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(HANSARD)

Monday, June 11, 2001

THE HONOURABLE DAN HAYS
SPEAKER

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THE SENATE

Monday, June 11, 2001

The Senate met at 4:00 p.m., the Speaker in the Chair.

Prayers.

SENATOR'S STATEMENT

THE LATE AL MUNROE

TRIBUTE

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, last evening in Winnipeg I lost my very best political friend. Those of us who have been active politicians in other chambers, and particularly those who have had leadership roles, know only too well that we receive the limelight, the adulation and sometimes the criticism given to public officials. However, behind each and every one of us are the tireless volunteers and employees who work so very hard to ensure our success. Such a person was Al Munroe who died last evening following a massive stroke.

Al Munroe arrived in my office shortly after I became Leader of the Liberal Party of Manitoba in 1984. He announced that he had a car and would travel. He then went on to say that he would take me anywhere in the province if I would pay for his gas. That is how our political relationship began and how we worked daily together for the next 10 years.

Al and I travelled 400,000 kilometres together throughout the province, prompting one newspaper man in Flin Flon to comment, "Are you here again?" It was Al Munroe who ensured that I always had a full slate of candidates — not easy in those beginning years with less than 6 per cent of the popular vote. Of course, there was always the gentle hint from me that if he did not find a candidate he would have to do it himself. He never let me down.

Al was much more than an organizer and a driver. He was my friend, companion on the road, adviser and supporter through political and family crises. When I wrote my book *Not One of the Boys,* I shared the proceeds with Al because it was just as much his book as mine.

Al leaves to mourn his wife, Lorraine; his sons Fred, Ken, Don and Dick; and his eight grandchildren, to whom John and I express our deepest sympathy.

Al Munroe was a true Canadian. He believed in democracy and, yes, he believed in the Liberal Party. Above all, he believed in family, and I was an honorary member of that family. He was, in part, my father and, in part, my big brother. I will miss him dearly.

[*Translation*]

ROUTINE PROCEEDINGS

INFORMATION COMMISSIONER

ANNUAL REPORT TABLED

The Hon. the Speaker: Honourable senators, I have the pleasure of laying on the table the 2000-2001 annual report of the Information Commissioner, pursuant to section 38 of the Access to Information Act.

[*English*]

THE SENATE

REPORT OF MISSION TO SAUDI ARABIA AND QATAR, JANUARY 18-25, 2001 TABLED

Hon. Bill Rompkey: Honourable senators, the Honourable Gildas Molgat, Speaker of the Senate, led a Senate mission to Saudi Arabia and Qatar from January 18 to 25, 2001 at the invitation of the Speakers of the Consultative Councils, Majlis Ash Shura, of those two countries. On behalf of the late Honourable Gildas Molgat, I have the honour to table the report of that mission.

STUDY ON NUCLEAR REACTOR SAFETY

INTERIM REPORT OF ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES COMMITTEE TABLED

Hon. Nicholas W. Taylor: Honourable senators, I have the honour to table the sixth report of the Standing Senate Committee on Energy, the Environment and Natural Resources which deals with a special study on nuclear reactor safety.

PARLIAMENT OF CANADA ACT
MEMBERS OF PARLIAMENT RETIRING ALLOWANCES ACT
SALARIES ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-28, to amend the Parliament of Canada Act, the Members of Parliament Retiring Allowances Act and the Salaries Act.

Bill read first time.

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

On motion of Senator Robichaud, with leave of the Senate and notwithstanding rule 57(1)(*f*), bill placed on the Orders of the Day for second reading at the next sitting of the Senate.

[*Translation*]

BROADCASTING ACT

BILL TO AMEND—FIRST READING

Hon. Jean-Robert Gauthier presented Bill S-29, to amend the Broadcasting Act (review of decisions).

Bill read first time.

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

On motion of Senator Gauthier, bill placed on the Orders of the Day for second reading two days hence.

[*English*]

NATIONAL FINANCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY EFFECTIVENESS OF PRESENT EQUALIZATION POLICY

Hon. Bill Rompkey: Honourable senators, I give notice that on Tuesday next, June 12, 2001, I will move:

> That the Standing Senate Committee on National Finance be authorized to examine and report on the effectiveness of the present equalization policy in ensuring that provincial governments have sufficient revenues to provide reasonably comparable levels of public service at reasonably comparable levels of taxation; and
>
> That the Committee report no later than December 21, 2001.

• (1610)

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE

Hon. Marjory LeBreton: Honourable senators, I give notice on behalf of the Honourable Senator Michael Kirby that on Tuesday next, June 12, 2001, he will move:

> That the Standing Senate Committee on Social Affairs, Science and Technology have the power to sit on Wednesday, June 13, 2001, at 3:30 p.m., even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

[*Translation*]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY RENEWAL OF BROADCASTING CONTRACT WITH CPAC

Hon. Jean-Robert Gauthier: Honourable senators, I give notice that on Tuesday next, I will move:

> That the Standing Committee on Internal Economy, Budgets and Administration be authorized to examine and report upon the renewal of the television broadcasting agreement between the Senate and CPAC (the Cable Public Affairs Channel), so that it includes the subtitling of parliamentary debates authorized on television and the renewal of this agreement follows up on CPAC's commitments concerning services to the hearing impaired.

[*English*]

QUESTION PERIOD

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTERS—INVOLVEMENT OF DEPUTY PRIME MINISTER IN CABINET COMMITTEE OVERSEEING PURCHASE COMPETITION

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

Last week, the Prime Minister at one point said "no," but I think when he clarified the matter he indicated that the Deputy Prime Minister was charged with overseeing the Maritime Helicopter Project to look at, among other things, establishing the process for receiving bids. We know that DaimlerChrysler is within the Windsor area, the area of primary concern to Minister Gray. We also know that DaimlerChrysler is a parent company of Eurocopter.

Can the Leader of the Government tell us if the Deputy Prime Minister has continued his oversight of the Maritime Helicopter Project up until today or, if it has stopped, as of what date the directive from the Prime Minister ceased?

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for his question. I want him to know that I had a very thorough briefing this morning on the Maritime Helicopter Project. It went on for an hour and a half. I learned a great deal. It is the kind of information that I hope we can make available to all members of this chamber when the Committee of the Whole meets next fall.

In terms of the specific question asked by the honourable senator, indeed, a cabinet group has been examining the helicopter project. However, I want to make it absolutely clear that the parameters of the game in terms of the specifications come not from that committee but from the requirements of our military forces.

Senator Forrestall: Honourable senators, does the minister see no potential conflict in Mr. Gray continuing to chair that committee?

Senator Carstairs: Honourable senators, I do not see any conflict with any minister. I was delighted with the decision that we would have two parts to the process and, therefore, two biddable programs to which many could apply: one for the bones, if you will, of the helicopter and the other for the mission systems. Many companies located in Canada will be able to take advantage of that process. Multinational companies with offices in Canada will be able to take part in building the actual aircraft. Therefore, what we will get as a result of this totally transparent bidding process is a helicopter that will meet the needs of the military and will also meet the needs of the government, which is to get the best value it possibly can.

[*Translation*]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour to table in this chamber the delayed answers to three questions: the question raised by Senator Andreychuk on May 17, 2001, regarding the missile defence system; the questions raised by Senator Murray on April 4 and May 8, 2001, regarding the Employment Insurance Act and the Canadian Charter of Rights and Freedoms; and the question raised by Senator Kinsella on May 2, 2001, regarding racism on Internet.

FOREIGN AFFAIRS

UNITED STATES—MISSILE DEFENCE SYSTEM—CONSULTATION PROCESS

(Response to questions raised by Hon. A. Raynell Andreychuk on May 17, 2001)

The May 15 consultations provided an excellent opportunity to listen to US thinking, to set out Canada's views and concerns, and to ask some direct questions. Canada made clear that we would not wish to see an approach emerge which alienated Russia and/or China, which did not sustain the gains of the non-proliferation, arms control and disarmament regime or which failed to enhance overall security. The meeting was a good beginning of what we expect will be a meaningful and measured dialogue to explore the issues raised by the US on the strategic framework and missile defence. We hope to continue these consultations both bilaterally and within the NATO Alliance. Many issues and details need to be considered. US thinking and plans are still evolving. Canada will take every possible opportunity to continue engaging the US on how best to address current security threats and will continue to assess US plans for missile defence as they emerge.

Canada has and is continuing to make known its views and concerns with regard to US thinking on the strategic framework and missile defence.

Canada will continue to engage in discussions on these important issues with our friends and allies bilaterally and in each appropriate international fora, in particular NATO where we are seeking a meaningful examination of the issues raised by the US ideas.

HUMAN RESOURCES DEVELOPMENT

EMPLOYMENT INSURANCE ACT—RULING ON CONTRAVENTION OF CHARTER OF RIGHTS AND FREEDOMS

(Response to questions raised by Hon. Lowell Murray on April 24 and May 8, 2001)

The Canada Employment Insurance Commission unanimously agreed that the Government should seek a judicial review of the Umpire's decision.

HRDC's application for judicial review was filed on May 3, 2001.

It is felt that the scope of the ruling goes beyond Mrs. Lesiuk's case and that it therefore needs to be clarified.

Since Justice Salhany did not invalidate the Employment Insurance provisions at issue, the existing qualifying requirements for both regular and maternity Employment Insurance benefits continue to apply.

I will make no further comment on this issue while it is before the court.

However, I would like to point out that Bill C-2 received Royal Assent on May 10, 2001, and included an important change that would extend the Monitoring and Assessment Report until 2006 in order to ensure that the Employment Insurance program is responsive to the needs of Canadian workers.

HUMAN RIGHTS COMMISSION

RACISM ON INTERNET—LIMITATION OF RESOURCES TO RESPOND

(Response to question raised by Hon. Noël A. Kinsella on May 2, 2001)

Like his honourable colleagues, the Minister of Industry indeed agrees that illegal content on the Internet, including hate propaganda and child pornography, poses a serious threat to children and other Canadians. There is also the matter of content that, while legal, may be offensive to some people and harmful to children. These issues are of great concern to Canadians. Research recently commissioned by the Government of Canada demonstrates that parents are very worried that their kids are going online with insufficient protection from those who want to exploit them. For this reason, some parents may avoid getting connected to the Internet in the first place.

To address illegal and offensive content on the Internet, the Government of Canada, in partnership with industry and civil society, developed the *Canadian Strategy to Promote Safe, Wise and Responsible Internet Use*. This comprehensive, 5-point plan deals with hate propaganda, child pornography, and other inappropriate content on the Internet.

Our plan is to:

Support initiatives that educate and empower Canadians, helping them to protect themselves and their families while using the Internet.

Promote self-regulation in the Internet industry in order to involve the private sector in effectively addressing these issues.

Empower law enforcement authorities to effectively investigate and prosecute individuals who use the Internet to exploit children.

Implement an Internet "hotline" facility to which child pornography and hate propaganda can be reported.

Foster international collaboration to address the global nature of these problems.

Technological solutions are an important part of the toolkit that empowers Canadians, including software such as that raised by the Honourable Noël A. Kinsella in his question. It is fortunate that many different software filters are commercially available to parents to help them screen out content to which they do not want their children exposed. This includes specialized filters to deal with hate. In the Canadian Strategy, we raise awareness of these and other technological aids and provide direction as to where they or information about them may be obtained.

The strategy also directs Canadians to invaluable educational resources, such as those developed by the Media Awareness Network and the Canadian Association of Internet Providers. These resources highlight the issues and challenges related to online racism, hate, and other inappropriate material and facilitate the implementation of combative measures.

[*English*]

ORDERS OF THE DAY

PATENT ACT

BILL TO AMEND—MESSAGE FROM COMMONS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill S-17, to amend the Patent Act, and acquainting the Senate that they have passed this bill without amendment.

IMPERIAL LIFE ASSURANCE COMPANY OF CANADA

PRIVATE BILL—MESSAGE FROM COMMONS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill S-27, to authorize The Imperial Life Assurance Company of Canada to apply to be continued as a company under the laws of the Province of Quebec, and acquainting the Senate that they have passed this bill without amendment.

[*Translation*]

CERTAS DIRECT INSURANCE COMPANY

PRIVATE BILL—MESSAGE FROM COMMONS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill S-28, to authorize Certas Direct Insurance Company to apply to be continued as a company under the laws of the Province of Quebec, and acquainting the Senate that they have passed this bill without amendment.

[*English*]

CANADA BUSINESS CORPORATIONS ACT CANADA COOPERATIVES ACT

BILL TO AMEND—AMENDMENTS FROM COMMONS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill S-11, to amend the Canada Business Corporations Act and the Canada Cooperatives Act and to amend other Acts, and acquainting the Senate that they have passed this bill with the following amendments, to which they desire the concurrence of the Senate:

Monday, June 11, 2001

AMENDMENTS made by the House of Commons to Bill S-11, passed by theSenate, intituled: "An Act to amend the Canada Business Corporations Act and the Canada Corporatives Act and to amend other Acts."

1. Title: Replace the long title with the following:

"An Act to amend the Canada Business Corporations Act and the Canada Cooperatives Act and to amend other Acts in consequence"

2. Page 136: Clause 235 is deleted.
3. Page 136: Clause 236 is deleted.
4. Page 137: Clause 237 is deleted.
5. Page 137: Clause 238 is deleted.

The Clerk of the House of Commons
William Corbett

Honourable senators, when shall the amendments be taken into consideration?

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

CANADA FOUNDATION FOR SUSTAINABLE DEVELOPMENT TECHNOLOGY BILL

THIRD READING—POINT OF ORDER

On the Order:

Resuming debate on the motion of the Honourable Senator Sibbeston, seconded by the Honourable Senator Milne, for the third reading of Bill C-4, to establish a foundation to fund sustainable development technology.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I rise to raise a point of order in relation to Bill C-4, to establish a foundation to fund sustainable development technology. In doing so, I wish to discuss two issues. The first deals with the funding of the foundation, which I will argue is not only in contravention of parliamentary practice but is also illegal, as it is contrary to section 2 of the Financial Administration Act. As well, having established a not-for-profit company to receive this questionable funding prior to passage of this legislation, its authority is clearly in breach of the rule against anticipation.

• (1620)

Before getting into details of these arguments, allow me to refer at some length to the curious facts which surround the government's attempt to fund this foundation. I will quote the observations from the Standing Senate Committee on Energy, Environment and Natural Resources in its fifth report when it reported the bill:

> The actions of the Government of Canada in creating a private sector corporation as a stand-in for the Foundation now proposed in Bill C-4, and the depositing of $100 million of taxpayers' money with that corporation without the prior approval of Parliament, is an affront to members of both Houses of Parliament. The Committee requests that the Speaker of the Senate notify the Speaker of the House of Commons of the dismay and concern of the Senate with this circumvention of the parliamentary process.

These observations emanate from discussions that were held at two committee meetings, one on May 15, with the Minister of Natural Resources, and the other on May 24, with the acting Auditor General of Canada.

Mr. Goodale explained to the committee that Bill C-4's predecessor, Bill C-46, which, if passed would have established the foundation in the last Parliament, was to be granted $100 million set aside in the 2000-2001 budget presented in February 2000. With the call of the election in the fall of 2000, this bill died on the Order Paper. It was reintroduced as Bill C-4 at the beginning of this Parliament.

To protect the $100-million allotment, a non-profit corporation was established, and, according to the minister, the money was paid out to it so that the funding would not lapse with the end of the fiscal year on March 31, 2001.

The minister claimed that what was done was completely legal; however, this assertion surprised the committee. It has certainly surprised me, and in her appearance, the acting Auditor General before the committee was clear that this assertion surprised her as well. Let me quote what Ms Fraser stated at the outset of the committee meeting:

> I will begin with the accounting issue. I am concerned about the transfer of large amounts of public money to foundations long before it will be spent on delivering services. In addition, I am also concerned that the government records these transfers as expenditures in the public accounts, even though the money may still be in the bank accounts of the foundation.
>
> We have not yet audited the transfer to the Canada Foundation for Sustainable Development Technology. When we do, we will assess whether there is appropriate authority in place for this transfer at the time it was made and whether the accounting was appropriately completed.

Later in the meeting, an exchange took place between Senator Kelleher and the acting Auditor General, and while it is extensive, it is pertinent to the point of order I am raising.

Senator Kelleher speaks to the acting Auditor General:

> The second part pertains to your paragraph 2 and 3 of your statement. As I recall, this was a case where the foundation had not even been created, and we plucked off the shelf some corporation that had been incorporated. In the legal business, it is known as a "shelf company." The problem with this act is even worse. It was not a case of just transferring the money to the new corporation. No corporation even existed. I am very concerned about the legality and propriety of this kind of situation. I would like you to comment on that, if you can.

Senator Kelleher continues:

> The other thing that troubles me is when the committee questioned why the money was being transferred now, the answer was the money is available now. If it is not taken now, it will be lost.

Senator Kelleher continues:

> I have had experience running a few ministries a few years ago, and there is always that kind of risk. However, I am having trouble accepting that reason or excuse for transferring money holus-bolus, saying if we do not grab it now, we are going to lose it. It will go back into the general accounts, and we will have to start all over again. My question is this: How accurate is that explanation?

Ms Fraser replies:

> We too are concerned about the issue of the authority under which these payments were made. I would like to point out some dates. Unfortunately, we have not completed all our audit work, and that will be done as part of public accounts work. The funding agreement was signed in March, and in April the actual payments were made. The payments were actually made after the year end. That raises an issue for us because the payments were actually made after the year end. I do not want to presume what our audit findings will be, but there are some issues about dates and we do want to assure that the authorities under which those payments were made were appropriate.

Senator Kelleher asks:

> Can you express an opinion on the way it was done in this case, which was to make the transfer to a shelf company, in trust, for a foundation that had not yet been created?

Ms Fraser responds:

> I can say that I do not like the way that that series of transactions was done. We would have preferred that parliamentary approval be given to this foundation and to the amounts of money that would be sent into it, yes. The money, as I mentioned, is being spent out of government before services can ever be delivered.

Senator Taylor, as chairman of the committee, said:

> Not only that, it did not go to a foundation, it went to a shelf company. Some of the rest of us would end up in big trouble if we did that.

That is the end of the quotation from the transcripts of the meeting.

Honourable senators, what has happened here strikes at the very core of parliamentary government under the Westminster style. We must ask ourselves the question: How can Parliament enact a statute that permits the folding into it of a company granted public funds transferred without parliamentary approval? Are we not sanctioning, should we pass this bill, an act of government that runs completely contrary to modern parliamentary democracy, in particular, the power of the House of Commons over the purse?

On a matter as important as this, honourable senators, it is appropriate to refer to the text on British parliamentary practice, Erskine May, twenty-second edition. Page 732 states:

> In more modern times, the Government presents to the House of Commons its detailed requirements for the financing of the public services; it is for the Commons, acting on the sole initiative of Ministers of the Crown, first to authorize the relevant expenditure...and, second, to provide through taxes and other sources of revenue the 'Ways and Means' deemed necessary to meet the Supply so granted.

The House of Commons controls the public purse. Erskine May on page 735 describes the three important precepts of financial practice that are to be applied in the appropriation of expenditures:

> (1) A sum appropriated to a particular service cannot be spent on another service.
>
> (2) The sum appropriated is a maximum sum.
>
> (3) It is available only to defray costs which have arisen during the year in respect of which it has been appropriated by the relevant Act.

In our case, all three precepts were violated, as the money was not transferred to the foundation to be established by Parliament. The sum paid so far, according to the acting Auditor General, is $50 million short of the maximum sum, and we have no idea from where the rest of the money will come. It was not allocated in the fiscal year for which it was appropriated.

Turning to Canadian authorities on this point, Beauchesne's sixth edition, paragraph 941, states:

> If a Vote in the Estimates relates to a bill not yet passed by Parliament, then the authorizing bill must become law before the authorization of the relevant Vote in the Estimates by an Appropriation Act.

Paragraph 942 states:

> Asking for money in the Estimates before legislation is passed to establish programmes "puts the cart before the horse."

Both paragraphs clearly establish that the underlying statute must be in place before the money can be dealt with.

Let me quote from Sir John Bourinot in *Parliamentary Procedure and Practice in the Dominion of Canada*, fourth edition, 1916. He wrote:

> It is not allowable to attach a condition or an expression of opinion to a Vote or to change the destination of a grant.

Here, the destination of the monies was changed from a foundation to be established under statute to a private company established at the whim of a government so that the government could park the foundation's seed money until the foundation was properly established by statute.

The fiscal year of the Government of Canada runs from April 1 to March 31, and that is established by virtue of the Financial Administration Act. According to officials of the Auditor General's Office, $50 million was transferred in April 2001 after the March 31 deadline, although the minister told the committee that the entire $100 million had been moved out. However, that is irrelevant as far as the amounts go. The point is this: What happened?

• (1630)

The so-called transfer after the end of the fiscal year illustrates not only the government's contempt for the parliamentary process but for the Financial Administration Act as well.

If the government wanted to act within the law and allow parliamentary procedures, it could have, as suggested on page 741 of Marleau and Montpetit's *House of Commons Procedure and Practice*, simply introduced and have passed through Parliament a separate statute granting the authority to carry over this unexpended money into the new fiscal year.

My second argument deals with the establishment of a non-profit corporation. This anticipated the passage of Bill C-4 for its authority, which clearly violated the rule against anticipation. The problem that would result from this method proceeding would occur if Bill C-4 were not to pass. What would the holding corporation then do with the money transferred to it? Who would get the interest? What would be the accountability? The ramifications are endless.

Let me summarize, honourable senators. A non-profit corporation called Foundation for Sustainable Development Technology for Canada was incorporated on March 8, 2001. In April, the government transferred at least $50 million to it, monies from the previous fiscal year. Clause 35 of the bill before us would allow the Governor in Council to designate that private company as responsible for carrying out the functions described in the bill.

The government went against all precedents, all procedures, statutes and guidelines by transferring public funds from a previous fiscal year into a private corporation without first seeking the authority of Parliament. Now the government expects Parliament to correct its previous errors by including in the bill a private company not entitled to the funds it has on hand because, first, they had lapsed. Second, since Parliament did not authorize such a transfer, the government has even less authority to do so.

I am not asking His Honour to rule on the illegal administrative decisions taken by the government but to recognize that, as they are illegal, the Senate of Canada, no matter the decision in the other place, has only one choice: to return this bill to its sponsor in order that the government first have the proper funding in place through proper budgetary procedures; introduce a bill in response to that funding; and then designate, as allowed in the bill, whatever entity Parliament has agreed is best equipped to carry out the mandate as specified in the bill.

In our case, honourable senators, this has all been done in reverse and completely outside of the established procedures as described in the appropriate statutes. The money was about to lapse. The government had four people incorporate a not-for-profit organization and monies were transferred to it. Now we are asked to sanction that questionable decision, not to say illegal decision, and to become a party to the illegality by making it legal. To allow Bill C-4 to proceed is to sanction an illegality that only the government can correct. Certainly, it is not for the Senate to remove, now that it has been made aware of the sordid course of events just described.

For all these reasons, I ask that His Honour rule that the Senate cannot continue debate on Bill C-4.

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, it is a firmly established precedent that a point of order must be raised as soon as practicably possible. His Honour should decline to hear this point of order on a matter that occurred on a previous day or if intervening proceedings have occurred between the breach and the complaint.

The appropriate time to raise this point of order would have been when the bill was moved at second reading, namely, April 26. That was more than six weeks ago. No point of order was raised at that time, and the Senate proceeded to approve the principle of this bill by adopting the motion for second reading on May 2.

Even if the alleged breach of the *Rules of the Senate* were only detected during committee deliberations, the appropriate time to raise the point of order would have been Thursday last when the motion for third reading was proposed. The honourable senator has brought to our attention that this matter was studied in committee on May 15 and May 24, so there would have been ample time to have taken note of this supposed breach and to have brought it to our attention before we moved into third reading. No point of order was raised at that time.

I contend, honourable senators, that the Senate cannot now be detained by this point of order because it was not raised at the earliest opportunity. Beauchesne's sixth edition, paragraph 319, page 97, states:

> Any Member is entitled, even bound, to bring to the Speaker's immediate notice any instance of a breach of order. The Member may interrupt and lay the point of order in question concisely before the Speaker. This should be done as soon as an irregularity is perceived in the proceedings which are engaging the attention of the House. The Speaker's attention must be directed to a breach of order at the proper moment, namely the moment it occurred.

As to the supposed affront to Parliament, the funds in question were approved in the Estimates process by both Houses of Parliament and appropriated in a supply bill that was adopted by both Houses.

Senator Lynch-Staunton: When?

Senator Robichaud: The appropriation was not made conditional on the passage of legislation to establish the foundation. The government determined that the best means of furthering the objectives for which Parliament appropriated funds would be to transfer funds to a not-for-profit corporation established under Part II of the Canada Corporations Act, 1970. The government is confident that it had the legal authority to take that initiative pursuant to the authority granted in the Appropriations Act. The government is of the view that a foundation created by a specific act of Parliament is the best vehicle for program delivery in this case, and we are pursuing that objective by submitting Bill C-4 for Parliament's approval.

It is erroneous to suggest, however, that Bill C-4 in any way seeks to legitimize an inappropriate act by the government. Such a suggestion would be false because the government had all the statutory authority necessary to take the actions it did. The discussions surrounding the disbursement of funds pursuant to an appropriations act may be an interesting point of debate, but it is not a point of order relevant to Bill C-4. Proof of this statement is revealed by asking the question: Which rule of the Senate has been broken by the motion for third reading of Bill C-4?

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, let me begin by responding to the very last point made by my honourable colleague. The very first rule and the very first page of the *Rules of the Senate* of Canada responds to that question. It states:

> In all cases not provided for in these rules, the customs, usages, forms and proceedings of either House of the Parliament of Canada shall, *mutatis mutandis*, be followed in the Senate or in any committee thereof.

Honourable senators, the history of this bill, as I have understood it, effectively began at second reading when the principle of the bill was being debated. In principle, I agreed; I thought it was a great idea to set up this foundation. The bill then was adopted at second reading in principle and sent to one of our standing committees. We then received a report from the committee, and I confess that I did not read the report until the day that we were debating it. The footnote or the observation — however we describe the note that was attached — from the Energy Committee helped us to understand what that meant. We had quite an exchange here Thursday afternoon, and many of us left not very satisfied with the answers to the questions that we had raised.

Honourable senators, I spent the weekend trying to understand this file. It was during that exercise that I came to the conclusion that this is pretty serious stuff. I also came to the conclusion that we have a wonderful system. In the other place, the bill received first reading, second reading, went off to a committee where it was studied, came back for third reading at report stage and was adopted. A message was sent to this place. Here, it received first reading and second reading, and it is in our committee that the amber light began to flash. It is only at third reading that the amber light is beginning to show some shades of crimson. What a wonderful system we have. At any one of these stages, in the public interest, we have the opportunity to catch something that is not quite right.

This is a point of order, honourable senators, precisely because of the practices in Parliament, inclusive of this house. I refer to paragraph 565 of Beauchesne's:

> The Senate may take exception if a message from the Crown for pecuniary aid is sent exclusively to the Commons. The legal right of the Senate, as a co-ordinate branch of the Legislature, to withhold their assent from any bill whatever, to which their concurrence is desired, is unquestionable.

Honourable senators, it is unquestionable that we in this chamber, at this late stage, one might say, have identified that there is a problem here.

To assist His Honour, I would encourage him to look at Chapter 13 of Beauchesne's entitled "Business of Supply and Ways and Means," part of which was referenced by the Honourable Senator Lynch-Staunton. In particular, he could look at the Estimates and the purpose of the Estimates.

Speaking directly to this point of order, the vote was made and the authorization was given by Parliament for a discrete activity, but a minister came up with the idea that money was "lapsing." We hear this throughout the bureaucracy. Treasury Board has a series of policies on how managers are not to be relying on this doctrine of lapsed funds. The minister created this corporation. None of us has any questions about the integrity of the individuals who formed the corporation. However, there was no money voted for the discrete activities of that corporation. There were no monies voted in the Estimates for this future foundation, but $100 million was assigned to this corporation.

Consider the implications. Parliament has no oversight of this disbursement. Where is the interest on the $100 million that would be earned over the period of time this money has been allocated to this private corporation? What happens if we do not pass this legislation? There is nothing in the bill that requires the corporation to give this money back to the Crown. Something radically wrong has occurred. It is inextricably interwoven with the bill before us.

The point of order is, in my opinion, sustainable when one examines the purpose, the processes, the customs and the traditions in dealing with Estimates. Effectively, we have monies that should have been properly provided for through the ordinary Estimates process. That did not occur, and the bill is an attempt to short-circuit the privileges of this place, and the point of order should be sustained.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, in my view, we do not have a point of order here. We have disagreement on a policy initiative that has been taken by the Government of Canada. That is a legitimate debate which can take place on any piece of legislation in any of its stages at any time in this chamber or, indeed, in committee. However, there is no point of order. There is no point of order because there is nothing in this particular bill, having been presented to us at third reading, that in any way flies in the face of the *Rules of the Senate.* That includes the provision Senator Kinsella has just alluded to, which says that in all cases not provided for, these rules and customs shall, *mutatis mutandi*, be followed in the Senate or any committee thereof.

The rules were followed. They were followed in the chamber. They were followed in committee. They are now being followed in this particular chamber at third reading of this bill. The government received approval for this money in the same manner money is always approved, through the Estimates process or the appropriations process. That had been done. We voted for it. Indeed, if I recall, we have never in this chamber not voted unanimously for an appropriations bill. Since this matter was included, then that appropriation was adequately covered.

I would argue very strenuously with honourable senators that, yes, indeed, there may be a policy disagreement. Some of you may not like what the government did in this case, and the Senate committee has clearly said to the government, "We do not like the way that this particular bill was put into force and effect, or attempted to be put into force and effect. We would prefer you not use this process in the future."

However, clearly they were unanimous in that the bill came out of committee with observations but without amendment. There was support for the principles of the bill, there was support for the bill itself, there was support for the clauses of the bill, and there was a policy disagreement.

Hon. Nicholas W. Taylor: Honourable senators, to encapsulate this discussion, I would be remiss if I did not talk as the lightning rod at the centre, the chairman of the committee and the one who originally pointed out the irregularity or the question of whether or not the budget had been approved.

I have gone through the matter in a fair bit of detail, and I can see the argument raised by honourable senators opposite. I went through the same soul-searching when this bill first came to the committee. The conclusion I reached, and I have heard no real reason to change it since then, is that it is irregular but not illegal. That being the case, I thought it best, and the committee all went along with it, that we slap the hands of the minister. I must confess that it took some reflection on our part, because I found it hard to concede that the House of Commons would go through all these readings without somebody catching this anomaly. I went back through the minutes and nobody caught it.

The point to remember is that we asked the Assistant Auditor General about the matter. We went after her to find out whether or not it was legal. The most she said was that it was irregular. She never said it was illegal.

It was also the committee's impression that the money for this corporation was in the budget. Whether it was discussed or not, it was certainly in the budget and voted for. I think it is irregular. To use the answer the minister gave us on more than one occasion, "We might not get it down the road, so I took it while the going was good." That was the implication we really did not buy. They think that is a good reason, hence the wrist-slapping note about it being an affront to Parliament.

• (1650)

Honourable senators, it is not unusual for a foundation to get money that they will not spend for some time. While we questioned the irregularity of disbursing budget money before the foundation got underway, we could not find any evidence that the foundation had started spending the money before the bill had gone through the House.

The Honourable Senator Lynch-Staunton quoted Erskine May, and you will remember that one of the things was that "if" appropriation is made, it cannot be spent until a bill has been passed. I believe the bill had passed, thereby legalizing that process. There, again, one could argue that Erskine May set out the possibility that at times money would be appropriated but it could not be spent until the bill has been passed and gone through both Houses. In the end, the committee determined that the process was legal, although we were unhappy with its irregularity. Therefore, I do not believe there is a point of order.

Senator Lynch-Staunton: Honourable senators, Senator Robichaud raised a question regarding the timing of the raising of the point of order. It could only have been raised at this stage because last Wednesday, Senator Taylor presented the report and at that time no debate was allowed. It is only from the comments and the observations of the report that the point of order is being raised. On Thursday, questions were asked of Senator Sibbeston, as the sponsor of the bill, and he was unable to give us all the information we wanted. As a result, we did our own research, and today is the earliest opportunity we have had to raise this point of order.

I should like to point out again what we are being asked to sanction here. The government took monies out of a previous year's budget, carried them over to the following fiscal year and deposited them into a made-for-order, non-profit corporation, without parliamentary approval, in anticipation of a bill being passed. That is not the way Parliament should be treated. If we pass this bill in its present form, it will indicate acceptance of this domination by the executive. I will read to honourable senators clause 35(1):

> The Governor in Council may, by order, designate, for the purposes of this Act, any corporation incorporated under Part II of the *Canada Corporations Act*, being chapter C-32, of the Revised Statutes of Canada, 1970.

They did not even have the decency to admit and put in this bill that on March 8, 2001, they had incorporated under Part II of the Canada Corporations Act, chapter C-32, et cetera, a foundation, et cetera. They did not have the decency to admit that this had been done.

I agree that what the government did is not His Honour's main preoccupation, but is it proper for the Senate to sanction this improper behaviour by the government? I say that by passing this bill, in particular clauses 35, 36 and 37, we become part and parcel of an irregular, if not to say illegal, procedure. Honourable senators should not continue the debate on this bill until the government has corrected the disorder that it has created and that has been raised here.

The Hon. the Speaker: If no other honourable senator wishes to participate in the comments to the Chair on the point raised by Senator Lynch-Staunton, then I have heard enough, and I will take this matter under consideration.

In that this item is at third reading stage and part of the issue is whether or not debate should continue, I rule that we proceed to the next order. In the meantime, I will take the matter under consideration and I will report back with my decision as expeditiously as I can.

SALES TAX AND EXCISE TAX AMENDMENTS BILL, 2001

THIRD READING—DEBATE ADJOURNED

Hon. Bill Rompkey moved the third reading of Bill C-13, to amend the Excise Tax Act.

He said: Honourable senators, the measures contained in Bill C-13 propose to refine, streamline and clarify the application of our tax system, and they reflect the government's commitment to ensuring that our tax system is fair. The main intent of Bill C-13 is to implement measures relating to the GST and the HST that were proposed in Budget 2000, as well as additional sales tax measures proposed in a notice of ways and means motion tabled in Parliament in October 2000. Measures are aimed at improving the operation of GST/HST in the affected areas and ensuring that the legislation accords with the policy intent.

Honourable senators, there are two amendments to the Excise Tax Act. The GST/HST measures include a number of measures designed to ensure competitiveness of Canadian business and products in export markets; important sales tax initiatives for the rental housing sector of significant benefit to builders and purchasers of new residential rental accommodation; three measures designed to improve the operation of the GST/HST in the area of real property; provisions regarding health and education that build on the government's commitment to provide access to quality health care and education; and recognition of the important role played by charities by amending the GST/HST legislation to ensure it properly reflects the government's intended policy of generally exempting from sales tax the registry of real property and related goods by charities.

Excise tax amendments are the clarifying amendments to ensure that there can be no misinterpretation of provisions relating to the excise taxes on air conditioners and heavy automobiles. The second amendment provides discretion for the Minister of National Revenue to waive or cancel interest or a penalty calculated in the same manner as interest under the excise tax system. This will make it consistent with the manner in which this discretionary power has been exercised under the Income Tax Act and sales tax systems.

Honourable senators, that is the main thrust of the bill. I commend it to you and ask for your support.

On motion of Senator Kinsella, for Senator Doody, debate adjourned.

TOBACCO TAX AMENDMENTS BILL, 2001

THIRD READING—DEBATE ADJOURNED

Hon. Sharon Carstairs (Leader of the Government) moved the third reading of Bill C-26, to amend the Customs Act, the Customs Tariff, the Excise Act, the Excise Tax Act and the Income Tax Act in respect of tobacco.

She said: Honourable senators, I welcome the opportunity to present Bill C-26 for third reading today.

As honourable senators know, this bill stems directly from the announcements made by the Minister of Finance, the Minister of Health and the Solicitor General on April 5, on the comprehensive new tobacco strategy aimed at improving the health of Canadians by reducing tobacco consumption. The new strategy includes increased spending on tobacco control programs, as well as tobacco tax increases to discourage smoking. Under this strategy, tax increases are linked to a new tobacco tax structure designed to reduce the incentive to smuggle.

• (1700)

Bill C-26 implements the tax measures of this strategy and deserves speedy passage for several reasons. First, the new tobacco tax structure will help to reduce the incentive to smuggle exported Canadian tobacco products back into Canada. Second, the tax increases in the bill, the fifth since 1994, will help advance the government's national health objectives by discouraging tobacco consumption. Third, the new tax measures will increase federal revenues from tobacco products by $215 million per year. Fourth, the new tobacco tax structure will enable the government to increase tobacco taxes even further in the future.

Let me brief honourable senators on the main measures in Bill C-26, beginning with the new tobacco structure, which builds on the 1994 national action plan to combat smuggling. Honourable senators will recall that this plan has proven to be effective in reducing the level of contraband activity and in restoring the legitimate market for tobacco sales.

The key element of the new tax structure replaces the current tax on tobacco products and exports of those products implemented under the 1994 action plan with a new two-tiered excise tax on exports of Canadian-manufactured product, effective April 6, 2001.

A tax of $10 per carton will be levied on exports of Canadian cigarettes up to 1.5 per cent of a manufacturer's annual production. A refund of tax will be provided upon proof of payment of foreign taxes, a measure that will help to avoid double taxation. Exports over the threshold will be subject to the current excise duty on tobacco products, and a new excise tax. There will be no refund of this second-tier export tax.

Honourable senators, the government believes that taxing all exports of Canadian tobacco brands will reduce the incentive to smuggle export products back into Canada. The government believes that all Canadian brands of tobacco products should be taxed regardless of where they are sold.

As a result, elements of the new tax structure also affect people who travel. Canadians tobacco product delivered to duty free shops and ships' stores, at home and abroad, will now be taxed. Further, returning residents will no longer be able to bring back tax- and duty-free product under the traveller's allowance. Effective October 1, 2001, a new duty of $10 per carton of cigarettes will be imposed on these products when they are imported by returning residents.

The new duty will not apply to tobacco product with a Canadian stamp, signifying that the taxes have already been paid.

Honourable senators, these measures will help to meet the government's goal of reducing tobacco use. Allowing Canadians who travel continued access to low-cost, tax-free tobacco would be inconsistent with the government strategy of raising tobacco taxes domestically and therefore would make it difficult for us to achieve our health objective of reducing smoking.

Tobacco tax increases are another component of the new tobacco strategy. Through this bill, the federal government is raising tobacco tax rates jointly with the five provinces that matched its tobacco tax reductions in 1994, when the national action plan was implemented.

As of April 6, 2001, the total of federal and provincial taxes increased by $4 per carton sold in Ontario, Quebec, Nova Scotia, New Brunswick and Prince Edward Island. These increases will restore federal excise tax rates to a uniform level of $5.35 per carton on cigarettes sold in Nova Scotia, New Brunswick and P.E.I. This amount is equal to the current federal excise tax rate in the provinces that did not reduce tobacco taxes jointly with the federal government in 1994, because they did not have the same smuggling problems.

As I indicated earlier, honourable senators, this is the fifth increase in tobacco taxes since 1994. I also indicated that this measure will raise an additional $215 million in federal revenues each year from tobacco products.

Another measure in Bill C-26 increases the surtax on the profits of tobacco manufacturers to 50 per cent, from 40 per cent, effective April 6, 2001. This surtax currently raises about $70 million annually; the increase will bring in an extra $15 million each year.

Honourable senators, the government's new tobacco strategy represents the most extensive tobacco control program in Canadian history. It demonstrates the depth of the government's commitment to reducing tobacco use. Bill C-26 implements fundamental changes in our tobacco tax system under this strategy. The new tobacco tax structure will reduce the incentive to smuggle exported Canadian tobacco products back into Canada. It has also enabled the government to increase tobacco taxes now to help advance its health objectives. In addition, this new structure lays the foundation for further action in the future.

Honourable senators, I was delighted with the recent statistics that show a decrease in smoking, particularly among teenagers. I have every hope and anticipation that these further measures will help to decrease even further the smoking of young people.

[*Translation*]

Hon. Yves Morin: Honourable senators, it is with enthusiasm that I support Bill C-26 on tobacco taxes.

As Minister Rock said recently:

> This initiative is clear proof of the government's commitment to reducing tobacco consumption and ensuring the promotion of health.

By increasing the cost of cigarettes and limiting the possibilities for smuggling, Bill C-26 will significantly reduce tobacco consumption, particularly among young Canadians.

[*English*]

As the Honourable Senator Carstairs has just stated, these taxes will raise some $215 million per year in additional revenue.

As we all know, tobacco use is the single most preventable cause of death in Canada. Most people begin using tobacco in early adolescence. Annually, tobacco causes more than 40,000 deaths in the nation and costs approximately $5 billion in medical expenses. That is why we feel that the additional revenue raised by these new taxes should be allocated to the eradication of tobacco addiction in our nation. In that respect, we applaud Health Canada's tobacco control strategy based on mass media campaigns and control activities.

However, education in this field is not the definitive answer. The projected results of these education programs are marginal, a mere 5 per cent differential in the number of smokers after five years. There are several reasons for this relatively low success rate. The main reason is that nicotine is highly addictive. The recently released tobacco industry internal documents state that nicotine is the most addictive drug, more addictive than heroin, cocaine or amphetamines.

Addiction to nicotine is variable from subject to subject, according to the person's genetic makeup. For certain individuals, it is absolutely impossible to quit smoking. No education program is effective in these cases. For a biomedical problem, there must be a biomedical solution.

There are other important questions. Why do certain teenagers start smoking and not others? In certain Aboriginal communities, the incidence of smokers in the adult population is over 70 per cent, among the highest in the world.

Is this a biomedical disposition, cultural or even spiritual, as Dr. Jeff Reading of CIHR has indicated? The answer to these essential questions lies in scientific research. The result of this research will profit not only Canadians, but also the citizens of developing countries where tobacco addiction is becoming a major problem.

[*Translation*]

Certain doctors, such as Dr. Fernand Turcotte of Laval University, the directing force behind the Unité québécoise de recherche sur le tabagisme, whose tenacity and motivation I commend in this chamber, have long recommended that research address the problems of smoking in our populations.

[*English*]

At the national level, the Institute of Neuroscience, Mental Health and Addiction of the Canadian Institute of Health Research, CIHR, is designing a national research strategy on tobacco abuse in Canada.

This strategy is truly innovative and focuses on nicotine use and dependence. We are most fortunate that the capacity already exists in Canada to study the mechanisms of nicotine dependence, from basic research to clinical and epidemiological research. Neuroscience in Canada is extremely strong and has a long tradition, dating from pioneers like Dr. Wilder Penfield, at McGill. It is time to harness our unique potential by properly financing a national research strategy on tobacco abuse in Canada.

• (1710)

An initiative of this type requires a yearly commitment of $5 million for the next seven years. Honourable senators, we all know that tobacco use is one of the most serious problems affecting the health of Canadians today. We also know that the definitive answer to this problem lies in scientific research. The investigators of our Canadian universities and hospitals are ready to work. A strategic plan is being prepared. The researchers need only the resources, a mere 2 per cent of the additional revenue raised by these new taxes.

Hon. David Tkachuk: I should like to ask a question of the Honourable Senator Morin.

The Hon. the Speaker: Senator Morin, will you accept a question?

Senator Morin: Yes, it would be my pleasure.

Senator Tkachuk: Honourable senators, Senator Morin mentioned spiritual reasons for the use of tobacco products. Could the honourable senator explain that?

Senator Morin: Honourable senators, for those of us who were present at the meeting of the Standing Senate Committee on Social Affairs, Science and Technology, there was a presentation by several leaders interested in Aboriginal health. The presentation was provided by Dr. Jeff Reading, Scientific Director of the Institute of Aboriginal Health of the Canadian Institutes of Health Research. Dr. Reading told the committee that in several First Nations communities throughout our country 70 per cent of adults use tobacco. That is probably the highest rate in the world.

We asked Dr. Reading why the figure is so high, and he said that there could be a genetic predisposition, or a cultural influence or a spiritual component to the addiction to tobacco. Dr. Reading is of Mohawk descent and believes that tobacco has a spiritual connotation for some of the First Nations people. That was the basis for my statement.

Senator Tkachuk: Does the Government of Canada have programs on Indian reserves, which of course pay no tax at all, to combat smoking?

Senator Morin: Honourable senators, I am unable to answer that question. I will make the appropriate inquiries to obtain that information for the honourable senator.

On motion of Senator Kinsella, for Senator Nolin, debate adjourned.

INCOME TAX AMENDMENTS BILL, 2000

THIRD READING—DEBATE ADJOURNED

Hon. Tommy Banks moved the third reading of Bill C-22, to amend the Income Tax Act, the Income Tax Application Rules, certain Acts related to the Income Tax Act, the Canada Pension Plan, the Customs Act, the Excise Tax Act, the Modernization of Benefits and Obligations Act and another Act related to the Excise Tax Act.

He said: Honourable senators, once again I will abridge the long version of the speech that was prepared for me in respect of this bill.

I am absolutely certain that all of you paid the closest attention when I enumerated at second reading the good things about Bill C-22. This bill is the biggest step forward in the government's tax-cutting effort to date and, in fact, as you have all heard, is the biggest tax cut to occur in Canada's history.

Honourable senators, Bill C-22 is based on the following four key principles: First, our approach to tax reduction must be fair and must begin with those who need it most; this bill does that. Second, we must focus on personal income taxes; this bill does that. Third, Canada must have an internationally competitive business tax system; this bill does that. Fourth, we will not finance tax relief with borrowed money; this bill does not do that.

For the government, fiscal responsibility is fundamental and tax cuts are absolutely essential. At the same time, an effective, fair, and technically valid tax system must be maintained. That is the thrust of the bill before us, honourable senators.

In considering Bill C-22, I urge honourable senators to keep three things in mind: First, this bill is the largest tax cut in Canada's history and in the present government's efforts to date; second, the bill contributes to making our tax system fairer for everyone in Canada; and third, Canadian children and families are waiting to benefit from the Canadian child tax benefit increases on July 1, 2001. These increases are dependent upon the passage of this bill.

Honourable senators, I commend your attention to Bill C-22.

On motion of Senator Tkachuk, debate adjourned.

[*Translation*]

BUDGET IMPLEMENTATION ACT, 1997 FINANCIAL ADMINISTRATION ACT

BILL TO AMEND—THIRD READING

Hon. Yves Morin moved third reading of Bill C-17, to amend the Budget Implementation Act, 1997 and the Financial Administration Act.

He said: Honourable senators, I have the honour to present to you here today Bill C-17 in third reading. This is a bill which amends two pieces of legislation, first of all, the Budget Implementation Act, 1997, including the provision of additional funding to the Canada Foundation for Innovation, and second those provisions in the Financial Administration Act which concern the Canada Pension Investment Board and Parliament's power over borrowing contracted on behalf of the State.

I will begin by discussing the increased funding to the Canadian foundation for innovation. These measures are in addition to the series of funding initiatives already put in place by the federal government for university-based research over the past four years.

The 1997 budget indicated that many Canadian university and hospital research facilities were not up to world-class standards and that new investment was necessary.

[*English*]

The Canadian Foundation for Innovation was established in that budget to provide financial support for organizing research infrastructure in universities, research hospitals and not-for-profit research institutions in the areas of health, environment, science and engineering. The measures in the bill before us today confirm that the foundation continues to remain high on the government list of funding priorities for university research.

Honourable senators, before I discuss these measures, allow me to briefly review the funding to date that the federal government has directed to the foundation. The 1997 budget provided an initial upfront investment of $800 million. The 1999 budget followed with an additional $200 million. The 2000 budget built upon investments already made in the foundation with a further $900 million and extended support for the foundation to 2005.

The October 2000 economic statement and budget update provided yet another investment of $500 million. On March 6, 2001, the Minister of Finance and the Minister of Industry announced a further $750 million for the foundation.

Bill C-17 proposes these two increases, $500 million announced in the October 2000 economic statement and $750 million announced in March 2001, for a total injection of $1.25 billion for the foundation. It also extends the foundation's activities to 2010.

• (1720)

The $500 million announced last October will be invested in two ways. First, $400 million will allow the foundation to contribute to the operating costs of new awards. The remaining $100 million will help support the participation of Canadian researchers in leading-edge international research projects and facilities that offer significant research benefits to Canada.

The additional $750 million announced in March will build on this funding by providing additional stability to universities as they plan for their future research priorities.

Together, this increased funding will bring the total federal investment in the foundation to $3.15 billion.

Honourable senators, the Canada Foundation for Innovation needs this funding to help it support the operating costs of new awards and the participation of Canadian researchers in international research projects.

[*Translation*]

Up to now, the success of the Foundation has lain in the willingness of groups such as universities and research hospitals, businesses, the individual volunteer sector and provincial governments to join with it in improving the infrastructure of Canadian research.

Up to now, the Foundation has supported 95 research bodies, including 65 universities, 18 colleges and 12 research hospitals. In the January Speech from the Throne, the government made a commitment to at least double its current investment in research until 2010.

The additional funding given the Foundation through this bill will enable the government to achieve this objective.

[*English*]

Bill C-17 also contains two key amendments that improve the operation of the Financial Administration Act. The first amendment relates to the Canada Pension Plan Investment Board, which was inadvertently deleted from section 85 of the act when the Canadian Wheat Board was amended in 1998. This error meant that the board was subject to various direction and control provisions under the Financial Administration Act, putting it in conflict with its own mandate. Clearly, this was not intended.

As of December 1998, under Bill C-17, the board will be reinstated as one of the Crown corporations exempted from Divisions I to IV of Part X of the act. This exemption protects the independence of the board while the board legislation provides a strong accountability regime.

[*Translation*]

Bill C-17 reaffirms as well the fact that Parliament alone may authorize the contracting of debts on behalf of the Crown. Among other things, it establishes clearly that the role of the Minister of Finance is to ensure sound administration of the public debt.

Honourable senators, I have provided an overview of the measures provided in Bill C-17, and I invite you know to vote in favour of it.

The amendments to the Financial Administration Act will improve the application of the Act, while the additional funding accorded the Canadian Foundation for Innovation will help it continue to promote research in Canada and to inspire young Canadian researchers.

[*English*]

Investing in education, research and innovation is the most significant investment Canadians can make to foster future success. Clearly, honourable senators, the government is on the right track, as these measures demonstrate.

Hon. Roch Bolduc: Honourable senators, the recently appointed Auditor General says she is troubled by the Liberal government's growing tendency to disburse taxpayers' money through foundations beyond the reach of Parliament. You will recall, honourable senators, that I stressed the same idea several weeks ago in my speech at second reading of Bill C-17.

More than a decade ago, an urgent need was felt to increase the effectiveness and efficiency of the government. Our PC government proceeded to privatize some parts of governmental activities, mostly in transportation, and I think that Canadians can generally appreciate that it was a good thing to do.

We also established, on an experimental basis, a few operating agencies as pilot projects, what we called the special service agencies. Those agencies, now numbering around 20, are not private businesses but public organizations operating with more administrative autonomy than the traditional departments. In the beginning, most of these small agencies — a total employment of about 5,000 people — provided services primarily to the government. The new structures were a kind of a compromise between privatization and departmentalization.

More recently, though, with the establishment of the Canada Customs and Revenue Agency, we made an additional major step in institutionalizing this type of new instrument, to serve the public this time, and involving 40,000 employees. We have also above that a parks agency of the same type.

I have doubt about that instrumentation for such a purpose, that is, the collection of tax. Moreover, in 1999, the Auditor General found that the federal government has entered into at least 51 collaborative arrangements with other levels of government or the private or voluntary sectors to deliver services at a cost to the federal taxpayers of about $4.5 billion per year. The Canada Infrastructure Work Program, $2.4 billion over six years, and the Labour Market Development Agreement, $7.7 billion over five years, are examples. He also found 26 federally delegated decision-making arrangements to a partner. The Foundation for Innovation, more than $3 billion over six years, and the Scholarship Fund, $2.5 billion over 10 years, are examples of these arrangements.

We can only hope that the essential values of the public service system will prevail in these new administrative arrangements — that is to say, fairness, impartially, and equity in providing service and enforcing regulations. Let us hope also that the employees and the managers of those new organizations are selected and promoted on the basis of competence demonstrated through a process of clean competition.

However, hope is not enough for Parliament. Neither are good words by the heads of these agencies. We must have performance information reported to the House of Commons and the Senate, guidelines against which to measure progress and whether the arrangements are working.

In private business, the freedom to manage is matched by accountability to the board of directors through a corporate plan that includes objectives, performance expectations and an annual report on actual achievements.

I think that the Minister of Finance and the Treasury Board should make it a rule of conduct for any agency to include in its statutory responsibilities the ones just outlined here concerning its personal and financial management so that Parliament can exercise its oversight duties.

Otherwise, honourable senators, we are gradually eroding our essential responsibility of parliamentary scrutiny of federal non-statutory spending.

I would call to the attention of honourable senators a remarkable document issued by the Auditor General in November 1999 entitled *Régie en partenariat* — in English, *Management in Partnership*, I suppose.

Our parliamentary high civil servant, the Auditor General, has found 77 new management mechanisms in use in the federal administration, as I said before. As long as the civil service is under the authority of a minister, the latter must answer to Parliament for the performance of his employees. When an organization is a Crown agency, the employees do answer to the board who reports to Parliament through a responsible minister.

The new administrative instruments are either of a management-in-partnership type or a delegated-management type. In the first case, strategic decisions and program management are a dual-responsibility system. In the second case, outside and independent people manage the show from a general framework established by the government.

I do not necessarily disagree with the formula if the objectives are clear, the targets are measurable, the accountability system is well established and respected, transparency is there, and the fundamental values of justice, impartially and fairness are preserved. However, what the Auditor General tells us is that some aspects are lacking presently and the accountability is far from being adequate.

[*Translation*]

There is, therefore, the possibility of bureaucratic bungling.

[*English*]

We must stress the paramount necessity of ensuring a workable parliamentary control of this institution, which is not the case presently. If Parliament oversight is not there, then we must revise the Financial Administration Act to put in place a framework that will ensure it. This is of the utmost importance for the future of democracy in this country.

The Hon. the Speaker *pro tempore***:** Is the house ready for the question?

Hon. Senators: Question!

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

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

• (1730)

CANADA ELECTIONS ACT
ELECTORAL BOUNDARIES READJUSTMENT ACT

BILL TO AMEND—THIRD READING—DEBATE ADJOURNED

Hon. Wilfred P. Moore moved the third reading of Bill C-9, to amend the Canada Elections Act and the Electoral Boundaries Readjustment Act.

He said: Honourable senators, I am pleased to speak in support of Bill C-9, to amend the Canada Elections Act and the Electoral Boundaries Readjustment Act. As senators are aware, this act contains some technical amendments to those statutes, but, more important, it changes the rules that govern the participation of third parties in general elections and by-elections.

Essentially, the bill reduces the number candidates a political party is required to nominate in order to have the party name on the ballot under the Canada Elections Act. It also gives rights to smaller parties that go along with having the party name on the ballot, such as the right to have the party name listed on scrutineer badges. Currently, that number is 50 and this bill proposes to reduce it to 12 nominated candidates.

This bill responds to the judgment of the Ontario Court of Appeal in the case of *Canada v. Figueroa*. In that case, the court held that it was unconstitutional to require that 50 candidates be nominated before including a party name on the ballot. It ordered that those sections be struck down six months after the decision. Bill C-9 responds to the concerns of that court.

During the hearings on this issue before the Standing Senate Committee on Legal and Constitutional Affairs, we heard extensive evidence on how many candidates should constitute a party. In his appearance before the committee, the Chief Electoral Officer of Canada, Mr. Jean-Pierre Kingsley, stated that he felt that the changes may not have given enough status to smaller parties. In particular, he suggested that new parties should be allowed to have the party names on the ballot in by-elections. For instance, he thought that the rules should have allowed the current member from Edmonton North, Deborah Grey, to have the Reform Party named on the ballot next to her name as her party of affiliation when she was first elected.

Mr. Kingsley also noted that in 1993 and 1997, the Communist Party of Canada did not field 12 candidates, and, therefore, its candidates did not have the party name listed beside their names. This happened despite the fact that the Communist Party had all the attributes of a political party, including a leader, officers, an address, membership and a platform. He suggested that consideration should be given to lowering the number below 12.

The committee also heard from the leader of the Christian Heritage Party, who gave a practical example of how, in his view, the current threshold provisions on ballot identification can work to generate misinformation among voters. Due to the deregistration of that party, its candidates could not be identified on the ballot during the last general election. Apparently, one member of the party spoiled her ballot because she believed that the party's candidate was no longer running for the Christian Heritage Party since he was not identified on the ballot as being endorsed by that party.

Honourable senators, it would be fair to say that I have great sympathy for those who want to expand the democratic rights of smaller parties. The electoral system is there for individual Canadians, not for the benefit of established parties. Serious consideration must be given to further expanding these very important democratic rights.

However, it is my understanding that more amendments are forthcoming, as Mr. Kingsley will be providing this place with a full report with more suggested amendments in the fall. At that time, this issue could be given further study. In the meantime, however, as the extended deadline for action as set by the Ontario Court of Appeal is imminent, it is imperative that this bill be passed in order that there be no gap in our current legislation. Bill C-9 received unanimous support at committee, and I urge all honourable senators to support it on third reading.

On motion of Senator Kinsella, for Senator Oliver, debate adjourned.

ELDORADO NUCLEAR LIMITED REORGANIZATION AND DIVESTITURE ACT PETRO-CANADA PUBLIC PARTICIPATION ACT

BILL TO AMEND—DECLARATION OF CONFLICT OF INTEREST—ORDER STANDS

On the Order:

> Resuming debate on the motion of the Honourable Senator Banks, seconded by the Honourable Senator Ferretti Barth, for the third reading of Bill C-3, to amend the Eldorado Nuclear Limited Reorganization and Divestiture Act and the Petro-Canada Pubic Participation Act.

Hon. Nicholas W. Taylor: Honourable senators, earlier today, I was informed by His Honour that I would have to wait until the end of Government Business before I could make a statement on this item.

I wish to say that I will refrain from voting on this matter. I have already informed the clerk that I own chemical shares, so I cannot and will not and should not be voting on Bill C-3.

Order stands.

NATIONAL HORSE OF CANADA BILL

SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Comeau, for the second reading of Bill S-22, to provide for the recognition of the *Canadien* Horse as the national horse of Canada.—(*Honourable Senator Murray, P.C.*).

Hon. Lowell Murray: Honourable senators, as I indicated on May 15 when I began this speech, there are several reasons why I ask you to pass Bill S-22. First, there is the historic significance of the Canadien horse. It is the descendent of the very first horses sent out from France by King Louis XIV in the mid-1600s. There is then symbolic importance in having Parliament declare this animal the national horse of Canada.

Second, we should want to encourage and support those breeders and others whose purpose is to preserve the standards of this breed.

Third, there is a procedural factor. As I told you on May 15, there is a bill identical to Bill S-22 now before the House of Commons sponsored by Mr. Murray Calder, MP, Dufferin-Peel-Wellington-Grey. As senators know, relatively few private members' bills initiated in the House of Commons ever make it through that House. A bill going to the Commons from the Senate gets on to its agenda and has, I believe, a better chance of being debated and passed. Needless to say, Mr. Calder has not sought to discourage my initiative in the Senate.

I also mentioned on May 15 that there had been a movement to declare this horse the official horse of Quebec. I have since discovered that recognition of the Canadien horse formed part of a bill that was adopted by the Quebec National Assembly in December 1999.

[*Translation*]

It is the Loi sur les races animales du patrimoine agricole du Québec. This act, which was passed on December 16, 1999, provides that certain races of animals associated with Quebec's historical origins and agricultural traditions are part of Quebec's agricultural heritage and can be designated under the title "race patrimoniale du Québec," or Quebec's heritage race.

The National Assembly gave that title not only to the Canadien horse, but also to a cow, the Canadien cow, and to a hen known as the "Chantecler hen."

There is of course nothing wrong with this initiative from the Quebec National Assembly. However, there is also nothing to prevent the Parliament of Canada from giving official recognition to the Canadien horse. This horse has been well known for a long time, not only in Quebec, but also in Ontario, in the Western provinces and in the Maritimes.

[*English*]

• (1740)

Indeed, these sturdy horses cleared the wood from farms in Nova Scotia, New Brunswick and Prince Edward Island. They hauled the timber that built the famous wooden ships in the Maritimes. They went with some of the first French colonists to the Red River Valley. United Empire Loyalists, passing through Quebec, bought Canadien horses for use on their new farms in Ontario.

The breed has been in danger of extinction several times due to war, interbreeding and the export of horses to the United States. Its survival owes much to a Quebec veterinarian, Dr. J. A. Couture, who campaigned successfully for the adoption of a new standard for the breed, which was done in 1895.

In that same year, the French Canadian Horse Breeders' Association was formed. By 1907, the Minister of Agriculture and the Horse Breeders' Association considerably tightened the standards and the inspection-and-approval process. By 1913, a breeding centre was opened at Cap-Rouge, Quebec.

At a meeting of the House of Commons Committee on Agriculture and Colonization on March 17, 1909, Dr. J. G. Rutherford, Veterinary Director General and Livestock Commissioner, testified as to the standard weight and height as measured in hands:

> Stallions must not exceed in height 15.3 and mares 15.2. The weight preferred is for stallions between 1,100 and 1,350 pounds, for mares 1,050 to 1,250 pounds.

Later, when he was asked why the government limited the registration of French Canadien horses to a certain weight, Rutherford replied:

> It is to discourage the almost universal tendency on the part of breeders to increase the size of horses. You keep on increasing the size until you get a horse which is altogether different from what you started out to get. Then you lose your uniformity of type and you get away from the original breed entirely.

This is why the Canadien Horse Breeders of Ontario are so determined to preserve the Canadien horse by adhering to the standards established by the Department of Agriculture. There are now some 3,000 Canadien horses in existence in Canada and the United States.

When he appeared before the Commons committee on March 17, 1909, the Honourable Sydney Fisher, who was Minister of Agriculture during the entire 15-year tenure of the Laurier government, said:

> I may say in regard to the French Canadian horse that I have, ever since I was a boy, been connected with horses. The first animal I was ever put on in my life was a French Canadian pony which my father had and drove for many years. That pony could go his 12 to 14 miles an hour at any time. My father was a doctor and used to drive from morning until night and many a time I have driven him 12 miles a hour.

Later the minister added:

> The horse as a rule is the most kindly, gentle and docile horse I have ever had the opportunity of handling, and he is almost the truest to his work; he never gives out. It does not matter what he is at, if it is on the road he travels along forever, and if he has a load behind him he will tug at it until he moves it. He never balks and children can handle him with the greatest safety. In every way he is docile and kindly.

The Honourable Mr. Fisher was obviously a hands-on Minister of Agriculture.

Honourable senators, I commend this bill to your support. I very much wish to see the bill approved in principle and sent to the Standing Senate Committee on Agriculture and Forestry. There, we would have the opportunity of hearing from breeders and others who have a particular interest in the bill and in the preservation of this horse and in its designation as the national horse of Canada. We would also have the opportunity to call upon the expertise of the federal Department of Agriculture with regard to the standards and the registration of this horse.

Hon. Jack Wiebe: Honourable senators, I rise to speak briefly in support of this motion. I had some difficulty initially because, of course, horses played a great part in my growing up. I have a great love for horses. I must admit that when I first read the motion before us, my initial reaction was to speak and to vote against it because the Canadien horse is not necessarily my favourite horse. However, my favourite horse is not an animal that was raised or bred or even developed here in Canada. It was developed in the United States and is called a Morgan horse. That horse will do anything that man will ask of it, whether it be winning a Kentucky Derby, pulling a load of logs or gracefully carrying a man and his lady to a dinner party.

After listening to Senator Murray's remarks, I feel that the Canadien horse can do just about the same as what the Morgan horse can do. I am a real nut for history, though, and this horse represents a good part of our country's history. It is also recognized as an animal that played a significant role in the development of this country. On that basis, I am more than happy to support Senator Murray in his proposal today.

Senator Murray: If I may speak —

The Hon. the Speaker *pro tempore***:** If the Honourable Senator Murray speaks now, honourable senators, his speech will close the debate.

Senator Murray: Honourable senators, I thank my honourable friend for his support of this bill. I hope he will join me and others, if this bill is sent to the Standing Senate Committee on Agriculture and Forestry, for further discussion with those interested and with the officials from the Department of Agriculture. He is correct to assume that the Canadien horse is not one that one would enter in the Kentucky Derby with any confidence. Nevertheless, I do draw to the attention of honourable senators that the Canadien horse figures in some of the quite beautiful paintings of Krieghoff with which most honourable senators are familiar. For those who may wish to research this matter further over the summer months, there was an interesting debate at the National Assembly of Quebec when they decided to declare the Canadien horse, the Canadien cow and the Chantecler hen as part of the agricultural heritage of Quebec. Those debates took place in December of 1999.

Honourable senators, I will close on a slightly humorous note. When this horse was brought over in 1647, the following comment was made:

[*Translation*]

> The Compagnie des habitants had it brought over to give as a present to the governor, the Chevalier de Montmagny, because the habitants felt, rightly so in my opinion, that a knight without a horse did not make much sense.

[*English*]

Honourable senators, with those few words, I again thank Senator Wiebe for his support. I hope that we can have an interesting time with this bill in the Standing Senate Committee on Agriculture and Forestry and that, ultimately, we will be able to send it to the House of Commons, where it will take somewhat more priority than private members' bills that originate in that place.

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

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Murray, bill referred to the Standing Senate Committee on Agriculture and Forestry.

• (1750)

BILL TO REMOVE CERTAIN DOUBTS REGARDING THE MEANING OF MARRIAGE

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Cools, seconded by the Honourable Senator Wiebe, for the second reading of Bill S-9, to remove certain doubts regarding the meaning of marriage.—(*Honourable Senator Cools*).

Hon. Anne C. Cools: Honourable senators, I rise to speak briefly to Bill S-9 which, I am sure all honourable senators know is entitled "An Act to remove certain doubts regarding the meaning of marriage."

As most senators know, these are some issues that preoccupy my mind. Following on the series of events that occurred last year here in the chamber, essentially the passage of the Modernization of Benefits and Obligations Act, it occurred to me that, perhaps, these issues were needing some clarification.

Thus, I thought it was my bounden duty to bring forth a bill specific to marriage itself which would create "an act respecting marriage," and then this act itself would be cited as "the marriage act."

In any event, honourable senators, I must confess that it is my plan to keep you in suspense for another day because time is passing and the hour is coming up to six o'clock. I know our schedule is very crowded.

Having said that, I move the adjournment of the debate, and I shall continue eagerly tomorrow.

On motion of Senator Cools, debate adjourned.

DEFENCE AND SECURITY

BUDGET AND REQUEST FOR AUTHORITY TO ENGAGE SERVICES AND TRAVEL—REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the first report of the Standing Senate Committee on Defence and Security (budget 2001-02) presented in the Senate on June 7, 2001.—(*Honourable Senator Kenny*).

Hon. Colin Kenny moved the adoption of the report.

Motion agreed to and report adopted.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SEVENTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the seventh report of the Standing Committee on Internal Economy, Budgets and Administration (budget of Aboriginal Peoples Committee—legislation) presented in the Senate on June 7, 2001.—(*Honourable Senator Kroft*).

Hon. Richard H. Kroft moved the adoption of the report.

Motion agreed to and report adopted.

[*Translation*]

SCRUTINY OF REGULATIONS

BUDGET—REPORT "C" OF JOINT COMMITTEE ADOPTED

The Senate proceeded to consideration of the first report — "C" of the Standing Joint Committee for the Scrutiny of Regulations (budget—travel to Sydney, Australia) presented in the Senate on June 7, 2001.—(*Hon. Senator Hervieux-Payette, P.C.*).

Hon. Céline Hervieux-Payette moved the adoption of the report.

Motion agreed to and report adopted.

[*English*]

DEFERRED MAINTENANCE COSTS IN CANADIAN POST-SECONDARY INSTITUTIONS

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Moore calling the attention of the Senate to the emerging issue of deferred maintenance costs in Canada's post-secondary institutions.—(*Honourable Senator Austin, P.C.*).

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I rise to participate in the debate on this inquiry. The issue of the deteriorated state of infrastructure at post-secondary institutions across Canada is a major issue in our country, a crisis in the magnitude of some $3.6 billion, of which $1.2 billion is required urgently.

Honourable senators, the reasons for this grim situation are several, including the significant enrolment increase of the past 20 years, the serious cuts in funding from federal and provincial governments, the need to comply with new building codes and enhancing accessibility by removing physical barriers. Also, honourable senators, it is caused by university management practices.

If we were to provide a title for the remarks that we make in debate here, my remarks would be entitled "Let us not reward the poor university administrators and punish the good university administrators." An objective audit of the physical plant health of our universities demonstrates where the good managers have been and where the poor management practices have also been exercised.

One of the serious weaknesses in university management practices has been the university budgeting process based on short-term plans that failed to provide appropriately for fund allocation for the physical plant of the campus. Whatever will be our response to this crisis of deferred maintenance, it must be done in a manner that rewards the good managers and does not place at a disadvantage those who have husbanded the limited resources, those good university managers who have made sacrifices and carefully administered their limited resources in a manner that provided for the upkeep of their physical plants.

Honourable senators, the ratio of deferred maintenance to the cost of replacing the physical infrastructure in Canadian universities is more than 60 per cent higher in our country than it is in the United States. While governments have moved to support research through initiatives such as the Canadian Institutes of Health Research, the Canadian Research Chairs and the Canadian Foundation for Innovation, these measures do not address the underlying decay of the foundation on which these programs try to build.

I also must point out that the funds from these programs were not distributed equally across Canada. The Canadian Association of University Business Officers, or CAUBO, has itself, in a report entitled "A Point of No Return: The Urgent Need for Infrastructure Renewal at Canadian Universities," identified a number of the elements that shed light on the failure of poor university managers in creating the current crisis of the deteriorating Canadian university campuses caused by the accumulated deferred maintenance. In the CAUBO study, the elements of good practices to deal with this problem are enumerated and can be summarized as follows.

First, there is the commitment to eliminating the accumulated deferred maintenance in which the most influential factor was leadership and commitment at the highest levels of universities and governments. Further institutional planning and budgeting processes must reinforce this commitment and enlist the support of all stakeholders.

Second, institutional planning is a critical element. One must ask how well the respective boards of governors were demanding detailed institutional planning from their university administrators with regard to maintenance of the physical plant. My hypothesis is that there is a direct correlation between the lack of institutional planning and the level of physical plant deterioration we are faced with today.

Third, the budgeting processes at Canadian universities have not given physical plant maintenance the priority it ought to have received. Based on the CAUBO study, the budget should provide about 2 per cent to 4 per cent of the current replacement value annually for maintenance and should include a preventive maintenance program.

• (1800)

Fourth, long-range facilities planning whereby universities develop and regularly update —

The Hon. the Speaker: I rise to advise honourable senators that it is six o'clock. Is it your wish to not see the clock?

Hon. Colin Kenny: Honourable senators, I was working on the assumption that the Senate would rise at six o'clock, at which time I have a committee scheduled. I wonder how many other honourable senators wish to speak today. I am looking for some direction. I see "two" coming from the deputy leader.

I move that we do not see the clock.

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

Hearing no objection, I return the floor to Senator Kinsella.

Senator Kinsella: Honourable senators, my fourth element of good practice to deal with the problem of the accumulated deferred maintenance is long-range facilities planning, whereby universities develop and regularly update a long-range capital priorities plan. This plan must also include a plan to maintain this capital. For new capital projects, initial funding must also factor in life-cycle cost design to include maintenance over the life cycle of the capital.

Inevitably, funding must be directed to Canadian post-secondary institutions to reverse the current state of physical decay, which, as I mentioned earlier, is of crisis proportions. We must provide a point from which universities and colleges can proceed to renew themselves to meet the future demands that we know will be placed upon them. However, honourable senators, there must be sustainability in whatever funding initiative is chosen. The deterioration of the physical infrastructure must not be allowed to become a cyclical phenomenon that will recur during the next long-term economic decline.

As well, honourable senators, there must be fairness in the funding provided, whatever model is agreed upon. Simply providing funding to universities to resolve this problem will, in effect, reward those institutions that did not take painful decisions during the 1990s. Some universities did make considerable sacrifices in terms of significant staff cuts, reductions in student acceptance and deferred new capital construction. Some deferred necessary equipment purchases. Why? They did that in order to maintain their infrastructures properly. In other words, they put on the roof when it had to be put on, but they made a sacrifice. They cut back on library acquisitions and faculty.

I have no doubt that some of the current crisis must be seen as a lack of long-range coordinate planning, reflecting ad hoc or short-term decisions taken in the hope that things would soon get better or that some future board of governors would have to deal with the problem. What message, honourable senators, would it send to prudent fiscal managers if we were to recommend that governments come in and help those universities that did not make substantial sacrifices? What message do we send when the fiscal responsibility and sound management decisions of the universities that did make painful choices were made without merit?

We cannot let the deferred maintenance problem in post-secondary institutions go unaddressed; however, we cannot blindly give funds without ensuring that this situation will not recur and that there is no benefit to responsible long-term planning on campus. I propose, honourable senators, that matching funds be provided for deferred maintenance, but that in some manner additional funds be included that can be accessed by institutions if and when they have resolved their deferred-maintenance situations.

Evidence of reducing the accumulated deficit maintenance to acceptable levels can easily be verified by a facilities audit as well as a demonstration that operating budgets include sufficient maintenance and repair-fund allocations to prevent the occurrence of this problem. At that point, these institutions could be eligible to access additional funding, whether for indirect cost support, equipment, library stock, et cetera. This would provide an incentive for institutions to sustain their physical infrastructure and prevent the recurrence of the sad situation that we are in today, as well as reward those institutions that have been able to maintain their facilities through sound practices. Included in this matching fund should be some weighting formula, to ensure that there is sufficient balance in the size, type and location of institutions.

While it is true that Ontario has the largest number of post-secondary institutions and that the size of its deferred maintenance deficit is the largest among all provinces, it is also true that Ontario is the wealthiest province. It has had the financial resources to support its SuperBuild program, a federal-provincial infrastructure works program, and the Facilities Renewal Program. It also has far larger numbers of alumni members and corporate partners from which to solicit donations. We have seen how federal programs such as the Canada Foundation for Innovation and the Canada Research Chairs Programs, have disproportionately benefited central universities. This cannot be allowed to occur also in the case of funding for deferred maintenance. The CAUBO report states that the 10 largest universities account for more than 40 per cent of the total deficit in infrastructure in Canada. However, there must be a fair distribution of funds so smaller institutions have fair access.

Particularly, smaller liberal arts institutions in regions such as Atlantic provinces must receive their fair share. This is not just important to the economy and culture of the Atlantic provinces; it is essential for the strength and health of the entire post-secondary education system in Canada. We cannot allow our post-secondary institutions to wither slowly, eventually leaving only a few select, elite universities chasing technological and scientific research funds. We must preserve a balanced range of institutions, in all regions, in all disciplines, of all sizes. Diversity is as essential in the post-secondary world as it is in the population, in regions and in opinions. It is what helps a society to retain its health, vitality and flexibility and move it forward.

Some observers marvel at the scientific and technological discoveries and changes that are occurring at an ever-increasing rate. There is an irresistible logic that, because the future is in science and technology, our universities and colleges must transform themselves to produce the necessary workforce of scientists and computer experts. The arts and humanities seem to be quaint holdbacks that are of decreasing relevance, in the minds of some.

I disagree with this view of post-secondary education. To quote from a letter recently written:

> A liberal arts and science education nurtures the skills and talents increasingly valued by modern corporations. Our companies function in a state of constant flux. To prosper we need creative thinkers at all levels of the enterprise that are comfortable dealing with decisions in the bigger context. They must be able to communicate — to reason, create, write and speak — for shared purposes: For hiring, training, management, marketing, and policy-making. In short, they provide leadership.

The letter this statement comes from was signed by many of the CEOs of Canada's high-tech corporations in response to a proposal —

The Hon. the Speaker: I am sorry to advise the honourable senator that 15 minutes has expired.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I think we would give leave, but I hope it has been noted that even the clock stops when Senator Kinsella speaks so eloquently.

The Hon. the Speaker: Is leave granted for the honourable senator to continue?

Hon. Senators: Agreed.

Senator Kinsella: Honourable senators, I was watching that clock. I have five more lines. I tried to time it, but it is a technical problem.

The letter that I quoted from was from the CEOs of high-tech companies.

To conclude, we must support and maintain our post-secondary system and ensure that the deferred maintenance crisis is addressed. We must also ensure that whatever support we provide is distributed in a manner that is sustainable, equitable and weighted to benefit all regions. It must also recognize and not inadvertently penalize those universities that have made sound management planning decisions in the past and those that are making them now.

• (1810)

On motion of Senator Robichaud, for Senator Austin, debate adjourned.

[*Translation*]

PROCEEDS OF CRIME (MONEY LAUNDERING) ACT

BILL TO AMEND—MESSAGE FROM COMMONS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill S-16, to amend the Proceeds of Crime (Money Laundering) Act, and acquainting the Senate that they have passed this bill without amendment.

[*English*]

ETHICS COUNSELLOR

MOTION TO CHANGE PROCESS OF SELECTION—
DEBATECONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Oliver, seconded by the Honourable Senator DeWare:
>
> That the Senate endorse and support the following policy from Liberal Red Book 1, which recommends the appointment of "an independent Ethics Counsellor to advise both public officials and lobbyists in the day-to-day application of the Code of Conduct for Public Officials. The Ethics Counsellor will be appointed after consultation with the leaders of all parties in the House of Commons and report directly to Parliament.";
>
> And that this Resolution be sent to the Speaker of the House of Commons so that he may acquaint the House of Commons with this decision of the Senate.—(*Honourable Senator Finnerty*).

Hon. Isobel Finnerty: Honourable senators, in 1994, the Prime Minister established the Conflict of Interest and Post-Employment Code for Public Office Holders. This was followed by the appointment of the ethics counsellor. The code that the Ethics Counsellor administers covers almost 1,300 people, including the Prime Minister, the members of cabinet, their spouses and dependent children, members of the political staff of ministers and senior officials in the public service. There are also provisions in the code to give advice to lobbyists.

For the very first time in Canadian history, this large group of senior office holders must disclose their assets. They are also required to declare any and all relevant business and related activities in which they, their spouses and dependants engage. Never before have those people, who are in positions to influence the decision making of the Government of Canada, been required to meet such rigorous standards of conduct.

Since these regulations were established, no minister has had to resign because of personal issues or ministerial responsibilities. This is a record of which Canadians can be particularly proud.

Canadians today know that our framework and code for conflict of interest is working. If Canadians believed otherwise, they could have said so during the 2000 election campaign. Before the election, members of the opposition tried to make the work of the Ethics Counsellor an issue. Some members of the other place attacked the Ethics Counsellor. They failed to establish any impropriety. When the election was called, they continued their attack. They tried hard to convince Canadians that the Ethics Counsellor is neither impartial nor independent. Their strategy was to discredit the Prime Minister and the Liberal party.

Honourable senators, the attack did not work. The Canadian people pronounced their verdict on these charges on election day. The Liberal Party was elected with an even larger majority. The people of Canada spoke. It is clear that the work of the Ethics Counsellor does not replace the work of law enforcement agencies, including the police, the Crown attorneys and the judiciary.

Suspected breaches of the Canadian Criminal Code, such as bribery or influence peddling, have always been police matters, and so they should. The essential elements of the work of the Ethics Counsellor involves three principles: avoidance, disclosure and honour. In short, it is an integrity-based framework. It is designed to encourage those at the senior level of government to act responsibly and to avoid conflicts. It also serves to clarify all matters related to the Lobbyists Registration Act and the Lobbyists Code of Conduct.

I suggest to all honourable senators that this national framework serves as an excellent example for provincial and municipal authorities to follow. There will be those who suggest that the Province of Alberta has a strong conflict of interest code. The evidence, however, points to the reverse. It is an issue that has been debated by the public there since 1996 under a process known as the "Multi-Corp investigation." It was revealed that there are no clear standards in Alberta dealing with this area. The Alberta framework is certainly not a model for the rest of Canada to follow.

Ultimately, of course, the question of accountability is met on a daily basis in a democracy. In our democracy, there are many points of regular accountability; for example, the media, radio hotline shows, editorials, TV roundtables, letters to the editor and press conferences. In Parliament there is the daily Question Period in both Houses and there are also parliamentary committees. In fact, the Ethics Counsellor has appeared before a parliamentary committee to publicly defend and explain decisions he has made. This fact greatly enhances the framework and transparency of independence of the Office of the Ethics Counsellor.

Ultimately, it is the electorate to which government is accountable. During the mandate of the government this is certainly true, but it is most certainly obvious at election time. Canadians have decided that it is the Liberal Party that has restored their confidence in their elected officials. Canadians believe that our Ethics Counsellor is serving us well. Canadians believe that the senior decision makers in the Government of Canada are accountable to them.

Hon. Consiglio Di Nino: Would the honourable senator take a question?

Senator Finnerty: Yes, I would.

Senator Di Nino: Would my honourable colleague care to give me her opinion as to whether the Ethics Counsellor should be appointed with the consultation of the leaders of all parties? Would she have a problem with that?

Senator Finnerty: I do not see anything wrong with the situation we have now.

Senator Di Nino: Honourable senators, after reading the marvellous speech that someone from the other place prepared for my honourable friend, does she —

Some Hon. Senators: Oh, oh!

Senator Di Nino: It was a good speech.

Does my honourable friend and colleague believe that the Ethics Counsellor should report to the House of Commons?

Senator Finnerty: Honourable senators, the Ethics Counsellor has appeared before the Senate to answer our questions, and I am sure he has appeared before the House of Commons to answer their questions.

By the way, Senator Di Nino, I wrote my own speech.

Some Hon. Senators: Hear, hear!

Senator Di Nino: I withdraw my accusation because I happen to think very dearly of my honourable friend and colleague.

I will ask two quick questions that the honourable senator can answer together. First, was the statement in Senator Oliver's motion contained in the Liberal Red Book; and, second, does Senator Finnerty think that the government should keep the promises it makes to Canadians, particularly when it does so in writing?

Senator Finnerty: Honourable senators, I do think we should keep our promises and I believe we have tried very hard to do that.

Senator Di Nino: I am glad that my friend answers questions. The honourable senator has learned very well from some experts.

On motion of Senator Di Nino, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

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