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(HANSARD)

Thursday, September 9, 1999

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THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

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OFFICIAL REPORT

CORRECTION

Hon. Eymard G. Corbin: Honourable senators, I should like to make a correction to the *Debates of the Senate* for Wednesday, September 8, 1999, in the first column of page 3774, at the seventh line of my speech. I referred to Czechoslovakia. I should have said Croatia. I trust that Hansard will take this comment into account.

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THE SENATE

Thursday, September 9, 1999

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

THE LATE HONOURABLE ROBERT RENÉ DE COTRET, P.C.

TRIBUTES

Hon. Lowell Murray: Honourable senators, it is my sad duty to say a few words in honour of the memory of former senator, member of Parliament and minister, Robert René de Cotret, who died suddenly on July 9.

Robert de Cotret entered politics at the age of 35, after a brilliant career as an academic and economist. After completing his studies at the University of Ottawa, McGill University and the University of Michigan, he taught at the University of Michigan, as well as at the University of Ottawa and Carleton University. He also served on the President's Council of Economic Advisors in Washington as senior economist, and was a monetary policy advisor to the Department of Finance in Ottawa. In 1972, he joined the Conference Board of Canada, and four years later was appointed to head that prestigious institute.

In 1978, the new leader of the Progressive Conservative Party, Joe Clark, recruited Robert de Cotret to run in the Ottawa Centre by-election.

• (1410)

At that time, I was the head of the Conservative Party's national organization and have clear memories of the enthusiasm with which this star candidate was received by the party faithful. His election contributed greatly to the credibility of our team, both in the House of Commons and throughout the country.

In 1979, although Mr. Clark and the Conservatives won the general election, Mr. de Cotret suffered a defeat in his riding. Since the new prime minister did not want to lose the services of such a gifted colleague, he appointed Mr. de Cotret to the Senate. This appointment allowed him to become Minister of Industry and Commerce and Minister of State for Economic Development. His presence in cabinet also increased the French Canadian contingent within a government in which there were few francophones.

[English]

About 20 years ago this fall, I was Bob de Cotret's seat-mate on the government side of the Senate. His arrival here, on the rebound from electoral defeat, was not of the most auspicious.

There were grumblings in the other place that this senior minister was "hiding in the Senate." However, his performance here silenced the critics.

Senate Question Period became a seminar on economic policy. Senator de Cotret was in his element, engaging in serious dialogue with learned members opposite. Two days into the new session, opposition senators were praising his full and informative replies to their questions.

[Translation]

His senatorial career came to an end with the calling of the 1980 general elections. He ran in the riding of Berthier—Maskinongé in Quebec. Unfortunately, he was defeated once again and subsequently returned to the private sector. During the next four years, he served as the Executive Vice-President and Director General of the international sector of the National Bank of Canada. In the 1984 general elections, he returned to the House of Commons and remained there until 1993. He served with distinction in four positions in the cabinet of the government of Prime Minister Mulroney. He was President of the Treasury Board, Minister of Industrial and Regional Expansion, Minister of State for Science and Technology and Minister of the Environment.

Over the course of these years, I had the honour of sitting under his chairmanship on the Cabinet Committee on Economic Policy. Robert René de Cotret was one of the main players in a number of major reforms undertaken by the government. I am thinking specifically of the Pay Equity Act, of the Official Languages Act of 1988 and the Green Plan for the environment.

In the exercise of his powers, Robert de Cotret always acted with moderation, an innate sense of justice, keen intelligence and remarkable diligence. As a minister, he had a clear grasp of the issues and knew how to develop them through a broader and more coherent vision of Canada.

His relations with his colleagues on both sides of the House, with his constituents and with the union leaders of the public service were marked by respect, good faith and the greatest personal and professional integrity.

[English]

At the age of 35, Bob de Cotret gave an interview to an Ottawa newspaper in which he acknowledged that his worst fear was the chance of having a stroke because there was a history of strokes in his family. He went on to say that, even if he died the next day, he hoped that he could look back on his life at this time and feel that he had accomplished something.

Senator de Cotret lived another 20 years; still far too short a time for those who respected and admired his wonderful human qualities, and who had such affection for him. However, it was long enough to have added further lustre to the name "René de Cotret" which has been part of Canada's history since the days of the earliest French settlers.

Approximately 600 people were present for his funeral mass. The emotion expressed by his brother and his sons was shared by many friends from the academic, business and political world who formed the congregation and mourned his passing.

[*Translation*]

Honourable senators, although we are concerned about Canada's political future and economic and social problems and sometimes fall prey to lassitude or pessimism, the public life of Robert René de Cotret reminds us of Canada's great wealth. Happy the country that can draw such citizens into its service!

Hon. Pierre De Bané: Honourable senators, I should like to join with Senator Murray in paying tribute to Robert de Cotret, our esteemed colleague in this house, who was also one of Canada's eminent citizens.

Mr. de Cotret served as a model for a good many Canadian politicians, especially the French-speaking ones. At the start of his career, he was invited to serve as principal economic advisor to U.S. President Richard Nixon at the White House, thus assuring Canada of an international presence in the field of economics. He was subsequently appointed to the World Bank, again representing Canada on the international scene.

At the age of 32, he was President of the Conference Board of Canada and certainly the youngest president of this bank of economic sciences our country has seen. With the election of the Conservative government of the Right Honourable Brian Mulroney in 1984, he became the President of the Treasury Board.

In this post, he earned the loyalty and respect of both his colleagues and the union leaders. He held a number of portfolios, including those of Regional Economic Expansion, Economic Development, Science and Technology, government restructuring and finally, environment. In this department, he implemented an ambitious environmental protection plan, the Green Plan, to which the government allocated \$3 billion.

[*English*]

As Minister of Industry, Trade and Commerce under the Right Honourable Joe Clark, Robert de Cotret was a key architect of the department. His intellect and experience were used to the benefit of all Canadians.

He was recognized repeatedly for his remarkable ability to answer lengthy and demanding questions in this chamber on issues of a diverse nature. The high calibre of his work was evidence of his dedication to the job.

After retiring from politics, the Honourable Robert René de Cotret taught at the University of Ottawa, passing on his legacy to students in the masters of business administration program at the faculty of administration.

Robert René de Cotret's career was one where, though he excelled in the private sector, he was drawn repeatedly to the public sector where he distinguished himself through his tireless efforts to serve all Canadians.

Robert René de Cotret was known by his friends and colleagues as a quiet and thoughtful man whose personal integrity was unimpeachable. He once stated:

I cannot tolerate intellectual dishonesty. I can accept any kind of argument or criticism as long as the motivation behind it is honest.

Robert René de Cotret's contribution to Canada, and in particular to the debates of this house, will be remembered because he was a man of principle who showed us by example how not to sacrifice our personal integrity while leading a life of great accomplishment.

[*Translation*]

THE LATE HONOURABLE ALAN MACNAUGHTON, P.C., Q.C., O.C.

TRIBUTES

Hon. Céline Hervieux-Payette: Honourable senators, it is an honour for me to speak about the important contribution made by our colleague the Honourable Alan Macnaughton. I met him in 1995 when he was with the law firm of Martineau-Walker. I was struck by his energy, his modesty and his sense of humour.

At the age of 92, he told me that he had only recently had to give up downhill skiing. His more than 30 years of work with the law firm was extraordinary and his departure at the age of 96 is a clear indication that public service is not hazardous to the health.

He was first elected to Parliament in 1949 as a member of the Liberal caucus of the Right Honourable Louis St. Laurent. He represented the riding of Mount Royal, winning the 1949, 1953, 1957, 1958, 1962 and 1963 elections.

He then served as Speaker of the House of Commons from May 16, 1963 to January 18, 1966. On July 8, 1966, he was appointed to the Senate, where he sat until July 30, 1978. In all, he spent 29 years in the service of the Parliament of Canada.

His capacity for work was legendary. In their tributes to Mr. Macnaughton, many colleagues have mentioned that he was still sitting on more than 20 boards of directors, in addition to serving on the Standing Committee on Banking, Trade and Commerce, when he retired from the Senate at the age of 75.

In 1967, Mr. MacNaughton founded the World Wildlife Fund-Canada and sat on its board of directors until 1981.

He sponsored the Macnaughton Conservation Scholarship, a scholarship worth \$5,000 given by the World Wildlife Fund-Canada to two students doing outstanding research into environmental protection issues.

On October 25, 1965, he was sworn in as a member of the Queen's Privy Council. In October 1966, he sponsored Bill C-227, a bill authorizing the Government of Canada to contribute towards the cost of provincial health programs.

He was Canada's alternate delegate to the United Nations in 1945 and led the Canadian delegation to the UN Conference on the Human Environment in Stockholm in 1972, at which Canada played an important role.

He chaired the Senate Standing Committee on Foreign Affairs and was very active in parliamentary associations, including the Canada-United States Inter-Parliamentary Group.

There are a few anecdotes about him that I should like to share. When Alan Macnaughton left the House of Commons, the Right Honourable Diefenbaker had this to say about him:

[English]

I never at any time found a fairer and more able Speaker than...Alan Macnaughton.

[Translation]

That is a real compliment, especially coming from the Opposition. Over the course of his parliamentary career, Alan Macnaughton saw four prime ministers come and go: Louis St. Laurent, John G. Diefenbaker, Lester B. Pearson and Pierre Elliott Trudeau. Although there was no direct link between the two events, his resignation from the Senate came only a few months before the election of Joe Clark.

Senator Walker, a Conservative, had warm praise for his colleague when he paid tribute to him on October 24, 1978. He said:

[English]

Alan Macnaughton was never defeated in all his tries for the House of Commons.... For that, I envy him.... He was never defeated — I remember twice in Mount Royal he had the largest majority of any member of Parliament in Canada. He gave up his seat to the Prime Minister —

Pierre Elliott Trudeau —

— one of the mistakes he made.

[Translation]

I must confess to not being totally in agreement with Senator Walker. He concluded by saying:

[English]

He is the type of person we don't very often find in politics. He was always modest, always soft spoken; he never boasted, never blew his own horn. Yet from job to job he succeeded... Therefore, it is my pleasure, as a Tory, to put on record a summing up of a great Liberal, who made a very distinct contribution to Canada.

[Translation]

Senator Macnaughton certainly brought honour to all of his family. His many relatives must be proud of his contribution to Canada. He has left it the richer for his talent and his hard work.

Hon. Gérald A. Beaudoin: Honourable senators, I wish to pay tribute to Alan Macnaughton, a former Speaker of the House of Commons, who left us this past summer.

The Honourable Alan Macnaughton's life spanned nearly an entire century. He studied at Upper Canada College in Ontario, McGill University in Montreal, and the London School of Economics and London University.

Elected for the first time to the House of Commons in 1949 as a Liberal, he was re-elected in 1953, 1957, 1958, 1962 and 1963. He became a member of the Privy Council in 1965. He was Speaker of the House of Commons from May 16, 1963 to January 18, 1966, and became a senator on July 8, 1966. An eminent jurist, he was a Crown Prosecutor in Montreal and Secretary of the Montreal Bar.

I had the opportunity to come to know his work as Speaker of the House of Commons for a year when assistant parliamentary counsel in the office of long-time parliamentary counsel of the House of Commons, Dr. Maurice Ollivier.

The Honourable Alan Macnaughton had an illustrious career as a member of Parliament, Speaker of the House and senator. His legal career was also a very interesting one. He had interests as well in a number of other areas. He founded the World Wildlife Fund and was made an honorary member in 1990.

My most heartfelt condolences to the members of his family.

[English]

Hon. Sheila Finestone: Honourable senators, I should like to join my voice to that of my colleagues Senator Hervieux-Payette and Senator Beaudoin.

I rise in this chamber still full of wonderment and vivid memories of my installation here just two days ago. The warm reception of family, friends and colleagues, old and new, still remains with me and will remain with me always, along with my fervent hope to use my time here constructively and in the best interests of the citizens of Canada.

Hearing and learning about the life of Senator Alan Macnaughton gives me hope and direction.

I stand before you today to speak in memory of Senator Macnaughton. From the many people with whom I spoke, I know him as a gentleman of culture, wisdom and humour. While I cannot claim to have known this gentleman well, I can tell you that he had an important influence on my life in Parliament.

I first met Alan Macnaughton when I was the newly nominated Liberal candidate from the Mount Royal riding. I was nervous to meet a man many considered to be a living legend. I was already intimidated to find myself campaigning with Pierre Elliott Trudeau, whose parliamentary seat I was supposed to be winning, and now I was to meet this senator. He made me feel comfortable. There was no aura of arrogance, just completely straight, plain talk and, in his calm manner, he shared with me some of his experiences and insights into political life and gave me what I consider to be a very good piece of advice. He said, "Don't be intimidated. Be yourself. Have the courage of your convictions, and just follow your conscience."

• (1430)

To his friends, Senator Macnaughton was what is called in French "un personnage, tout un personnage." This larger-than-life status is only given to a few, and it invariably comes from a personality so strong that it leaves an indelible mark wherever it alights. Alan Macnaughton was such a person; a great Montrealer, Quebecer and Canadian.

For 17 years Alan Macnaughton was the devoted member of Parliament for the riding of Mount Royal and, as you heard, he was elected in 1949, 1953, 1957, 1958, 1962 and 1963. Many of us would like to have that kind of record; unblemished, so to speak.

During his service to the Canadian people over in the other place, he had the honour of being elected to sit in the Speaker's chair which, I am told, he handled with great dexterity. He saw his responsibilities as a conciliator and could clearly see the potential for compromise. As well, Alan Macnaughton brought in major managerial reforms, first, by hiring year-round professionals and then with his extremely interesting reforms of rules and procedures. It is said that Speaker Macnaughton brought the house into modern times. He can be remembered as a voice of calm during the storm of fierce partisanship.

In many ways, he set a standard to be followed, for the 26th Parliament produced some of the longest and most bitter debates in Canadian history. His speakership was punctuated by the flag debate, security and morality scandals, and several unusual incidents such as the day a visitor threw a container of blood on to the floor of the other place.

The devotion that Alan Macnaughton showed to his constituents helped to serve as a guide when I first began my career 16 years ago. Among his many legacies in this very

pluralistic riding — a microcosm, even then, of the multicultural reality of Canada — is the lovely library he had built in the Town of Mount Royal.

Outside the chamber, the senator became one of Canada's first international lawyers. His practice and expertise took him to all corners of the world. While travelling, he also became a teacher, methodically teaching his young protégés the keys to his success. He took many juniors to Europe on his semi-annual trips, from which he returned always fresh as a daisy but, I am told, with one or two of these young lawyers, utterly exhausted, trailing behind. Our senator always stressed the importance of public service to his young colleagues. Rumour has it that he even gave presentations entitled "What Does the Senate Do?"

Senator Macnaughton was proud to sit in this chamber. He passionately defended the role of the Senate, both at home and abroad. He once confided in an old friend that, while travelling, he liked to emphasize his senatorial position, for at the very least, he said, it usually produced upgrades and a fruit basket in his hotel room.

A man of many passions, his great interests and boundless generosity for the World Wildlife Fund and his beloved McGill University gave even greater focus in his later years. He took great pride as he played the initiator's role in the establishment of the Roosevelt Campobello International Park Commission: a unique memorial to the close and neighbourly relations between the peoples of Canada and the United States, and the location of President Roosevelt's summer home.

On July 22, 1999, at Senator Macnaughton's funeral in Montreal at the Church of St. Andrew and St. Paul, and at which Senator Prud'homme was in attendance, the church was filled with wonderful and powerful notes from the church's organ. Our always-independent senator left instructions with his long-time good friend, the Reverend J.S.S. Armour, the very affable presiding minister, to have his favourite selections of the organ played for at least one-half hour prior to the actual service. He said to his dear friend, "If they don't like it then they can just get up and leave."

No one left; all present were uplifted by the fine performance of the organist, Professor John Grew. The music was a further testimony to this senator's fine appreciation for all things cultural in life. The service was truly a celebration of Senator Macnaughton's life. His close friends Maurice Forget and Lise Singer shared with us their special memories of this great man.

To his family, friends and colleagues, we thank you for letting us share in the life of Alan Macnaughton. I try to hold these words of wisdom given to me by Senator Macnaughton as I navigate my way through life, and they are worth remembering for all of us.

Don't be intimidated, be yourself; have the courage of your convictions, and just follow your conscience.

It was a privilege to have met him, and I join my voice to the many in extending a message of sympathy to his family from the constituents of Mount Royal.

[*Translation*]

Hon. Marcel Prud'homme: Honourable senators, our colleague Senator Finestone pointed out that I attended the funeral of the Honourable Alan Macnaughton, this summer. To do so was only normal for me and for her probably, because when I became a member of Parliament, back in 1964, the Honourable Alan Macnaughton was the Speaker of the House of Commons.

It was mentioned that he was extraordinarily popular, since he always won with very comfortable majorities, except once. I want to say a word about this issue. He was elected with a majority of 10,000 in 1949, 9,000 in 1953, 7,000 in 1957, 20,000 in 1962 and 28,000 in 1963. However, with the arrival of Mr. Diefenbaker, his re-election in 1958 proved very difficult. Senator Macnaughton helped me a great deal when I became a member of Parliament, and I kept wondering why. He told me that it was thanks to my brother — those who think we mixed religion and politics need not worry — the late Reverend Gérard Prud'homme, who was the assistant priest in the parish of Notre-Dame-des-Neiges, in Montreal. My brother had energetically but discreetly campaigned for the Honourable Alan Macnaughton. Those who have a good memory will remember that he faced a fierce Conservative opponent, the Mayor of Mount Royal, Mr. Dawson, who lost by a mere 489 votes. Mr. Macnaughton won by this margin because of the support he garnered in Notre-Dame-des-Neiges, through the efforts of the manager of the Caisse populaire de Notre-Dame-des-Neiges.

I have fond memories of the famous flag debate. Four of us are still around: two are in the House of Commons, namely the Right Honourable Prime Minister Jean Chrétien, my colleague and lifelong friend, and the Honourable Herb Gray, the senior member in the House of Commons. Based on years of service, I will always be second to him. In the Senate, there is another survivor of that debate, Senator Stewart, who is the distinguished chairman of our Standing Committee on Foreign Affairs.

Those who were present witnessed a truly passionate debate. I heard just about everything that could be said on that Canadian flag. It was a gift from the French Canadian people, particularly those in Quebec, to Canada. Yet, that initiative was fiercely debated by a number of political parties, particularly the Conservative Party of the day. Today, such a debate could not take place with the Conservatives I see around me. Still, we must remember these things.

Thanks to the very British composure and dispassion of Mr. Macnaughton, we managed to make it through the worst debate that I have witnessed since becoming a member of Parliament. You probably think that the GST debate in the Senate was terrible. I will let history be the judge. But I can assure you

that, thanks to the sometimes disconcerting dispassion of Mr. Macnaughton, we were able to make it through that debate, at the end of December 1964. We officially got our Canadian flag on February 15, 1965.

Attending the funeral was something I had to do. And, while there, I discovered that, when we grow old, we are very quickly forgotten. Senator Finestone and myself were the only ones present. Fortunately, she was a member of the House of Commons at the time; it can therefore be said that both Houses were represented. But I was surprised to see so few representatives of our Parliament for a man who had been Speaker of the House of Commons. This is something we should remember.

• (1440)

The funeral was also attended by a former senator whom we all respected and whom I consider a personal friend. This man has never criticized me for sitting as an independent, because I took a page from his book, as it were. I am referring to Senator Hartland Molson, a political giant, who strode along like a young man, a bit like Mr. Macnaughton. I thank Senator Finestone for recalling him to mind. I can now pass on your greetings and tell him to continue to occupy the place of honour behind the Montreal Canadiens, where he can be seen with his new wife at each televised game.

I would particularly like Alan Macnaughton to be remembered for his skill in guiding Parliament through some difficult moments. This is an example I use when I tell students that it is easy to be popular when things are going well, but not so easy to keep one's cool when the going gets rough.

I should like to add my kind words to those of Senators Finestone, Hervieux-Payette and Beaudoin and join with them in extending my deepest sympathies to his three children, Elizabeth White, Alan Aylesworth and Laurence Robert Norton, and assuring them that their father's memory will live on in the memories of those who knew him.

[*English*]

SENATORS' STATEMENTS

THE LATE JEAN DRAPEAU

TRIBUTES

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, since his death, nearly everything has been said and written about the public life of Jean Drapeau, his career and achievements. Thus, it is not my intention today to repeat what is so well known of him. Instead, I want to pay tribute to Jean Drapeau, the colleague and friend I had the honour of being close to for nearly 40 years.

[Translation]

Sober, even austere, in appearance, with his dark suit and his black-framed glasses, Jean Drapeau kept his delightful personality private. Armed with a quick and wicked mind and a well-developed sense of humour, he liked to relax with people whose discretion was inviolate. Oftentimes, around a table where there was no shortage of liquid refreshment, he would recount his impressions of the events of the day and of those involved in them. Ever respectful of those in public life, Jean Drapeau nevertheless could size them up and it was not always favourably. What distinguished him from others was that, while he was an easy target for his detractors, he never criticized them in public. The word “scandal mongering” was not in his vocabulary.

One of his greatest attributes was that of being available for his friends and colleagues, even during the busiest and most difficult periods. A get well card, a phone call on a birthday, a letter of condolence — these little gestures, often unexpected and always appreciated, came naturally to him.

In politics, friendship is often fleeting, but Jean Drapeau recognized the difference between fair weather friends and those to whom his friendship was invaluable. These people could count on his warmth and his great sensitivity.

Everyone is saddened at the death of Jean Drapeau, an exceptional man, a staunch Montrealer, ardent Quebecer and loyal Canadian. Those who enjoyed his generosity and his kindness are all the more so. His friends may be comforted in their suffering by the vital and indelible memories that Jean Drapeau has left them.

Hon. Shirley Maheu: Honourable senators, I am pleased to make this speech on behalf of Senator Lise Bacon.

Honourable senators, I should like to join with all those who, since his death on August 12, have paid tribute to Jean Drapeau. The affection shown by ordinary people and the number and quality of the tributes by public personalities bear witness to the degree of respect and love the people of Montreal felt for their former mayor. Even ten years after he left Montreal city hall, Montrealers meeting him still called him “Mr. Mayor” — well-deserved respect and love for a man who devoted his entire political career to the welfare and happiness of his fellow citizens.

However, the dimensions of this public figure and the extent of his accomplishments went far beyond the limits of the city to which he devoted most of his public life. His years at the head of the City of Montreal made him one of the most memorable political personalities of the 20th century in Quebec and in Canada. Montrealers were not the only ones to reap the benefits of the international reputation Jean Drapeau earned for their municipality. Expo 67 and the 1976 Olympics provided Canada with a window to the world, a remarkable visibility that had unfortunately escaped it until then. It is in part thanks to Jean

Drapeau that, in less than a decade, our country ceased to be seen by the rest of the world as a semi-deserted stretch of land along the northern edge of the United States border and became the modern and dynamic country that it is.

There are two words that define Jean Drapeau’s career very well: integrity and vision.

His integrity is what, in the early 1950s, enabled the fledgling lawyer Jean Drapeau to stand alongside Pacifique Plante in a mutual battle to clean up Montreal municipal politics. With his first election as mayor in 1954, Drapeau continued that battle. In my opinion, the fact that Maurice Duplessis did everything in his power in 1957 to get him out of the mayor’s chair is proof of his credentials in that area.

His re-election in 1960 allowed him to devote the bulk of his time and energy to converting his favourite dream into reality: lending an international dimension to the City of Montreal. Tirelessly, and with conviction and determination, he sought public and government support for making his dream into reality.

In his 30 years at the helm of the City of Montreal, Jean Drapeau managed to confer upon his city the status and renown that make it the pride of its inhabitants to this day. As his old political opponent Jean Doré put it so aptly:

Jean Drapeau gave Montrealers pride and self-confidence before the world.

His accomplishments, far too numerous to list in their entirety, include Place des Arts, the metro, Expo 67, the Olympics and the Floralies internationales, all part of the heritage he has left to the people of Montreal.

I wish to extend my most respectful condolences to his wife and children.

Hon. Joan Fraser: Honourable senators, while Jean Drapeau was the mayor of Montreal, I was one of his severest critics. I was an editorial writer, and much of my job involved commenting on public affairs, especially politics. I made tens, perhaps even hundreds, of very harsh comments on the politics of Mr. Drapeau. Most of them, I must say, I would repeat today, but a leader’s greatness is often measured by the force of the criticism he draws.

Jean Drapeau was a very great leader. One of the political giants that Quebec, more than any other part of the country, has a talent for producing.

Physically, he was not particularly impressive. Some thought he looked like a minor accountant or a country solicitor — I always thought he was the perfect incarnation of Hercule Poirot, Agatha Christie’s detective — but once he opened his mouth to speak, we realized that this was a man of extraordinary, unique and unforgettable strength, an irresistible strength of intelligence, imagination, vision and perhaps, first and foremost, will.

For Mr. Drapeau, nothing was impossible, and because Montrealers knew that their mayor could do anything, they were prepared to share his dreams and make them a reality.

[English]

If you never met him, you cannot imagine the strength of his ability to sweep you up into his vision. I remember being granted a rare interview with him when he spoke of his latest grand inspiration for Montreal. We were to become the transportation centre for the entire northeastern seaboard of North America, perhaps even for the southeastern seaboard of North America. It has not happened, of course. Even then, a rational observer could see that it would not happen, but when you listened to Mr. Drapeau you suspended disbelief. You were carried along in the flood of his enthusiasm, his refusal to let his superb vision be impeded by petty detail.

Often — not always but often — he succeeded where no one imagined success was possible. He loved Montreal with an unswerving passion. Nothing was too good for Montreal, nothing too daring to imagine. He dreamed great dreams, and his people loved him for it.

Those of us who criticized him might attack his projects; we might pour furious scorn on his mistakes but we never, ever attacked his motives. Even in his dark days — and he did have some — we knew that everything he did was done for the greater glory of Montreal.

In 1986, I attended the press conference where, weakened at last by illness, he announced his resignation. As he read his prepared statement, his voice began to falter and he came close to breaking down. He stopped reading. There was a second of silence. Then, spontaneously, the assembled multitude of cynical journalists did something the press never, ever does. It burst into applause to carry him through his moment of difficulty.

[Translation]

It bore eloquent testimony to the respect we had for this great man. A man that history will recognize as the greatest mayor Montreal has had and, doubtless, as the greatest mayor Montreal will ever have.

Hon. Marcel Prud'homme: Honourable senators, the tributes we have heard reflect only a part of the man Jean Drapeau was. If I told the truth, a number of people would be embarrassed. Those not familiar with all aspects of Jean Drapeau would do well to watch the documentary on him that Radio-Canada is airing from September 7 to 9 at 8 p.m. each evening.

The image of Jean Drapeau that was created was always incorrect. He was a great French Canadian nationalist, although many considered him to be other things. The older he got, the less he was tempted to waver from what constituted a true French Canadian. Those, like me, who conduct themselves as such cannot remain insensitive and silent on the subject of Jean Drapeau.

The first person on the City council Jean Drapeau met with in 1954 was my father. My father was an independent City of Montreal alderman. Perhaps it is an inherited disease; my father never accepted the notion of political parties at the municipal level. He was right then, and is still right today.

Voters should elect the best person for their neighbourhood and should keep a close eye on what is happening in the public forum when the time comes to form an executive committee. That would be far healthier for democracy.

My father was the one Mayor Drapeau wanted to have, thanks to the fact that Pierre Desmarais, the first chairman of the executive committee, was a friend. But there was a catch. Membership in a political party cost \$1,500. What a shock to my father, who was not known for readily parting with his hard-earned money. It was hard for him to understand, because the salary of an alderman at that time was only \$1,500 a year. So he declined.

What I find the most annoying is people's constant attempts at revisionism. It was Jean Drapeau who responded to the supposed "Vive le Québec libre" of General de Gaulle. Yesterday the CBC again referred to part of what continues to be the lie of the century — and was a constant source of annoyance to Mr. Drapeau.

What General de Gaulle said from the balcony was "Vive Montréal! Vive le Québec! Vive le Québec libre! Vive le Canada français!" Yet people persist in never showing the last part of what he said on that famous balcony. I will tell you I am the one who managed to get a complete version of the trip by General Charles de Gaulle to Quebec, in which he has "O Canada" sung in some of the villages visited. I am not defending General de Gaulle, but I am trying to explain the pages of history people want us to forget.

There is a film in the CBC archives that we are not shown, but I have a copy, which I provided to Mayor Drapeau.

• (1500)

I will always be sorry that people in Ottawa lost their heads and made it impossible for him to visit this city. He would have come to Ottawa if people had not reacted so stupidly back then. I am sorry to say this in the Senate. We will explain this in due course.

Again last night, Jean Drapeau was shown on television saying, as he always did: French Canadians, we in French Canada. This existed for him, as it does for me and for many of my colleagues, with the exception of one who prefers to be known as a Quebecer. And if we do not understand what this means, we will always have trouble living together in harmony. Jean Drapeau must not be seen as other than what he was. In his youth, when he belonged to the Bloc populaire, he was probably seen much more as a nationalist. Remember that the leader of the Bloc populaire, André Laurendeau, was elected in my neighbourhood. My mother chaired the nomination meeting for André Laurendeau, while my father chaired the one for the Liberal candidate. You can see the contradictions.

René Lévesque was elected in our riding because I dropped out of the race, being the Liberal candidate in 1960. What some people are and what they wish to accomplish in this country has always been covered up. I say to the Progressive Conservatives that Jean Drapeau could have been your leader. There was a meeting between Jean Drapeau and John Diefenbaker when the latter was Prime Minister. A good friend of Mr. Drapeau, one who can claim to have been a close friend, Senator Lynch-Staunton, is much more up on the details than I am. Unfortunately, Mr. Drapeau was kept waiting a bit too long in the outer office. He took his hat and went back to Montreal. That was the end of his federal temptation.

We are paying tribute to a man who, in his way, believed passionately in Canada, who turned Montreal into a major international city. He had his shortcomings. Heaven knows, Senator Fraser has frequently pointed them out to us. Towards the end, when everyone was applauding, even she was very moved. In other words, write what you will, but, when all is said and done, you will come back to reality yourself.

To Mrs. Drapeau, whom I know very well, and to his children, I extend my deepest sympathy.

[English]

• (1500)

The Hon. the Speaker: Honourable senators, we have exceeded the time for Senators' Statements, but three more honourable senators have indicated that they wish to speak. Is it agreed that we hear from those three senators?

Hon. Senators: Agreed.

FISHERIES AND OCEANS

COLLAPSE OF FRASER RIVER SOCKEYE FISHERY

Hon. Pat Carney: Honourable senators, on British Columbia's south coast this summer, the 1999 Fraser River sockeye fishery suffered a severe and unexpected collapse. The federal Department of Fisheries and Oceans introduced unprecedented closures, citing the effects of El Niño, warmer ocean temperatures, and a much larger number of predators like mackerel and tuna in the warmer waters.

The Fraser River sockeye fishery is the dominant fishery on the West Coast, accounting for 60 per cent of commercial revenues. It has never before been shut down. The value of this particular fishery to B.C. amounts to between \$200 million and \$500 million a year, depending on the salmon cycle. In economic terms, the cost of the collapse this year has been conservatively estimated at \$408 million.

The collapse is another devastating blow to B.C.'s coastal communities following years of fish wars, federal government restructurings, unstable ocean conditions, and several seasons of record low prices. For some fishing groups on the south coast, this loss represents 98 per cent of this season's economic

opportunity, when many were looking to income from this year's fishery to get back on their feet again.

In response to this crisis, 22 British Columbia organizations, representing all facets of the industry — commercial, recreational and aboriginal — have come together to address the biological, economic, and social elements of the collapse. This level of cooperation is also unprecedented.

The Fraser River Sockeye Crisis Committee, facilitated by B.C.'s Coastal Community Network, is pressing the provincial and federal governments to have the Fraser River sockeye collapse declared a natural disaster and to develop a proper negotiating process to deliver disaster relief to those who need it immediately.

The precedents are there. Short-term disaster relief was provided to the New Brunswick aquaculture industry after a virus closed it down in 1998. Disaster relief was also provided to the maple sugar industry in Ontario and Quebec after last year's ice storm, and to prairie grain farmers. The collapse of the Fraser River sockeye is also a natural disaster and the hardship faced by B.C.'s coastal communities is no less devastating.

B.C.'s coastal parliamentarians, which are all the MLAs, MPs and senators from coastal areas, have been invited to attend a Fraser River Sockeye Crisis Committee emergency meeting this Friday, September 10, in Vancouver to impress on the provincial and federal governments the need for social and economic assistance for the individuals and coastal communities hard hit by the 1999 collapse.

We hope that coastal parliamentarians can support the Fraser River Sockeye Crisis Committee's efforts to bring the needs of B.C.'s coastal communities to the attention of both the provincial government and, in particular, the federal government which has found funds to give four-star restaurant meals, films, and frisbees to illegal migrants who hijacked our refugee process, but which has not yet been able to deliver funds to the fishing community.

HEALTH

LEGISLATION TO PREVENT PREJUDICIAL DONATION OF ORGANS

Hon. Donald H. Oliver: Honourable senators, imagine a Canadian citizen being denied a life-saving heart or kidney transplant simply because they were black or Asian. "Impossible. Never in Canada," you may say. Well, Britain was rocked by a shocking revelation this summer when it was revealed that the U.K. transplant service had apparently accepted donor organs with the stipulation that they only be given to "white" patients.

On a trip to England in early July, a feature article in *The London Times* newspaper caught my attention. The health secretary had recently ordered an investigation into allegations that a family in Sheffield, England had one agreement from the transplant service that a relative's kidneys would only be used if they did not go to a coloured person.

This story gave rise to a flurry of more articles, opinion pieces, and letters to the editor by doctors, health service experts, lawyers, and ordinary citizens. The majority who took the time to write were morally outraged, but apprehensions were voiced by others on the impact of this event on the British health system. Debates raged over the right of organ donors or their relatives to place conditions on the use of organs, and over the ethical policies of health authorities in accepting or refusing organs donated under prejudicial conditions.

Caution was expressed over the notion of placing legislative restrictions on an area of altruistic or charitable gift giving, the fear being that such legislation may dissuade people from donating and thus create further problems for an already serious shortage of organs in Britain.

British law holds that once a person is dead their body is the property of the state, not of the deceased or their family, making any conditions placed on organs by either of these parties null and void. This is not the situation in Canada where past cases have established that failure to comply with the surviving husband's, wife's or next of kin's directions for organ donation may amount to an interference with their right to dispose of the deceased's body as they wish and result in a claim for damages. This means that, should a situation such as that in Sheffield occur in Canada, our laws, in some provinces at least, could legally support it.

In Canada, organ donation rates have also failed to keep pace with the need. We have some of the best transplant facilities and surgeons in the world, but one of the poorest organ donation rates among industrialized countries. According to the Canadian Institute for Health Information, in 1997, 3,072 patients were waiting for organ transplants, an increase of 68 per cent from the 1,830 patients awaiting transplants in 1991. Our donation statistics paint an equally dismal picture. Between the years 1992 and 1996, there was an increase in the amount of available donors by only 22 per cent.

• (1510)

At the end of 1996, there were only 14.1 possible organ donors in Canada per million population.

This April, the House of Commons Standing Committee on Health issued a report entitled, "Organ and Tissue Donation and Transplantation: A Canadian Approach," which recommends several positive ways to change our donor system in Canada.

What the committee did not address is the possibility and the legality of conditional donations such as the one that occurred in the U.K.

A life is a life, whatever the colour of the skin.

This quote in *The Times* was made by a British kidney patient, Mr. Allahadad, in his disgust over the Sheffield case. These are sobering words to hear in a country whose very foundations are grounded in the concept that all people are equal.

Organ donation is a very sensitive issue, but it is clear that we need well-drafted legislation to prevent conditional donations of any kind, be it race, ethnicity or sexual orientation. It would be a sad day indeed to see in our newspaper headlines that a Canadian citizen has been denied a transplant organ because of stipulations made by the donor or the family that are based on race. As legislators, we must ensure that this issue is addressed and resolved so that such a tragedy is never allowed to occur in this land.

THE SENATE

JEANIE W. MORRISON, C.S.R., MANAGER/EDITOR OF DEBATES
AND PUBLICATIONS BRANCH—TRIBUTE ON RETIREMENT

Hon. Jeremiah S. Grafstein: Honourable senators, have you ever wondered where the Senate would be without the printed word? Are we not, after all, merely dealers in words? Where would we be, honourable senators, without the *Debates of the Senate*?

Without the printed word, senators would leave too few footprints in the sands of history. To mix a metaphor, our words would dissolve in ether, relegated to the dustbins of history. Some days, some might say, that would not be such a bad idea.

Still, from time to time we should remind ourselves that the craftsmen and women who sit before us in the well of the Senate every day, our Hansard reporters, serve as our indispensable link to public policy and history.

Jeanie Morrison, Editor of the Debates Branch, is retiring on September 24 next, after a most distinguished career. I thank Richard Greene for bringing her retirement to my attention.

Jeanie joined the Senate in February of 1983. She quickly became senior reporter, in 1989, assistant editor in 1992, and, finally, Manager/Editor of Debates in 1996.

One could not fail to note that she was one of the first two female court reporters to work at the Supreme Court of Ontario before she came to the Senate. When she came to the Senate, she was the first female senior reporter, the first female assistant editor and the first female Editor of Debates at the Senate Hansard.

These many gender 'firsts' pale in comparison to Jeanie's unredoubted skills as a mistress of the English language. When we finish our work here, honourable senators, at the end of each day, the work of the reporters of Hansard has barely begun, and stretches late into the evenings. Jeanie has helped unravel the garbled syntax of my speeches, pointing out that participles should not dangle, that all words should not be capitalized, that a semicolon is sometimes better deployed than a colon, and that a period would simply do where I would tend to place an exclamation mark.

I am sure I speak on behalf of all honourable senators in wishing Jeanie an enjoyable and creative retirement when she leaves us here in the Senate on September 24.

We should remember that Jeanie has shown an interest in the Senate Hansard that goes well beyond professional bounds. Jeanie has been actively involved in the Canadian Hansard Association and the Commonwealth Hansard Editors Association, and has even paid her own way to conferences when the Senate was in the midst of yet another austerity program. In 1997, she was voted editor of the *Canadian Hansard Newsletter*. In every respect, Jeanie has been a superb professional, an exemplar to the staff of Hansard. Without their diligent presence, honourable senators, we would not even leave a footnote to the pages of history.

Rudyard Kipling once wrote:

I am by calling a dealer in words, and words are, of course, the most powerful drugs used by mankind.

Jeanie's work with our words has enhanced the power of the Senate.

May I wish Jeanie Morrison the best of good health, enjoyment in her future travels and assure her of our gratitude by these few words for her superb and unstinting service on behalf of the Senate and all senators.

God speed, Jeanie!

ROUTINE PROCEEDINGS

CANADIAN ENVIRONMENTAL PROTECTION BILL, 1999

REPORT OF COMMITTEE

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

Thursday, September 9, 1999

The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its

SEVENTH REPORT

Your Committee, to which was referred the Bill C-32, respecting pollution prevention and the protection of the environment and human health in order to contribute to sustainable development, has, in obedience to the Order of Reference of Tuesday, June 8, 1999, examined the said Bill and now reports the same without amendment, but with observations which are appended to this report.

Respectfully submitted,

RONALD D. GHITTER
Chair

(For text of appendix, see Appendix to today's Journals of the Senate, p. 1843.)

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

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

PRIVATE BILL

CANADIAN DISTRICT OF MORAVIAN CHURCH IN AMERICA—
REPORT OF COMMITTEE

Hon. Lowell Murray, Chairman of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, September 9, 1999

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

TWENTY-THIRD REPORT

Your committee, to which was referred Bill S-30, to amend the Act of incorporation of the Board of Elders of the Canadian District of the Moravian Church in America, has, in obedience to the Order of Reference of Wednesday, June 16, 1999, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LOWELL MURRAY
Chairman

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

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

PARLIAMENT OF CANADA ACT

BILL TO AMEND—FIRST READING

Hon. Jeremiah S. Grafstein presented Bill S-31, to amend the Parliament of Canada Act (Parliamentary Poet Laureate).

Bill read first time.

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

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

[Translation]

THE FRANCOPHONE SUMMIT

YOUTH—POLITICAL DIMENSIONS—NOTICE OF INQUIRY

Hon. Jean-Robert Gauthier: Honourable senators, I give notice that, on September 16 next, I will call the attention of the Senate to the recent Francophone Summit, held in Moncton from September 3 to September 5. The theme of the summit was youth, whose active participation is essential to the future of la Francophonie.

The Summit also looked at la Francophonie's political dimensions, stressing conflict prevention and resolution, the safety of civilian populations, and the strengthening of the rule of law and democracy.

[English]

- (1520)

DISTINCTIONS RECEIVED FROM UNITED KINGDOM BY CANADIANS

NOTICE OF INQUIRY

Hon. Anne C. Cools: Honourable Senators, pursuant to rule 56 (1),(2) and 57(2) of the *Rules of the Senate*, I give notice that Tuesday next, I will call the attention of the Senate:

(a) to persons of Canadian birth who sat as members of the House of Commons of the United Kingdom, including Ontario born Edward Blake, Liberal Minister of Justice of Canada 1875-77, also Leader of the Liberal Party of Canada 1880-87, and New Brunswick born Bonar Law, the Rt. Honourable Prime Minister of the United Kingdom 1922-23 and Ontario born Sir Bryant Irvine, Deputy Speaker of the House of Commons of the United Kingdom 1976-82;

(b) to persons of Canadian birth who sat as members of the House of Lords of the United Kingdom, including Richard B. Bennett the Rt. Hon. Prime Minister of Canada 1930-35 and Lord Beaverbrook, Minister in the United Kingdom Cabinet;

(c) to persons of British birth born in the United Kingdom and Colonies who served in the Senate and the House of Commons of Canada, including the Rt. Hon. John Turner Prime Minister 1984 also Liberal Leader of the Opposition 1984-90 and myself, a black female Senator born in the British West Indies;

(d) the Supreme Court of Canada's Chief Justices' memberships in the Privy Council of the United Kingdom and to the appointment of Supreme Court of Canada

Chief Justice the Rt. Hon. Thibaudeau Rinfret to the United Kingdom Privy Council in 1947;

(e) to the many distinguished Canadians who have received honours since 1919 from the King or Queen of Canada including the knighting in 1934 of Sir Lyman Duff, Supreme Court of Canada Chief Justice and in 1935 of Sir Ernest MacMillan, musician and in 1986 of Sir Bryant Irvine, parliamentarian and in 1994 of Sir Neil Shaw, industrialist and in 1994 Sir Conrad Swan advisor to Prime Minister Lester Pearson on the National Flag of Canada;

(f) to the many distinguished Canadians who have received 646 orders and distinctions conferred by foreign non-British-Canadian sovereigns since 1919 and before February 1929;

(g) to the recommendation by the United Kingdom Prime Minister Tony Blair to Her Majesty Queen Elizabeth II, for appointment as a non-hereditary Lord to the House of Lords of Conrad Black a distinguished Canadian entrepreneur publisher and the Honorary Colonel of the Governor General's Foot Guards of Canada;

(h) to the 1919 Nickle Resolution, a motion of the House of Commons of Canada for an address to His Majesty King George V and to Prime Minister R. B. Bennett's 1934 characterization of this Resolution that:

“That was as ineffective in law as it is possible for any group of words to be. It was not only ineffective, but I am sorry to say, it was an affront to the sovereign himself. Every constitutional lawyer, or anyone who has taken the trouble to study this matter realizes that that is what was done.”;

(i) to the 1934 words of Prime Minister R. B. Bennett that:

“So long as I remain a citizen of the British Empire and a loyal subject of the King, I do not propose to do otherwise than assume the prerogative rights of the Sovereign to recognize the services of his subjects.”;

(j) to the legal and constitutional position of persons of Canadian birth and citizenship, in respect of their abilities and disabilities for membership in the United Kingdom House of Lords and House of Commons, particularly Canadians domiciled in the United Kingdom holding dual citizenship of the United Kingdom and Canada;

(k) to the legal and constitutional position of Canadians at home and abroad in respect of entitlement to receive honours and distinctions from their own Sovereign, Queen Elizabeth II of Canada, and to their position in respect of entitlement to receive honours and distinctions from sovereigns other than their own;

(l) to honours, distinctions, and awards that are not hereditary such as life peerages knighthoods military and chivalrous orders; and

(m) to a sham republicanism which holds that the recognition of one's public service by one's own sovereign in non-hereditary honours is undemocratic and to the systematic historical and constitutional vandalism in Canada's constitutional order the Queen in Parliament.

[Translation]

PUBLIC SECTOR PENSION INVESTMENT BOARD BILL

PRESENTATION OF PETITION

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I have the honour to table a petition signed by 2,927 employees or members of the Canadian Union of Postal Workers, Montreal chapter, asking the Senate to amend Bill C-78 to ensure negotiations over their pension plan begin immediately and, failing that, to encourage the Senate to defeat Bill C-78.

[English]

CANADIAN ENVIRONMENTAL PROTECTION BILL, 1999

PRESENTATION OF PETITIONS

Hon. Willie Adams: Honourable senators, I have the honour to present a series of petitions to the Senate from communities in Nunavut concerning Bill C-32. In presenting the petitions, I am pleased to say that the concerns of northerners have been answered in the report of the Standing Senate Committee on Energy, the Environment and Natural Resources.

I am also happy to say that the Minister of Environment has agreed to work with the Minister of Health to make sure our food is safe to eat. There is still much work to be done but I think the commitments of the ministers and the Senate committee report are a good start.

QUESTION PERIOD

TREASURY BOARD

PUBLIC SERVICE PENSION PLAN BILL— SURPLUS IN FUND— POSSIBILITY OF AMENDMENTS IN THE EVENT OF FAVOURABLE COURT RULING ON JOINT OWNERSHIP

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, my question is for Senator Kirby as Chairman of the Banking, Trade and Commerce Committee. I should like to follow up on the discussion we had yesterday

regarding the status of the \$30-billion surplus and, in particular, its ownership.

Yesterday, the honourable chairman made it quite clear that the legal opinion he had received is that the bill will not affect the ownership of the surplus. In effect, that is correct. However, the bill does set out a formula for the disposal of the surplus as if it were already deemed to be owned by the government. It does not allow for a decision in the courts which would split the ownership between the unions and the government. It assumes that total ownership belongs to the government.

Assuming the courts decide that there is joint ownership of the surplus, will the allocation formula or the phasing-out formula still be applicable or will this bill have to be amended?

Hon. Michael Kirby: Honourable senators, that is essentially a legal question, and as I have said before, I am quite proud of not being a lawyer. Senator Oliver asked a variation on that question yesterday: Does the fact that the bill sets out a formula for applying the surplus, because it assumes that the surplus belongs to the federal government, create an entitlement to the surplus? That was the essence of the honourable senator's question. My answer, on the basis of advice I received from legal counsel to the government, was that it does not create an entitlement.

Senator Lynch-Staunton's question is one to which I do not know the answer: If the courts decide in the future that the government does not, in fact, own the surplus, does that change the mechanisms for dealing with the surplus that are set out in this bill? I presume the answer to that is yes, but I do not know. If the courts rule that the underlying assumption is wrong, then presumably the actions the bill purports to make legal on the basis of the assumptions being valid are also invalid.

• (1530)

Frankly, it is a legal question to which I do not know the answer. I suspect no one can give a definitive answer because it depends on the judgment. Clearly, sections that say how the surplus is to be dealt with if the government owns the surplus, I presume, would need to be changed if the courts ruled that the government does not own the surplus.

Senator Lynch-Staunton: Honourable senators, we can argue about the merits of that point when we get to the actual debate. However, I want clarification for the moment. Allow me to quote to you from Mr. Hornby, who testified before the committee. He is a government lawyer, I believe. He was answering questions regarding two court cases which we discussed yesterday. He said:

They do not deal with a disposition of the surplus, which this bill will deal with if enacted.

Therefore, in those words, the government is saying, in effect, that this bill will take care of the surplus, or the ownership claim will be maintained.

Let me continue.

Senator Kirby: Honourable senators, I must take objection. I am not sure we should be debating the principles of the bill at this point in the proceedings.

It is true that the bill deals with the issue of "disposition" in the sense that if the surplus belongs to the government, a clear plan for dealing with it is proposed. I do not believe that dealing with the disposition of the surplus in any way takes away the right of someone to challenge whether or not the government is entitled to that surplus. That is a totally different question. Disposition deals with a process by which you dispose of something that you own.

The question of whether or not you own it, which is the entitlement question that was appropriately raised yesterday by Senator Oliver, is an issue which will be decided by the courts. My position and the quote read by the Leader of the Opposition are 100 per cent consistent.

Senator Lynch-Staunton: Honourable senators, the interpretation must be clear, in that the government is in effect *de facto* confirming, in this bill, ownership of the surplus, and the bill has three clauses on how the surplus will be phased in or phased out, whatever, over a number of years.

Let me continue with Mr. Hornby's presentation. At the same time he said:

The amortization issue becomes irrelevant once you have disposed of the surplus, which is what this bill will do.

You cannot dispose of the surplus unless the ownership has already been confirmed. You cannot dispose of something you do not own. You are not supposed to, anyway.

Mr. Hornby goes on to say:

That opens the door to someone challenging the disposition of the surplus in this legislation...

That can only imply that if you challenge the act it is because the disposition feature is written by the government in such a way that the ownership is confirmed as being the government's. On the other hand, with the ownership feature being unresolved and eventually left up to the courts to decide, how can Parliament be asked to confirm a formula when that formula may not be applicable should the ownership of the surplus become a joint one, or is not totally that of the Crown?

Senator Kirby: Honourable senators, if one followed the logic of Senator Lynch-Staunton's position, this chamber and the other place would not be able to pass a whole string of legislation. All kinds of legislation gets challenged in the courts as to whether or not it is constitutional or whether it is *ultra vires*. It is not up to this chamber to attempt to resolve the issue of ownership. That will be decided by the courts.

This bill outlines what should happen to the surplus if it is owned by the government. We accept this sort of proposal in this

chamber all the time, and then we discover, for example, that a law is unconstitutional, and therefore we must come back and change the law. We do not attempt to prejudice how the courts will rule on the underlying assumptions of any piece of legislation.

Therefore, I have no difficulty with a position which says that, assuming the government's assumption is correct, this is how they can deal with the surplus and the formula which is set out is consistent with the practice of the Canadian Institute of Chartered Accountants, the Canadian Institute of Actuaries and the Auditor General. The underlying assumption as to whether or not they own the surplus will be challenged in the courts.

However, the fact that that assumption will be challenged in the courts does not stop us from dealing with what will happen if the government wins the court case. If we were to do that, all kinds of legislation would not be dealt with because we would not know whether it is constitutional.

Hon. David Tkachuk: Honourable senators, I wish to clarify this point because, as you know, the committee heard a great deal of testimony on this very issue of ownership. The honourable senator mentioned that we would not be able to pass any bill. It is a little different in this case because there are already two existing cases known by the name of *Krause* as we were told in testimony by Mr. Hornby. They are challenging the right of the amortization of the surplus.

By this bill the government is attempting to dispose of the surplus so that it cannot be amortized and, therefore, as the lawyer said, make their cases moot. That is exactly what the government tried to do with the Pearson airport agreements. There is a challenge to the disposition of the surplus, not the ownership of the surplus. That is the big difference. With this legislation the government is disposing of the surplus, thereby, making that challenge on how it is amortized moot, and taking their right to go to court away. That is why we on this side of the house always had problems with how that \$30 billion was dealt with.

I should like the committee chairman to comment on that point, because Mr. Hornby makes it quite clear that the legislation will make those two court cases moot.

Senator Kirby: Honourable senators, I would be happy to comment on it because I love debating with the members opposite. However, I do find it odd to be engaging in a debate on Bill C-78 during Question Period. I believe His Honour ought to consider that at some point.

Let me make two points in response to the question. First of all, the cases are actually challenging the pension accounting practices of the government. They are not challenging the issue of the surplus itself, as you pointed out. Bill C-78 does not prevent the plaintiffs in these two cases from pursuing the issue before the courts.

The honourable senator has referred to the evidence presented to us. — there has been some conflicting evidence as to whether or not this legislation makes those two cases moot. I will not pass a legal judgment on that evidence but there is some question as to whether it makes the cases moot. It certainly does not prevent them from pursuing the cases.

IMMIGRATION

ILLEGAL MIGRANTS—REQUEST BY BRITISH COLUMBIA FOR FEDERAL FUNDING—GOVERNMENT POSITION

Hon. Pat Carney: Honourable senators, my question is addressed to the Leader of the Government in the Senate.

Immigration Canada is planning to expand the detention centre program at Canadian Forces Base Esquimalt, a pleasant garden suburb of Victoria, for the next boatload of illegal migrants from China, who are expected today. Media reports indicate that the Immigration Canada welcome wagon has given these illegal migrants films, Frisbees, footballs, four-star restaurant Chinese food and Chinese games, as well as medical services and clothing, at a cost so far of \$1.2 million, plus legal costs, which are draining the province's legal aid funds.

The federal and provincial governments are meeting today, in Victoria, to discuss the province's request for federal funding to offset the estimated \$2 million per month that it is spending on handling the migrants, including providing social assistance, legal aid, and 24-hour care for the juveniles who arrived on the boats. The province suggests that this could total as much as \$25 million.

• (1540)

Could the Leader of the Government tell us what is the federal government's position on British Columbia's request for federal funding?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, both Government of British Columbia and Government of Canada officials are monitoring and discussing the situation. As was indicated by Senator Carney, another vessel has been sighted off the West Coast of Canada. The matter certainly requires a review by Canadian and British Columbia authorities and, indeed, by Chinese representatives. I understand that those discussions are underway at the present time.

With respect to the so-called hand-outs to which Senator Carney referred, I do not know whether honourable senators would agree that this is appropriate. However, at the present time under our immigration laws these people are entitled to apply for refugee status when they land on our shores. How they are treated is up to the individuals and organizations who receive them, and further examination of the situation is very appropriate.

Canadians from coast to coast have expressed concern about the situation. I hope that a resolution will be brought forward very soon.

Senator Carney: Honourable senators, the leader of my party, the Right Honourable Joe Clark, has written the Minister of Immigration urging that the regulations surrounding this issue be tightened. One of his suggestions is that the Immigration Act be amended to allow Canadian authorities to turn back rogue vessels at sea before they reach shore, provided their operating condition is safe. This is a position that the Conservative Party proposed in 1987 and which was blocked by the Liberal Party at the time.

It is important to note that there are numerous reports circulating in British Columbia that many other boats have reached the shores of British Columbia and that the Liberal government only responded after the arrival of the last three or four boats.

Can the minister share with us the knowledge, which I am sure he has, as to how many boats suspected of containing illegal migrants have been spotted off the shores of British Columbia?

Senator Graham: Honourable senators, I have no information other than the information mentioned by Senator Carney. From where she lives, she is able to spot the boats much faster than someone like myself who resides on the East Coast. I know it is a serious matter. I am not aware that immigration authorities have indicated to my colleagues that other boats subsequent to the first three have landed. Indeed, in the past refugees have landed on the shores of Nova Scotia.

Several federal departments are working together to respond to the arrival of additional boats.

It has become clear in recent years that organized smuggling activity in this area is increasing, not only in Canada but worldwide. This is an international problem which requires international solutions. Human smuggling is a cause of great concern. It involves an abuse of Canada's laws and it risks human life. We must find a long-term solution that will address this abuse of this system.

JUSTICE

PROSECUTION OF SMUGGLERS OF ILLEGAL MIGRANTS

Hon. Donald H. Oliver: Honourable senators, I should like to know if the Leader of the Government in the Senate is familiar with a report which appeared in yesterday's *Globe and Mail*. About the migrants it states that:

Most told authorities they paid smugglers or "snakeheads" between \$5,000 and \$6,000 (U.S.) as a down payment for a voyage on the ship to North America and were indentured to work off at least another \$20,000 to \$30,000 once here —

When can Canadians expect the prosecution of these smugglers? Further, if they are found to be guilty of human smuggling, will they be made to serve time in a Canadian or a Chinese jail?

Hon. B. Alasdair Graham (Leader of the Government): As I indicated, honourable senators, there are ongoing discussions between Chinese and Canadian authorities. The Chinese authorities have indicated that these so-called refugees should be returned to China.

All Canadians are concerned with this particular problem, whether they be British Columbians, Nova Scotians or Newfoundlanders.

Senator Carney: British Columbians are paying for it.

Senator Graham: Currently over one-half of the in-Canada claimants from China have abandoned their refugee claims. That is a significant proportion of in-Canada claimants from China seeking surreptitious entry to the U.S., something which affects our bilateral relations with both the United States and with China. As honourable senators know, the People's Republic of China has become the primary source of both in-Canada refugee claimants as well as improperly documented arrivals at Canada's airports.

The significant irregular movement from China is likely to continue as long as immediate release at Canada's airports offers the dual advantages of access to Canada's refugee system and the U.S. border. I take seriously the concerns that have been referred to by both Senators Carney and Oliver.

With respect to the down payment and the payments which must be made later, I regard the later payments as a more serious problem because of how these people will be treated and used by organized crime.

FOREIGN AFFAIRS

CONFLICT IN EAST TIMOR—PROPOSED INTERNATIONAL PEACEKEEPING FORCE—ACCEPTANCE BY INDONESIA

Hon. Douglas Roche: Honourable senators, my question is directed to the Leader of the Government in the Senate.

It was reported today that Foreign Minister Lloyd Axworthy has launched a Canadian initiative for an international presence in East Timor under a United Nations mandate with Indonesian cooperation. I should like to congratulate Mr. Axworthy for this step to bring to an end the terrible carnage in East Timor.

Has there been an assurance that Indonesia will cooperate? When will this international force become operative?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, first, I would say that we are not aware, as

yet, that Indonesia will cooperate. It is true that Foreign Affairs Minister Axworthy initiated a meeting with foreign ministers from some 18 to 20 other countries. I understand this took place on the margins of the APEC summit in New Zealand.

I understand there will be representation there from the United States, Canada, Russia, and approximately 16 or 17 other countries.

The UN envoy and the delegation from the Security Council met in Jakarta yesterday. I understand that they will be going to East Timor tomorrow. They will then return to the United Nations in New York and give their report to the Security Council. It is hoped, generally, that a meeting of the Security Council will be held forthwith to deal with the recommendations, resulting from the UN representation that went to Indonesia and to East Timor.

- (1550)

The problem has been complicated by the fact that there are approximately 100,000 displaced people in East Timor and 70,000 people who have moved to West Timor. We would need the cooperation of the Indonesian government and the UN Security Council. Minister Axworthy is urging the Indonesian government to take control of the situation in East Timor.

The Hon. the Speaker: Honourable senators, we are developing quite a problem. I have presently seven names on my list and we have only 10 minutes left for Question Period. I will follow the list that I have, but I ask you to make your questions brief and I ask the minister to make his replies brief.

[Translation]

TRANSPORT AND COMMUNICATIONS

PRIVATE SECTOR PROPOSAL TO ACQUIRE AIR CANADA AND CANADIAN AIRLINES—POSSIBILITY OF REVIEW BY STANDING COMMITTEE—GOVERNMENT POSITION

Hon. Marcel Prud'homme: Honourable senators, my question is for the Leader of the Government in the Senate. It is a question of the utmost interest in Quebec and I do not see any discussion of it within political institutions.

The Onex proposal to take over and merge Air Canada and Canadian Airlines is making all the headlines in Quebec, and most of the press is negative. It involves the survival of a major institution in Montreal representing close to 7,000 employees.

Will the minister agree to refer this question to the transport committee so that we may know exactly what is involved and make recommendations before a final decision is taken? It would be a disaster.

[English]

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, first, it is open to any senator and, in particular, the Standing Senate Committee on Transport and Communications, to undertake an examination of any subject, including the proposal by Onex. I do not wish to speak for the Chairman of the Transport and Communications Committee or for the members of the committee. It certainly would be open to any honourable senator to raise an inquiry to examine this matter, apart from any work of the Transport and Communications Committee may decide to undertake.

Senator Prud'homme: Honourable senators, I have a supplementary question. I wish the Leader of the Government in the Senate would read the letter by Clifford Lincoln, a prominent member of the Quebec Liberal caucus. I am rather surprised that the Quebec caucus has not seen fit yet to meet on this important issue which deals with the economy in Quebec. Could the leader personally take the initiative of asking either the chairman or the Transport and Communications Committee to look into it?

Senator Graham: Honourable senators, I cannot give such a direction to a committee. An order of the Senate is necessary to direct a committee to undertake a particular study. However, the suggestion to the Standing Senate Committee on Transport and Communications could come from Senator Prud'homme, or from any honourable senator in the chamber.

Senator Prud'homme: I am not a member of any committee.

Senator Graham: I am sure there are members of the committee here. Senator Poulin is the chair of the committee at the present time and Senator Forrestall is the deputy chairman of the committee. You have two prominent members of the committee who have heard the representations that you have made. I would not stand in the way of an undertaking of any such study nor would I have the authority to do so.

TRANSPORT

PRIVATE SECTOR PROPOSAL TO PURCHASE AIR CANADA— TABLING OF ORDER IN COUNCIL AUTHORIZING DISCUSSIONS

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I have a supplementary question regarding a very important subject-matter. I remind the minister that under section 47 of the Canada Transportation Act the government issued the 90-day order providing the authority for the parties involved to negotiate with each other and for the competition provisions not to apply. There is a 90-day period within which to carry on discussions.

As we mentioned the other day, section 47 (4) — and, Senator Prud'homme will be interested in this — provides that the minister, who, in this instance, is the Minister of Transport, “shall cause any order made under this section to be laid before both Houses of Parliament within seven sitting days after the order is made.”

We sat on Tuesday and Wednesday, and it is now Thursday. We have sat three days and we are sitting tomorrow. That is four days. Could we get from the Leader of the Government in the Senate the undertaking that that order will be tabled in this house tomorrow or Monday at the latest? I should also like to refer honourable senators to section 47(5), which states:

Every order laid before Parliament under subsection (4) shall be referred for review to the Standing committee designated by Parliament for the purpose.

Honourable senators, where we have a statutory provision that lays out what is required, would the minister not agree that we could expedite things by simply having that order tabled in the Senate and sent off to our Standing Senate Committee on Transport and Communications?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, it is the intention of the government to live up to the requirement of the Canada Transportation Act and to table the Order in Council in both Houses of Parliament within the seven-day period that is provided for in the order.

Senator Kinsella: Will the minister table it before Monday of next week?

Senator Graham: Honourable senators, I shall endeavour to be in communication with the Minister of Transport. I know it is his intention to table it within the required period. While I am not aware when he would do so, I am certain he will do it at the most appropriate time.

Senator Kinsella: Honourable senators, whose responsibility is it, then, to table that order in this house? The Minister of Transport is not a member of this house.

Senator Graham: The Leader of the Government in the Senate would be the responsible authority to table the document in this house, honourable senators.

Senator Kinsella: Will you undertake to have it tabled?

Senator Graham: I will undertake to have it tabled as soon as possible.

NATIONAL DEFENCE

POSSIBLE EFFECT OF BUDGET CUTS ON FUTURE OF SNOWBIRDS—GOVERNMENT POSITION

Hon. A. Raynell Andreychuk: Honourable senators, there have been rumours in the newspapers, and I would like some assurance from the Leader of the Government in the Senate that these are rumours are unwarranted. Canada has very few symbols that unify and show our excellence and teamwork. The Snowbirds are certainly a classic example of that. They have an international reputation.

Would the Leader of the Government assure me that there is no move to cancel and disband the Snowbirds?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I wish to assure the honourable senator that there is no move on the part of the government to cancel, dismantle or disband the Snowbirds. In the course of examining its various budgets and sections the officials of the Department of National Defence will naturally review every section and every service that falls under its purview. That is done in the normal course of events.

• (1600)

The fact that the Snowbirds are treated as heroes and as great symbols of our life as Canadians, not only at home but in other parts of the world, has caught the imagination of Canadians from coast to coast. Indeed, the Prime Minister was asked to comment on this subject yesterday. In summary, he indicated, I believe, that this was placed in the window by officials at the Department of National Defence as something that might be cut as a trade-off for something else. That is my interpretation of the Prime Minister's response.

No one in the government or at the cabinet table, of whom I am aware, would want to eliminate such a potent and grand symbol of Canada and the excellence of our armed forces.

[*Translation*]

Hon. Fernand Robichaud (The Hon. the Acting Speaker): Honourable senators, the period set aside for questions has now expired. Two other senators would like to ask questions. Is leave granted to extend question period?

Hon. Senators: Agreed.

[*English*]

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, we grant leave for those two particular senators to ask their questions. I assume we are referring to Senator Andreychuk and Senator Forrestall.

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

Hon. Senators: Agreed.

Senator Andreychuk: Honourable senators, by way of supplementary, I am well aware of the departmental discretion on these issues, but with the cut-backs that have been visited upon the department, will the government ensure that there will be sufficient funds and sufficient support for the Snowbirds, which I think is within your mandate to do?

Senator Graham: It is not within my mandate, honourable senators, but certainly we will await with great interest the recommendation of the Minister of National Defence and how those recommendations are received by the Minister of Finance,

the President of the Treasury Board and others who deal with such expenditures.

TRANSPORT

POSSIBILITY OF CONFERENCE OF MINISTERS OF TRANSPORT ON HIGHWAY SAFETY—GOVERNMENT POSITION

Hon. J. Michael Forrestall: Honourable senators, the special committee of this chamber on transportation, safety and security is about to finish the air and marine side of its work, and we will turn very shortly to highway safety. In that regard, the Leader of the Government in the Senate may not feel responsibility, but the members of this chamber hold him responsible for all aspects of government. If the government is good, he can take credit; if it is bad, he will get the blame.

Can the government leader tell us whether the government is giving any consideration through conference with ministers of transport across the country to special initiatives to tackle the carnage that exists on Canada's highways? Our committee had been seized and is very alarmed about what seems to be a spreading and growing number of serious incidents, such as the one that occurred on Highway 401 recently. As well, the minister will be aware of the difficulties we have in our own province of Nova Scotia with Highway 101 and the carnage there. Are there any initiatives in the immediate future?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I can assure you that this matter has no greater champion than the Minister of Transport himself, my colleague the Honourable David Collenette, who has some special plans for improving our highway system across the country. This is uppermost in his mind. He has put forward some forceful arguments in favour of improving our highway system, I am sure that we will be hearing more about this in the not-too-distant future.

ENVIRONMENT

CAPE BRETON, NOVA SCOTIA—SYDNEY STEEL CORPORATION TAR PONDS—TIMETABLE FOR CLEAN-UP

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate and relates to North America's largest toxic waste site, the infamous Sydney Tar Ponds located in Cape Breton, Nova Scotia.

We and the majority of Canadians are aware of these "tar ponds" which, according to the Sierra Club of Canada, contain over 700,000 tonnes of toxic sludge generated by Sydney Steel.

I ask the minister, what is the government doing to clean up this site, which constitutes a major health hazard to women, children and residents of Cape Breton? How much in the way of funds have been committed to the clean-up initiative? Finally, when will the residents of the Sydney area, who have been waiting for well over a decade, be assured that this problem is actually being resolved?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I thank the Honourable Senator Oliver for his question. It is one that is sometimes too often ignored by people in the rest of the country.

I was the first employee on the ground of the Cape Breton Development Corporation, Devco, in a temporary building, which was about the length of the Senate chamber away from the tar ponds. This was the temporary location for a period of one or two years, so I am quite conscious of the situation.

I have visited with the people and met with the democratically elected joint action group, which is the operating body agreed to by all three levels of government — the Cape Breton Regional Municipality, the province and the federal government. Many meetings have been held.

Last year, we received a memorandum of understanding signed by the joint action group. That was subsequently signed by representatives of the provincial government, then premier Russell MacLellan, the provincial ministers responsible, as well as the then federal minister for the environment, the Honourable Christine Stewart. She came all the way from Japan on a weekend to sign the document, and Minister Allan Rock, the Minister of Health, came from Regina to sign. That set in process the next steps, which were to provide for federal and provincial funding to get the next stage underway.

Earlier this year, we announced that \$64 million — 70 per cent federal, 30 per cent provincial — had been set aside to provide for this stage of the elimination of what is considered to be the worst environmental disaster in all of North America.

I thank the honourable senator for bringing that to our attention.

Senator Oliver: When will the work begin?

Senator Graham: No one has yet come up with the perfect technology as to what should be done to handle this particular situation. I assure my friend that in the most democratic process, the joint action group is working assiduously every day. They are meeting on a weekly basis and consulting with representatives of the provincial and federal governments. The federal government has senior representatives from both the Department of the Environment and the Department of Health monitoring the situation and participating in the discussions on a regular basis. As a matter of fact, two of those officials are actually members of the joint action group board.

PUBLIC SECTOR PENSION INVESTMENT BOARD BILL

PRESENTATION OF PETITION

Leave having been given to revert to Presentation of Petitions:

Hon. Ethel Cochrane: Honourable senators, I have the honour to present to the Senate a petition from my province containing 34 signatures, and with letters from 99 residents of Newfoundland and Labrador. They urge senators to amend Bill C-78 to ensure that negotiations over their pensions begin immediately or, failing that, to consider defeating Bill C-78.

ORDERS OF THE DAY

PUBLIC SECTOR PENSION INVESTMENT BOARD BILL

THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Kirby, seconded by the Honourable Senator Sibbeston, for the third reading of Bill C-78, to establish the Public Sector Pension Investment Board, to amend the Public Service Superannuation Act, the Canadian Forces Superannuation Act, the Royal Canadian Mounted Police Superannuation Act, the Defence Services Pension Continuation Act, the Royal Canadian Mounted Police Pension Continuation Act, the Members of Parliament Retiring Allowances Act and the Canada Post Corporation Act and to make a consequential amendment to another Act.

Hon. Terry Stratton: Honourable senators, over the years there has been no end of debate about who owns the surplus of employee pension plans. Recently, the principle has emerged that, in the absence of clear evidence to the contrary, an employer's pension plan contributions are part of the overall benefit package and the employer cannot simply step in and grab the surplus. Just last year, Parliament decreed that if a plan does not spell out who owns the surplus, employers cannot touch the surplus in their company plan unless the plan members agree.

Why does the government not apply the Pension Benefit Standards Act to itself? I could see the government's logic if it had awarded the surplus in private sector pensions to employers and then proceeded in the same way itself, although I would not agree with it. I could see the logic if those whom the government employs directly were treated in the same way as those whom it employs indirectly through Crown corporations such as CMHC. What is the logic of one law for the private sector and Crown corporations and another for the government itself?

The government tells us that its situation is different, and that it somehow has the legal right to claim the surplus in the plan of the military, the RCMP and the public service. They tell us that they have made up the deficits in the past, and that this justifies the taking of the surplus now.

Honourable senators, private sector employers would also find themselves making up deficits, especially when the deficits arise from compensation decisions. If a company decides to improve its pension plan and then to apply those improvements to service that has already been accrued, then its pension plan would be in a deficit position, and the company would have to fund that deficit. They could not then go to court at a later time and say that they had a deficit to make up when they improved the plan, and therefore the surplus belongs to the company.

The government tells us that the situation is unique because it alone is assuming all the risks. How often do you hear of a private sector pension failing to meet its liabilities? Today there are too many safeguards built into the system; indeed, better safeguards than have been set for this plan. The risk level is too low to be a factor in this debate.

Honourable senators, the government tells us that, in the past, it has put \$13 billion into the plan to make up deficits, offering this as proof that it alone has been responsible for all the risks in the past. Thus it has full legal claim on the \$30 billion now in the fund, plus the \$11 billion it has already taken out.

Let us take a closer look at that claim. Of the \$13 billion in deficits which accrued in the past, \$8 billion were the direct result of the government's decision to introduce indexing. A conscious decision by the employer to change its overall pension package is not the same as the assumption of risk, since the employer is fully aware at the time that more money must be put into the plan to meet the added costs. The balance of the deficit results from crediting interest to the account prior to 1967 at a rate of only 4 per cent, far below even long-term government bond yields.

Honourable senators, on this point, the testimony of Mr. John Fitzpatrick is worth noting. Mr. Fitzpatrick was with the Professional Institute of the Public Service back in the late 1960s when the government moved to index the pension plan and to change the way in which interest was charged to the account following the recommendation of the joint House and Senate Bourget-Richard committee. He told us:

...risk-bearing and Treasury Board policy is interrelated. It is hard to define one without having some knowledge of the other.

Prior to 1967, Treasury Board policy on interest rates was to follow a so-called actuarial rate of interest. As far as the market is concerned, it is a fictitious rate but it does have a basis. The rate of interest charged to the account was 1 per cent per quarter, or 4 per cent per year.

Basically, what happened when that interest rate was applied consecutively over the years, was that it proved to be too low and deficits occurred.

Honourable senators, surely the government was aware that its decision to use the plan as a source of deep-discount financing would create a deficit. We have a deficit arising from deliberate policy decisions. This does not constitute the assumption of risk.

Nor has the government faced those deficits alone. The public service unions pointed out in testimony that they have agreed to the premium increases at times when the plan was in deficit. Their contribution rates went up by a full percentage point to deal with the deficit caused by the introduction of indexing. The plan now has a surplus but, instead of going down, their contribution rates will go up.

The government tells us that it has legal opinions to say that it owns the surplus. The unions tell us that they, too, have legal opinions to say that the employees own the surplus, based on the government's own documents which make it clear that the pension plan is part of the overall compensation package. If the government already owns the surplus, why does it need this bill to take it?

Honourable senators, we ought to debate not just the matter of who owns the surplus but the entire nature of the plan. There are two different kinds of pension plans: First, there are money-purchase plans in which the contributor receives an annuity based on the value of the money in his or her pension account. Second, there are defined-benefit plans where the pensioner is promised a certain pension benefit at the time of employment, in accordance with a formula that reflects salary and years of service. At least on the surface, this is the public service plan.

The government tells us that the employees will be paid the money that they have been promised, and thus the surplus is not theirs. However, if you look closer, you will find that this is not a true defined benefit plan in the traditional sense. It would be more accurate to call it a semi-defined plan in which the employer controls both the benefits and the contribution rate.

Sixteen years ago, as part of the "6 and 5" program, the government scaled back the rate of pension increase set out in law for the plan. No private sector employer can mess around with the company pension plan by cutting benefits to current retirees, but the government did.

Indeed, in defending the 6 and 5 legislation, Herb Gray, the then president of Treasury Board, said at page 21,300 of the House of Commons Hansard, on December 6, 1982:

It would be more realistic to view such pension arrangements as being long-term but, at the same time, flexible and involving the employer and generations of employees, where changes can be made in the relevant legislation to reflect varying economic circumstances.

Senator Olson, the then leader of the government in the Senate, repeated much the same thing when he spoke to the bill about a month later.

Now, fast-forward to 1999. The same thing happened again. Sharon Hamilton of the Treasury Board's pension division essentially told the Banking Committee last June 10 that if the government were facing a similar economic situation, it may not exempt certain government programs. This tells me that the pensions of the public servants and members of the RCMP and military are not secure. They may or may not be given what they have been promised. The government is assuming no risk at all. The argument that the government owns the surplus because it owns the risk is bogus. However, the employees face another risk — the risk that the government may again break its word, and not pay them what they have been promised.

• (1620)

No private sector employer has the right to tell its pensioned employees, "Sorry, we are going to scale back your pensions because we need to appease our shareholders who are threatening to vote for a new management team." The employer cannot mess with benefits already promised and cannot use contributions as a source of cheap working capital. Very simply, the government's arguments do not hold water.

The surplus has been built up in recent years because the contributions far exceeded what was needed to keep the plan solvent. If you assume 2 or 3 per cent annual wage increases when salaries are frozen for six years, you will build up a huge surplus.

About 40 per cent of that \$30 billion came off the paycheques of government employees who thought that all their contributions were going toward their pension plan. No one ever told them that they were also paying a special tax that Ottawa would then take to help pay for "Hotel Shawinigan."

Honourable senators, over and above the issue of who owns the current surplus is the issue of who would own any future surpluses and who would cover any future deficits. My understanding is that the employees and the government were willing to share in the management of the plan and to have joint ownership of any future surpluses or deficits.

The sticking point is the past surplus. It is vital that this be sorted out; otherwise, given the latitude that this bill gives the minister to set premiums, there is a very real danger that premiums could be set in such a way that the plan is always

running up a sizeable surplus that the government of the day can later scoop up as its own.

The government has implied that the surplus withdrawal clauses in this bill are based on a recommendation from the Auditor General. His was not a legal opinion on ownership of the surplus, rather, it was an accounting opinion on whether or not the government's practices reflected the standards of the public accounting and auditing board. He said, in his observations on the 1996-97 Public Accounts, that accounting changes "can be done under existing provisions of the Financial Administration Act." Why then are these clauses in the bill? Are they there perhaps to strengthen the government's legal hand in a court case that, regardless of what it says publicly, is less than a slam dunk?

Honourable senators, the government ought to treat its employees the same way it expects other employers to treat theirs. These clauses allowing the government to strip the pension surplus should be struck from the bill. We should give the government time to contemplate this and do something about it.

MOTION IN AMENDMENT

Hon. Terry Stratton: Therefore, I move, seconded by the Honourable Senator Tkachuk:

That this bill be not now read the third time but that it be read the third time on March 9, 2000, or so soon thereafter as the Senate is sitting.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Acting Speaker: Will those in favour of the motion in amendment please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Acting Speaker: Will those opposed to the motion in amendment please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Acting Speaker: In my opinion, the "nays" have it.

And two honourable senators having risen.

The Hon. the Acting Speaker: Call in the senators.

The whips have agreed that the vote will be held at 5:25 p.m. The bells will ring for one hour.

• (1720)

Motion in amendment negated on the following division:

YEAS

THE HONOURABLE SENATORS

Andreychuk	LeBreton
Atkins	Lynch-Staunton
Beaudoin	Murray
Bolduc	Nolin
Buchanan	Oliver
Cochrane	Rivest
DeWare	Roberge
Di Nino	Robertson
Doody	Roche
Ghitter	Rossiter
Kelleher	Simard
Keon	Stratton
Kinsella	Tkachuk—27
Lawson	

NAYS

THE HONOURABLE SENATORS

Adams	Kirby
Austin	Kolber
Bryden	Kroft
Callbeck	Lewis
Carstairs	Losier-Cool
Chalifoux	Maheu
Christensen	Mahovich
Cook	Mercier
Cools	Milne
Corbin	Pearson
De Bané	Pépin
Fairbairn	Perry
Ferretti Barth	Poulin
Finestone	Poy
Finnerty	Robichaud
Fitzpatrick	(<i>Saint-Louis-de-Kent</i>)
Fraser	Rompkey
Furey	Ruck
Gill	Sibbeston
Graham	Sparrow
Hays	Stewart
Hervieux-Payette	Taylor
Joyal	Watt—46
Kenny	

ABSTENTIONS

THE HONOURABLE SENATORS

Prud'homme—1

The Hon. the Speaker: The question now before the Senate is the third reading of Bill C-78.

Hon. Nicholas W. Taylor: Honourable senators, I wish to make a short comment. I was one of the senators who was critical of the bill before it was sent to committee. I have now had a chance to not only appear at the committee but also to read the committee report.

I wish to go on record as saying that, although Bill C-78 is not a perfect bill, the comments of the committee members as to the ownership of the surplus, which was mentioned not only in the body of the report but also in the questioning of Senator Kirby, has convinced me that there is a chance that the government will heed the committee and portion out the apparent surplus in some equitable way down the road.

My other concern was the creation of a two-class system or, in fact, discrimination against those potential pension recipients whose partner is homosexual. In other words, the line would be drawn between those who had sexual relations that the government could bank on and those, apparently, who did not. In other words, if the nation could not find a bedroom, you could not get a pension.

• 1730)

The committee has recommended that the government consider extending benefits to those living in situations characterized by economic dependence, not only to those in conjugal relationships. I think that statement could have been stronger, but at least we are edging into an area which most Canadians seem to be afraid to tackle. Since Victorian times, we have not been allowed to mention sex, but it appears that now you cannot do anything unless you do mention it. I do not want to sound Victorian, but I would like to go back to the era where sexual relationships did not enter into whether or not you could be a recipient of survivor benefits.

That being said, I would inform honourable senators that I will grudgingly support the bill.

Hon. David Tkachuk: Honourable senators, may I ask the honourable senator a question?

Senator Taylor: Certainly.

Senator Tkachuk: If I remember correctly, Senator Taylor had not only expressed some concern about this issue but had also even discussed proposing amendments. Perhaps the honourable senator might explain to the Senate chamber what the intentions of those amendments were that he wanted to bring to the committee but in the end decided against. I am sure all honourable senators would like to hear what those amendments would have been.

Senator Taylor: Honourable senators, there are countries around the world that have taken sex out of the interpretation of survivor benefits. I wanted a Commonwealth example and the researchers found one in the Province of New South Wales. However, after considering an amendment that would have followed that example, we found it would have entailed changing the bill in 11 places. I cannot imagine getting the bureaucracy to change a bill in 11 places so quickly.

In addition, marriage and property laws in Canada have the added problem of provincial and federal interplay.

Lastly, the amendment that I did not introduce had a problem with regard to cost. Some people argued that, if we included two sisters, two brothers, an uncle and a nephew, and so on in the definition of "relationship" — "domestic partnership" was the phrase the Australians used — we would be inundated with people claiming pensions who had not heretofore done so. However, after checking with the government and with actuaries, I found out there is really no such thing as an unclaimed pension. Someone will appear out of the woodwork somewhere down the line to claim it. Giving a pension to a survivor in a domestic partnership that had no sexual connotations whatsoever would not result in an extra cost, but that was not something I was prepared to recommend.

I think the legislation in New South Wales is very good legislation, but this is not the place to try to do it.

Hon. Edward M. Lawson: Honourable senators, I have a few brief comments on the matter before us. Military representatives put forward an interesting submission. They talked about the government's claim that it was actually contributing to the public service superannuation fund on behalf of the members because the government's contributions constituted part of the public servants' overall remuneration package, and therefore had to be taken into account in assessing pay levels. They asked: Would it not then be morally indefensible not to use that part of the surplus for the benefit of the plan members?

It is not unusual in labour negotiations for the employer to put forward an offer of a certain percentage increase and then to suggest that it can be taken as pension, as health and welfare benefits, or as an increase in pay. I have been involved in lots of negotiations where the employer has said, "I will tell you up front, we will give you 8 per cent over two years. Take it in pension, or take it salary; we do not care."

On one occasion, we put the whole amount in the pension plan because we could cover past service, and thus cover people who

were not getting as much pension as they should, as well as future benefits. If a few years later the employer had said, "By the way, since we were covering this or covering that, we have decided to take all that back because you have a surplus in your fund," two things would have happened. First, we would have had them in court the next day, and, second, so that we could hear what the judge would have to say, we probably would have shut the place down the same day. There would have been a wildcat strike because the employees would not have tolerated that theft of their pension funds.

Honourable senators, I should like to give you two brief excerpts from letters I have received. The first is from the Vancouver branch of the Federal Superannuates National Association. That association has 4,800 members in my province, British Columbia, and about 100,000 members nationally, from the public service, the Canadian forces and the RCMP. One paragraph sums up their feeling very well. It reads as follows:

By unilaterally deciding on the disposition of the pension surplus, the Government is being unjust and unethical, destroying a partnership that has existed between the Government, the pensioners and the employees. The surplus resulted from contributions from former employees, current employees and from the Government as part of the employees' total compensation package.

That is pretty clear.

When arguing about the pension surplus during negotiations, government officials told the unions that the employees could not have been responsible for more than 30 per cent of the surplus. If that is the case, why did the committee not do the right thing, that is, accept the government's position and set 30 per cent of the surplus aside?

I enjoyed Senator Kirby's exchange with Senator Lynch-Staunton about fairness. Senator Kirby said the union had a chance to go to court and have the matter decided and that what the committee was doing was setting the stage for justice and not doing anything to tip the scales. I never heard such nonsense. We are recommending that the government take the entire surplus and we are going to authorize them to dispose of it as they see fit, so how can he say that we are not tipping the scales of justice? By this action, they are not merely tipping the scales, they are sending them crashing to the ground. If the Senate committee was supposed to be engaged in a neutral, fair, and impartial analysis of this, fairness would demand that we would recommend that the status quo regarding the surplus remains until, as Senator Kirby said so eloquently, the issue is decided by the courts.

Let the courts decide. Give them a chance to do that. The government lawyers are already writing their opening statement to the courts. They will say, "Your honours, why are we here? Both Houses of Parliament, including the Senate after sober second thought, have concluded that we are entitled to the entire surplus. Not only that, they have authorized us to dispose of it."

With kindness, I say to Senator Kirby that he is not a fair, balanced chairman. He is the driver of the getaway car in a pension heist.

There is another issue we might consider. A recent Supreme Court decision found that the RCMP did not have legal bargaining rights. They are a paramilitary organization. That places a heavy burden on them, and an even greater burden on the government and Parliament because we now have a duty and a responsibility to protect their rights.

• (1740)

I previously raised the issue regarding 1,800 RCMP widows. I enjoyed reading in the paper today that we have a new Governor General. Is it not wonderful that we can have two for the price of one? I refer to the new Governor General and her husband. That is not a new or a novel idea. These 1,800 RCMP widows were in a two-for-one situation in rural out-posts. When the RCMP husband was out doing his job, the wife was at home cooking for prisoners or running the office. Somehow along the way these widows fell between the cracks. These 1,800 widows receive no pension.

Yet, they do have something. The government and the bureaucrats are not without a heart. They wrote a letter to the Mounties stating, "It will come as a traumatic shock to your spouses to be told that they will have no pension once you are dead. Please prepare them for the news by telling them now." What kind of heartless bureaucrat could be responsible for that? Why did our committee not recommend the establishment of a pension fairness fund? Since we are not prepared to do the fair thing and keep the surplus intact, why did we not suggest taking, say, 5 or 10 per cent, or \$2 billion or \$3 billion, and establishing a fund called a "pension fairness fund"?

Senators from all sides have received complaints, as have I, from retirees' associations, the military, the Mounties and so on, regarding those who do not have a fair pension or, in fact, have no pension at all. What would have been wrong with setting up a committee of the Senate, a committee of fair-minded people who know and understand pensions and setting a certain amount of money aside? Then those responsible could advertise this fact for three years to give people time to make their claims. They could deal fairly and equitably with those people. When all the claims had been dealt with, then we could dispose of the surplus in whatever manner we deem fit at that time.

Today I listened to the exchange concerning the illegal immigrants who have arrived on our shores and whose passage, allegedly, was organized by Chinese gangs. Once they arrive on our shores, they receive health care coverage, clothing, food, about which they complain, legal advice and medical attention. They are given everything. What about these widows and others who are living in poverty with no pension? It must be a real comfort to them to know what is happening to strangers on our shores. I do not disagree with the minister when he says that we have no choice. The Charter of Rights demands that we do that. Does the Charter of Rights not demand that we care about

Canadians who have given a lifetime of service to the government and their country? If not, why not? Where is the compassion and fairness when it comes to that? The government's position and the minister's position is that there will be no negotiations. The representatives of the unions representing the employees want their share of the pension. They dare to ask for fairness.

When it comes to fairness on the part of the minister, I think the minister is down a quart. There is something very wrong when we can sit here and be expected to approve the raping and pillaging of the \$30-billion surplus, even if you set aside what the government spokesman said about the employees' share being 30 per cent, that is, \$9 or \$10 billion.

The committee recommends that their share be taken away. In that way, we cheat them not once but twice. If we were to leave it in there, and if it were properly invested, in a decade it would be worth \$20 billion. This is so unfair. It cries out for fairness, something which I regret to say I do not see here today. I cannot in good conscience be party to supporting this legislation.

On motion of Senator Kelleher, debate adjourned.

PRIVILEGES, STANDING RULES AND ORDERS

TWELFTH REPORT OF COMMITTEE— MOTION FOR ADOPTION—DEBATE ADJOURNED

The Senate proceeded to consideration of the twelfth report of the Standing Committee on Privileges, Standing Rules and Orders (Question of Privilege of the Honourable Senator Murray, P.C.), presented in the Senate on June 16, 1999.

Hon. Shirley Maheu: Honourable senators, before moving the adoption of this report, I remind colleagues that this report is in response to the question of privilege raised by Senator Murray regarding the matter of the bells ringing for but five minutes, which is not enough time for senators to get to the chamber from the Victoria Building. The report recommends that the bells ring for a minimum of 20 minutes.

Honourable senators, I move adoption of the report.

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

Hon. Lowell Murray: Honourable senators, if the Chair of the committee intends to speak, I will defer to her.

Senator Maheu: Honourable senators, my intention was to remind senators of the recommendation contained in the report since it was deposited with the Clerk of the Senate in June.

Senator Murray: In that case, honourable senators, I move the adjournment of the debate.

On motion of Senator Murray, debate adjourned.

ELEVENTH REPORT OF COMMITTEE—MOTION FOR
ADOPTION—MOTION IN AMENDMENT—DEBATE ADJOURNED

On the Order:

Resuming debate on the motion of the Honourable Senator Maheu, seconded by the Honourable Senator Fitzpatrick, for the adoption of the eleventh report of the Standing Committee on Privileges, Standing Rules and Orders (restructuring of Senate committees) presented in the Senate on June 2, 1999.—(*Honourable Senator Lawson*)

Hon. Edward M. Lawson: Honourable senators, I wish to deal with the rubric found on page 7 of the report, “Additional Members on Committees.” I refer specifically to the part which states:

(2.2)(a) The Committee of Selection may make a recommendation to the Senate that two additional members be added to any standing committee provided that the vote of the Committee of Selection on the addition is unanimous.

The part of this provision to which I object is the word “unanimous.” There has been no provision in all the years I have been here where a unanimous decision is required before a member may be added to a committee. I do not know who is responsible for this proposal. Will we be asking the Usher of the Black Rod to assume the additional duty of “usher of the blackball”? Who will have the blackball? Will it be Conservative members, or will it be Liberal members? Liberal side? Will it be one of them who will decide whether an independent senator can be added to a committee?

When I came here I was told that all senators are equal.

MOTION IN AMENDMENT

Hon. Edward M. Lawson: Therefore, honourable senators, I move, seconded by Senator Doody:

That the Report be not now adopted, but that it be amended by striking out proposed rule 85.(2.2)(a) and substituting therefor the following:

“(2.2)(a) The Committee of Selection may make a recommendation to the Senate that two additional members be added to any standing committee.”

• (1750)

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

Hon. John B. Stewart: Honourable senators, I had intended to speak on the main motion, but perhaps it would be better if I spoke on the motion to amend.

I have serious problems with the report of the committee. We know how the steering committee operates, and we know the

number of senators who constitute one of our regular standing committees. We must assume that when we are making rules or laws, whatever can be done is likely to be done.

If I were a crafty house leader on the government side, with a majority, I would be tempted to say, “All right. We will have seven members of my party on that committee. There are independents who would like to be on the committee, too. Who is the most reliable and wants to be on the committee? We will put her or him on the committee.” As a reward for our magnanimity, we would then get an extra government senator. That is a charming prospect and, if it can be done, it will be done. I am very uneasy about that aspect of the report.

There is another aspect of the report about which I am also uneasy. It is one that is more difficult to explain, but it is a more fundamental aspect. I have great respect for the independent senators who now sit in this house. I am not talking against any of the present independent senators. However, let us consider our system. I suggest to you that an arrangement which facilitates and makes it almost certain that independent senators will regularly become members of our standing committees will make it more and more attractive for people to sit as independents, either when they first come here or when, for one reason or another, they decide that it would be better for them not to sit as a member of a party, be it the government caucus or the opposition caucus. That is a real possibility. One cannot say for sure, but one must anticipate the possibilities or the probabilities that more and more senators out of our 105 would be independent senators.

What would some of those independent senators do? I complain already that some senators tend to think of themselves as members of a particular committee. They pay relatively little attention to the work of either the house as a whole or of other committees. Their role is being a member of their own committee. If that is true of senators who have obligations as members of either the government caucus or the opposition caucus, how much truer will it be for independent senators sitting on a committee? They will just show up here on the day, or one day in two weeks, or one day in one week, or one day in two or three weeks when that committee is meeting. In other words, they will be the senator for that particular committee. They will be *de jure* members of the Senate, but *de facto* they will be members of that committee and increasingly powerful members of that committee, perhaps.

There is another aspect involved here. Think about the implications for our system of government. We have a system in Canada known as responsible government, which means that the government of the day makes decisions, and it is responsible and answerable to Parliament for those decisions. The government of the day takes the praise and receives the blame. We know whom to praise and whom to blame. That is the merit of the system of responsible government. That system makes for a two-team system: Those who are in government and their supporters on the one hand, and those who are opposed to the government of the day on the other hand. It tends to make for a two-party system.

I say, “it tends” because political realities, especially in as diverse a country as Canada, have increasingly made it impossible, over the years, for people to find satisfactory accommodation in either the government party or the official opposition party. But the system is a two-team system. Basically, the pressure is toward a two party system.

The system can accommodate some independents; there is no question about that. Furthermore, there is no question in my mind but that some of the independents, whether in the House of Commons or in the Senate, make a contribution. However, how far can you go? I said initially on this point that, if this motion goes through, what we are doing is making it more and more attractive for new senators — and for old senators — to declare independence. I suggest that this rule change will mean that we will have more and more independent senators. It will become more and more attractive. In other words, we will be moving away from our traditional, constitutional system of parliamentary government where the government and its supporters are responsible. We will be moving toward the American congressional system, where party discipline has little or no effect, people vote according to the lobbies which last got their ear or their pocketbooks, and where nobody is really responsible because the outcome of a vote was, in a sense, accidental. No one was in charge, everyone voted her or his own opinion — that is, the lobbyist’s opinion — and then there is the result. You cannot blame anyone.

If we are going down this road, we should ponder its implications very seriously. Consequently, I invite you, my colleagues in the Senate, to consider well the implications of the report. I say again, I have nothing against our present independent senators.

• (1800)

I have nothing against the idea of a certain number of independent senators, but when we get to the position where we make it more and more attractive for senators to be independent, I put it to honourable senators that we are moving toward a congressional system of government and away from our system of responsible government, a system which, in this country, we have found to be wonderfully satisfactory over the years. When we look south of the border, we denounce and criticize congressional systems.

The Hon. the Speaker: Honourable senators, I must advise the chamber that it is now six o’clock. Unless I am advised that there is agreement that we not see the clock, I must leave the chair.

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I think there is agreement that we not see the clock.

The Hon. the Speaker: Is it agreed, honourable senators, that I not see the clock?

Senator Prud’homme: I do not agree.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): The opposition agrees.

The Hon. the Speaker: Is Senator Prud’homme objecting?

Senator Prud’homme: Yes.

The Hon. the Speaker: Then I must leave the chair. The Senate will reconvene at eight o’clock.

The sitting of the Senate was suspended.

• (2000)

The sitting of the Senate was resumed.

The Hon. the Speaker: Honourable senators, we were listening to the Honourable Senator Stewart when the sitting was suspended.

Hon. John B. Stewart: Honourable senators, at six o’clock I had almost completed what I wished to say. I wanted to anticipate a possible rebuttal to what I had said about the danger of increasing the number of independent senators participating regularly in the committee work of the Senate.

It might be said that the British House of Lords has a formidable cross-bench, which is their term to describe independent peers. We have to remember, of course, that it is precisely to restrain the opposition and the independent members of the House of Lords that the powers of the House of Lords were curtailed. The situation was intolerable, at least in the view of the government of the day back in 1911. Thus, they enacted the Parliament Act of 1911.

That was amended in 1949, with the result that a government with a majority in the House of Commons can put through a money bill in the House of Commons, have it bypass the lords, and go for Royal Assent within one month. Similarly, a bill which is not designated as a money bill can bypass a difficult House of Lords and go forward for Royal Assent within one year.

It is important to remember that the House of Lords is a very different body in terms of its powers than is the Senate of Canada. If we are to enhance the power of those who do not support the government ordinarily, then we will either give the government of the day power to appoint more and more government supporters — it can appoint eight now — or we must strip the Senate of some of its constitutional powers. If this move is carried forward and is pushed to its extreme — and it is an old rule in politics that what can be done will be done — those are the alternatives that we may need to confront.

I wish to say a word about Senator Lawson’s proposed amendment. In order to do so, however, I must revisit the report. Perhaps the best way is to look first at proposed rule 85(2.2)(b), which states:

Senators may apply to sit on a standing committee either by application to their respective whip or directly to the Committee of Selection.

We all understand that the second part of the sentence refers to the technique by which an independent senator could apply to sit on a standing committee.

What, then, would happen? We go back to the proposed rule 85(2.2)(a), which states:

The Committee of Selection may make a recommendation to the committee that two additional members be added to any standing committee provided that the vote of the Committee of Selection on the addition is unanimous.

Note that the proposed rule would be that the Committee of Selection may add two additional members. The intention is that one of those would be an independent; one of those who would have applied directly to the Committee of Selection and not gone through a whip.

However, I suspect that a Speaker would have a very hard time contending that this interpretation is obvious on the face of the proposed rule. It could well be that unless there were some restraint on the Committee of Selection, the majority of the Committee of Selection would put on two additional government members. That is the distortion of what I think is the clear intention. However, I think it would be difficult for a Speaker to read into the black letter what we understand.

What Senator Lawson is proposing makes it even worse. He proposes simply to strike out the last few words of the proposed rule, the words “provided that the vote of the Committee of Selection on the addition is unanimous.” As I understand it, those words are in the proposed rule to give some protection to the opposition of the day. However, those words are to be struck out by Senator Lawson’s amendment, which I oppose.

The Hon. the Speaker: I regret to inform the Honourable Senator Stewart that his his allotted 15 minutes have expired.

Are you requesting leave to continue, Senator Stewart?

Senator Stewart: No, I am finished. I think the record will show that I have said all that I ought to have said.

Hon. Mabel M. DeWare: Honourable senators, I think we have all had serious concerns about the eleventh report of the Standing Committee on Privileges, Standing Rules and Orders.

We have deliberated in committee for years, trying to come up with the proper concept of how many senators should sit on committees, and who should sit on committees. It is such an important issue for us. We know that the fall is coming, and that this issue must be resolved. However, I feel the issue still requires more debate, and I compliment Senator Stewart on opening the debate tonight.

[Senator Stewart]

Honourable senators, I move adjournment of the debate.

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

Hon. Marcel Prud’homme: No.

On motion of Senator DeWare, debate adjourned, on division.

[*Translation*]

THE DRAGON BOAT FESTIVAL

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Poy calling the attention of the Senate to the Dragon Boat Festival.—(*Honourable Senator Prud’homme, P.C.*)

Hon. Marcel Prud’homme: Honourable senators, when I rose at 6:00 p.m., I simply wanted to ask you to recognize that it was 6:00 p.m.

The events that took place and that did not satisfy some led me to say no. I did not rise to interrupt Senator Stewart. It was not to force the Senate to return at 8:00 p.m. I said “no” in response to the reaction of two colleagues in order to show the stupidity of unanimity.

I have my speech prepared on the important motion of Senator Simard. You have two hours to make up for; I will therefore cooperate briefly. I did not speak to Senator Simard’s Motion No. 34.

[*English*]

Hon. Sharon Carstairs (Deputy Leader of the Government): On a point of order, honourable senators, this debate is not on Senator Simard’s motion but on Senator Poy’s motion about the Dragon Boat Festival.

[*Translation*]

Senator Prud’homme: I know full well it concerns Senator Poy’s motion. That was my preamble to her inquiry. I have discussed the matter with her and I congratulate her. She is the sister-in-law of our new Governor-General, and I am pleased that such appointments are possible in our country. They testify to Canada’s diversity.

As to Senator Poy’s inquiry, I took it seriously and told her so.

[*English*]

It was serious. I did not want the matter to die right away. For the first time, Senator Poy was drawing our attention to the Dragon Boat Festival, and everyone was applauding. I did not want that to be the end of the matter. I wanted it to appear on the

Order Paper for a longer time so that people would see it and understand that other people can celebrate their culture with great pride. For some, that means celebrating the Dragon Boat Festival. For others, it is la fête de l'Acadie. For others, it is celebration of la Saint-Jean-Baptiste. I took the adjournment of the debate in hopes that someone would add a few words.

I enjoyed the speech of Senator Poy. It drew the attention of senators to the event. I hope to attend that festival next year. I congratulate Senator Poy very warmly for having brought to our attention such a festival.

On motion of Senator Andreychuk, debate adjourned.

QUESTION OF PRIVILEGE

SPEAKER'S RULING

The Hon. the Speaker: Honourable senators, before I proceed with inquiries, I am prepared to give my decision on the question of privilege raised yesterday by the Honourable Senator Kinsella.

[*Translation*]

As you will recall, Senator Kinsella received a letter from Dr. Shiv Chopra, alleging that his employer, Health Canada, has harassed him because of his testimony before a committee of the Senate. Senator Kinsella reminded us of the privileges accorded to parliamentary witnesses and our obligation to protect them from any retaliatory measures that might be taken against them for giving their testimony. In response to a question of the Honourable Senator Stewart, Senator Kinsella confirmed that he had a written letter of complaint from the witness, which included details of the allegation. With leave of the Senate, Senator Kinsella tabled the letter.

[*English*]

I will quote again the essence of the allegation from Dr. Chopra's letter:

I tendered a personal example —

— of harassment —

involving a five-day suspension which my employer, Health Canada, imposed against me and which I stressed was, in fact, the latest of a series of retaliatory actions. I mentioned that all these actions were the direct consequence of my testimony which I was requested

— required —

to give before the Standing Senate Committee on Agriculture and Forestry for its Bovine Growth Hormone (rBST) investigations.

The Honourable Senator Carstairs noted that there was a difference in opinion between Health Canada and Dr. Chopra. In her words:

It is clear that there is some disagreement as to why this penalty was imposed. We know, for example, that Dr. Chopra feels that it was his appearance before this Agriculture Committee that resulted in his penalty. We have had correspondence with the Deputy Minister of Health which would indicate that that was not the case.

Senator Carstairs, however, refrained from attesting to the position taken by Health Canada, preferring to let the Senate make its own determination of the facts, if it felt so inclined.

It is clear to me that Dr. Chopra is convinced that his appearance before one of our committees has caused him harm at the hands of his employer. During the discussion of this question of privilege, I did not receive firm evidence that the employer acted for reasons other than those alleged. I am very reluctant to intervene in what could well be an unfortunate difference between an employer and its employee, a possibility indicated by the statements made by Senators Kinsella and Carstairs and Dr. Chopra's own letter. I also do not wish to dismiss out of hand what amounts to a very serious allegation indeed. As it stands, a witness before a Senate committee has made a claim which, if true, may well represent a serious contempt of this place. As yet, there is little evidence offered against the claim. The chronology of events as outlined by Senator Kinsella at least suggests that the claim could be true. I therefore find that a *prima facie* question of privilege has been established, according to the provisions in rule 43(1).

- (2020)

I invite Senator Kinsella to make the appropriate motion.

SUBJECT-MATTER REFERRED TO PRIVILEGES, STANDING RULES AND ORDERS COMMITTEE FOR INVESTIGATION

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I move, seconded by the Honourable Senator DeWare, that the matter be referred to the Standing Committee on Privileges, Standing Rules and Orders for investigation and report and, with unanimous consent and notwithstanding rule 44(3), that we decide this motion forthwith.

The Hon. the Speaker: The Clerk informs me that we have dealt with the Orders of the Day, so the matter may proceed without leave.

Hon. Anne C. Cools: I wish to put a question to Senator Kinsella. My understanding is that, when a senator moves a motion pursuant to this particular rule, no notice is required. My understanding of the rules is that the motion, as moved, is immediately debatable and actionable. In point of fact, no leave is required because no notice need be given.

The Hon. the Speaker: The honourable senator is quite correct. At this time of day, at the point at which we are at relative to the Orders of the Day, leave is not required. Had the motion been moved earlier today, prior to the completion of our regular business on Orders of the Day, leave would have been required.

Senator Cools: I understand.

This is a debatable motion. I understand that Senator Kinsella is requesting the Senate to dispense with debate, to ask that the question be put, and that we proceed to a vote. Is that what he is requesting?

The Hon. the Speaker: His request was simply that it be debated now. It is clear that leave to proceed is not required.

Senator Cools: Thank you very much.

Senator Kinsella: Rule 44(3) comes into play if we are sitting prior to eight o'clock. Therefore, as His Honour has pointed out, leave is not required. I would simply ask that we vote on the matter, if no honourable senator wishes to participate in the debate.

The Hon. the Speaker: If no honourable senator wishes to speak, I will put the question.

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

Motion agreed to.

IMMIGRATION

PLIGHT OF CHINESE IMMIGRANTS ON WEST COAST—INQUIRY—DEBATE ADJOURNED

Hon. Vivienne Poy rose pursuant to notice of September 7, 1999:

That she will call the attention of the Senate to the plight of Chinese migrants on the B.C. coast.

She said: Honourable senators, there has been a great deal of media attention and public debate this summer over the arrival of three boatloads of Chinese migrants off the coast of B.C. I note that yesterday another ship of similar description was sighted outside Canadian waters.

The mixed reaction of Canadians to the Chinese migrants suggests we need to do a lot of soul searching. Many are calling for a re-evaluation of our country's immigration policies and, indeed, we must do so. There is no doubt that those responsible for the global trafficking in human cargo must be dealt with harshly. Human smuggling must be stopped.

In the situation before us, it is important for Canadians to understand the plight of these migrants. These are simple, poor people who have been lured by members of the underworld into a dangerous voyage across the ocean by the promise of a better life.

The comparative wealth and freedom we have in this country makes it nearly impossible to appreciate what it means to have nothing or to be persecuted. We need only to see the conditions aboard these vessels that brought the Chinese migrants here to appreciate their desperation. Without compelling circumstances, no one would agree to risk his or her life on an unseaworthy boat lacking even basic sanitation.

Unfortunately, by getting on these boats, these migrants have become the indentured labourers of organized crime. Some of them will undoubtedly have legitimate refugee claims. As an example, in 1987, 2,000 Turks arrived in Montreal by boat. Some were found only to be economic migrants and were returned to Turkey. Others were found to be legitimate refugees. This is only one example of many boats entering Canada carrying people without proper documentation.

We will not know which of these Chinese migrants are legitimate refugees until they are given the opportunity to present their cases. We know that 39 of those on the second boat were unaccompanied children, some as young as 11 years old. Only desperate parents would risk their children's lives on a 60-day journey across the ocean in leaky boats.

Without the help of the Canadian government, the migrants are kidnapped and forced into slave labour, prostitution, and the like. This is how they pay back the estimated U.S. \$40,000 to U.S. \$50,000 owed to the so-called "Snakeheads" for their passage. Interest rates of 900 per cent have been reported in the media. Those who cannot pay risk being terrorized by the gangs or having their families terrorized in China. U.S. immigration officials have reported cases of rape and dismemberment where individuals have failed to repay their debts.

I have had calls from sympathetic Canadians, many not of Chinese origin, asking me to help these migrants. Hearing their plight reminds me of stories of early Chinese immigrants who came to Canada as indentured labourers. Unfortunately, the kind of prejudice that dogged early Chinese immigrants is evident in some sectors of Canadian society today. To be poor is not a crime, and those victimized should be helped.

Some Canadians have referred to these migrants as "criminals." Even the children have been restrained with metal handcuffs. Girls as young as 12 have been subjected to strip searches. Young children have been needlessly separated from their mothers in detention. Allegations of physical abuse, especially of the children, by RCMP officers have left the Montreal-based Canadian Council for Refugees to call for an independent investigation.

I am distressed to read reports of Canadians calling for the immediate deportation of these migrants, even before they have had an opportunity for proper hearings. A few days ago, the Chinese government said these people should be immediately deported back to China for re-education. However, these migrants are in Canada now, and our understanding of human rights will be the one to prevail.

As a signatory of the 1948 United Nations Convention on Human Rights, the UN 1951 Geneva Convention relating to the status of refugees and its 1967 protocol, Canada defines protection *de facto* as a fundamental human right. Our immigration regulations and laws reflect fairness and humanity. We allow those who seek help the opportunity to present their cases.

• (2030)

It is important to point out that these recent migrants account for only 1 per cent of people who come to Canada each year without proper documentation and claim refugee status. If they had come from Europe, I wonder if they would have been referred to as “criminals” by some in Canadian society.

There have been charges in the media that these migrants are a burden to society. However, it has been statistically proven that, despite the initial economic outlay from the government, immigrants use less of our health care and welfare services than

those born in Canada. Recent Canadian-based data shows that immigrant households from Asia outperform their European counterparts. According to one of Canada’s leading economists, the typical migrant family will put \$40,000 to \$50,000 more into the public treasury over a lifetime than they consume in services.

Before we judge these migrants guilty as criminals and a burden on society, we urge all Canadians to reflect on our history and identity. With the exception of aboriginal Canadians, we are all here because at some point we, or someone before us, immigrated to this country. Many of us are here today because our ancestors came to Canada as economic migrants, not political or war refugees. They simply wanted the chance for a better life. Our country has been built by economic migration. Immigration is an investment in human capital. It is not only a good investment, but also an ethical one.

Honourable senators, I hope that the goodwill of Canadians will prevail. The Department of Citizenship and Immigration should be allowed to complete these hearings before we determine the worthiness of the migrants’ applications to stay in Canada. Otherwise, a dangerous precedent will be set, taking us a step backward, and that will affect the future of this country.

On motion of Senator Robertson, for Senator Carney, debate adjourned.

The Senate adjourned until tomorrow at 9 a.m.

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