendation 1 of Krever says:

> It is recommended that, without delay, the provinces and territories devise statutory no-fault schemes for compensating persons who suffer —

— and I highlight this —

> — serious, adverse consequences as a result of the administration of blood components or blood products.

Within this resolution we have a second part which, in effect, says that we should compensate anyone who has contracted hepatitis C, whether or not, I assume, they have suffered serious or adverse consequences.

The other day Senator Gigantès invaded his own privacy by disclosing that he has contracted hepatitis C, although he apparently is suffering no serious adverse consequences.

I draw the attention of the Senate to the inconsistencies within the resolution. To assist me in my thinking, I will turn to Beauchesne. I do not raise this as a question of order with respect to the resolution. It is only for advice to the Senate because it is my understanding that, had I studied this more carefully at an earlier time, I could have raised this point as a timely objection. Obviously this is not a timely objection. However, I believe that we still have an obligation, where we may, to follow Beauchesne.

Beauchesne's Parliamentary Rules & Forms, 6th edition, paragraph 568, reads:

> It is an imperative rule that every amendment must be relevant to the question on which the amendment is proposed. Every amendment proposed to be made, either to a question or to a proposed amendment, should be so framed that, if agreed to by the House, the question or amendment as amended would be intelligible and consistent with itself.

I highlight the last words, "intelligible and consistent with itself." This is all at page 175 of Beauchesne under: "Amendments."

• (1630)

Paragraph 579(2) states:

> An amendment may not raise a new question which can only be considered as a distinct motion after proper notice.

Honourable senators, what we have here are two propositions encapsulated in one resolution. First, anyone who has contracted hepatitis C should be compensated. Second, we have Mr. Justice Krever, who spent many years at great public expense, and valuable public expense, on this issue, and I think his report is invaluable. He came to a conclusion that was entirely different, and I draw the attention of honourable senators to this. In his first recommendation, Mr. Justice Krever makes no mention whatsoever of the federal government. Obviously, he made no mention of the federal government for at least one reason — that the delivery of medical services in this country is still within the ambit of the provinces. He went on to provide a no-fault scheme for people who suffer serious and adverse consequences.

What is a no-fault scheme? A no-fault scheme is a statutory method by which people who are affected, injured in any way, shape or form, or suffer damage can forego the legal costs and the delay of proving liability. They just have to prove their damages — essentially what they have suffered and what the allocation of costs should be.

Honourable senators, I do not raise this with great confidence. I do not raise this as a question of a rule of order. I raise it more as a question for clarity than for a conclusion.

Hon. Philippe Deane Gigantès: Honourable senators, I move the adjournment of the debate.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I should like to speak to this issue.

Senator Gigantès: Has the honourable senator spoken to this matter before?

Senator Lynch-Staunton: Yes, I have spoken before, and I am entitled to speak to this again as we are debating Senator Berntson's amendment.

Honourable senators, I am disappointed to hear Senator Grafstein spend so much time in an attempt to obscure the intent of the motion and not speak to the purpose of the motion itself.

I wish to explain, never thinking that an explanation was needed, that the second paragraph of the motion, which states "to not exclude in determining compensation for any persons..." means any person subject to Recommendation 1 of the Krever commission. With regard to anyone Mr. Justice Krever mentioned in his recommendation entitled "Compensation," we agree that they all be considered and not one of them be excluded, as the Government of Canada has tried to do through the compensation package, which is limited to victims who contracted hepatitis C between 1986 and 1990. I wish to be clear on that.

In addition, I would like a commitment from the government that we can bring this issue to a vote before we break for the summer. We, on this side, insist on this. The original motion has been before this house since May 7. We have made a couple of amendments to clarify the intent of the motion, recognizing that it was perhaps too vague originally. I believe it is now precise and clear enough for all senators to understand that the compensation we should like to see applied will be applied to all victims of tainted blood or tainted blood products who were infected because of negligence by the Canadian Red Cross and other authorities responsible for the blood supply in this country.

Honourable senators, we are not saying that all those who have developed hepatitis C should be eligible for compensation, as we all know that hepatitis C can be contracted through other means, such as dirty needles. We are speaking about those who Mr. Justice Krever also wants to receive compensation. It is those who long before 1986 could have benefited from testing procedures that were available and that were not adopted by those responsible for the blood supply. These people are the subject of our motion. I wish to make that very clear, and if need be, I will repeat it on another occasion.

It is not, as the Prime Minister has suggested, that if we apply compensation to a certain category of victims, then the government would be open to lawsuits from those who may contract cancer from cigarette smoking or those who would contract hepatitis C from dirty needles. That completely obscures the issue and gets away from the tragedy which was caused by negligence.

Accidents in operating rooms and treatment which could have been avoided are one thing when caused by mistake. However, here we are speaking about deliberate negligence. It was known that testing procedures were available as early as 1971, primitive as they may have been. It was known by 1981 that two testing procedure could have, together, detected tainted blood with about 60 per cent efficiency. No testing procedure was not adopted in this country, although one was adopted by the New York blood banks from 1982 onwards. Testing procedures in this country were not adopted until 1990, whereas other countries, such as Germany and the United States, adopted them years before.

Honourable senators, there was deliberate negligence by the authorities in this country and refusal to adopt any testing procedure just to save a few million dollars. No matter how rudimentary or primitive, it was still there and available. The victims of that negligence are the ones the Senate should support for compensation.

I hope that either today or tomorrow, the Deputy Leader of the Government can assure us that this motion, after sufficient debate, will be brought to a vote before we adjourn for the summer.

On motion of senator Gigantès, debate adjourned.

The Senate adjourned until Wednesday, June 10, 1998, at 1:30 p.m.

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