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Tuesday, November 6, 2001

THE HONOURABLE DAN HAYS
SPEAKER

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THE SENATE

Tuesday, November 6, 2001

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

Prayers.

[*Translation*]

THE LATE HONOURABLE SOLANGE CHAPUT-ROLAND, O.C., O.N.Q.

TRIBUTES

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, there are many personalities whose mere name triggers contradictory reactions and not always positive ones. Exceptions to that rule are few and far between, particularly in artistic and political endeavours.

Solange Chaput-Rolland, who passed away last week, is one the most notable examples of that latter, exceptional, category. All of the commentaries since her passing, and they are still forthcoming, are unanimous about her extraordinary contribution to her province and her country.

Author, editorial writer, senator, member of commissions of inquiry, unequalled champion of Canadian unity, passionate Quebecer always, she brought to all of those pursuits a firmness of resolve and a vigour that never ceased to arouse astonishment and admiration in all, even those who might be furiously opposed to her stand.

Solange joined us at the invitation of Prime Minister Mulroney, and was a faithful member of the Conservative caucus for close to six years. She was not a partisan in the true meaning of that word. As I said when she was about to leave this place, Solange's true party was Canada, and her party policy was unity.

With her exceptional intelligence and the most eloquent of voices and pens, Solange focussed all of her talents and her entire life first and foremost on promoting Canada, which could not have been dearer to her heart, and her province, which was more to her than just one essential component of our country; it was more of a guarantee of its survival.

To her children, and to all the family, I extend my most heartfelt condolences.

Hon. Lise Bacon: Honourable senators, I rise to speak with the deepest of emotions, to pay tribute to the Honourable Solange Chaput-Rolland, who has been taken from the love of her family and friends, and the friendship of all who had the privilege of knowing her.

I do not want to trace the very extensive career path of Solange Chaput-Rolland. Suffice it to say that her entire existence was devoted to communication in one form or another. With her great good sense and the certainty of her views, she was able to find solutions that were right and equitable, and her opinions were always well respected. Full of strength and vigour, she seemed to be tireless, and immune to fatigue. She loved to be in the front lines of any battle.

I will always honour and cherish her memory. To Suzanne and Claude, to her grandchildren and her family, I offer my most sincere condolences. May your sorrow be tempered by the sympathies of all those who knew her, and all of her friends who appreciated her.

Hon. Jean-Claude Rivest: Honourable senators, I should like to echo my colleagues' tributes to Solange Chaput-Rolland.

When she was elected as an MNA, I welcomed her to the Quebec National Assembly. When I arrived here in the Senate, she honoured me by acting as my sponsor. My relationship of a good many years with Solange was marked by friendship and affection. Above and beyond her tremendous personal and human qualities, she had a real sense of attachment to Canada.

Solange said that the first time she visited Canada, as a young girl, she left as a Canadian and returned as a French Canadian. Sometime later, during the Pepin-Robarts commission, she said that she left as a French Canadian and returned as a Quebecer. However, she insisted on the fact that being Canadian, French Canadian or Quebecer in no way diminished her sense of belonging to the country, since each of these attributes was a manifestation of the richness and diversity of Canada, towards which Solange always felt a deep attachment.

• (1410)

Solange always felt a true affection toward the people of Quebec as a whole. During the 1980 referendum, while campaigning for the NO side, she was the most requested speaker by NO committees across the province. Senators Bacon and Lynch-Staunton spoke of her talent as a communicator. Beyond communication, there was a great love story between Quebecers and Solange Chaput-Rolland, a story that will endure beyond her death. Solange's memory, quite clearly, will live on forever in her words and deeds.

[*English*]

Hon. Sheila Finestone: Honourable senators, I rise to add my tribute to former senator Solange Chaput-Rolland and extend sympathy to her family, in particular to Suzanne Monange, her daughter. May the wonderful memories they have of their extraordinary mother sustain them at this time.

Although I did not have the privilege of serving with her in the Senate, I did have the privilege of knowing Solange as part of the Quebec Liberal Party when I served as the Attaché politique to Claude Ryan during the first Quebec referendum. She was a tireless, eloquent speaker, travelling the length and breadth of Quebec, talking as both a very proud Quebec nationalist and a staunch Canadian federalist.

I knew Solange first as the author of books, particularly her exchanges with Gwendolyn Graham in *Chère Ennemie*. Senator Chaput-Rolland was not just a gifted woman with a pen; she was a role model for women in the world of communications.

[*Translation*]

She was a woman who dared, who always spoke candidly. Her vigorous writing brought her many distinctions. She was voted woman of the year by the Canadian Press in 1968 and won the Don MacArthur Award in 1975 for her work and radio coverage of the Israeli war.

She served on the Pepin-Robarts commission on Canadian unity. She served as a member of the National Assembly between 1979 and 1981 and was appointed to the Senate in 1988.

She was a member of the Canada Council and served on the boards of directors of the University of Montreal and the Fondation Lionel-Groulx. In 1974, she founded the Judith Jasmin award in recognition of the best political writing in the media. She became an officer of the Order of Canada in 1975 and received the Ordre du Québec in 1985.

[*English*]

In 1983, she became the first Québecoise to receive an honorary doctorate from Queen's University in Kingston; and in 1987, she was named to be among the 50 most important figures in the field of communications by her peers in l'Association internationale des Femmes écrivaines et journalistes.

[*Translation*]

She was a truly honourable person, a women of many interests.

[*English*]

Honourable senators, the list of honours heaped upon this exceptional woman goes on and on. It is a list known to many, since it is part of the public record. My memory is that she was involved in every aspect of public life.

Again, what was my personal impression? To me, she was a dynamic woman of heart and conviction, a woman who was a pioneer for the rights of women, and a woman who displayed a deep commitment and indefatigable efforts in supporting the NO forces in the 1980 referendum on sovereignty.

She was not only a committed federalist but also a fiercely proud Quebecer, demonstrating to all that it is possible to be both. As such, Solange's life stands as a dynamic measure of the extent to which Canada's strength can only grow when it embraces its diversity, and gives voice to its soul.

[*Translation*]

Hon. Gérald-A. Beaudoin: Honourable senators, I first saw the work of Solange Chaput-Rolland on the Pepin-Robarts Commission and then as a colleague in the Senate.

We were appointed to the Senate the same day, together with Senators Roch Bolduc and Jean-Marie Poitras. There were four of us, and it was the time of the Meech Lake Accord.

Madam Chaput-Rolland had an innate ability to communicate. She made good use of this gift in her career as a journalist and gave of herself in causes involving equality and freedom. Through her good offices, we were often given greater consideration by the media, something not to be sniffed at, I would add.

Madam Chaput-Rolland came to the Senate to defend her ideas. These ideas had germinated over the course of the long discussions that accompanied the drafting of the Pepin-Robarts report and it became apparent in the Meech Lake Accord, which she vigorously defended.

I can say that the report would have been different, had she not been a member of the commission.

A great friend of the arts, print media, radio, television and literature, she was an example of what the Senate could contribute to Canadian culture. Each of her speeches was marked by finesse and elegance. No one can say she failed to do everything in her power to make the upper house known and respected. She did us the great honour of spending a few years here in the Senate. I offer her family my deepest condolences.

[*English*]

Hon. J. Michael Forrestall: Honourable senators, I want only to join in the tributes being paid this afternoon to a person who was, to me, a very gracious and warm Canadian and who, on a number of visits to her office in the Victoria Building, introduced me, in a way no one else had been able to before, to the spirit of French Canada — my Canada; her Canada.

During her last year here, after returning from our Christmas vacation, we were boarding the bus. It was a sloppy, cold day to return to the Senate. She said, "Michael, what did you do over the Christmas recess?" I told her how I had enjoyed the holiday with my grandchildren and my children. I talked a bit about the weather. She said, "What else did you do?" I looked at her and I said, "Senator, I started to read a book." It was a history book, actually. I said, "Senator, what did you do?" She said, "Michael, I wrote one."

My condolences go to her family. She will always remain in my thoughts for educating me about a very rich part of my country.

[*Translation*]

Hon. Mira Spivak: Honourable senators, Solange Chaput-Rolland was a great lady from Quebec. She was an emotional woman who bothered politicians.

She took an interest in many things: improving the status of women in public life, socio-economic issues and national issues. Solange Chaput-Rolland was my next door neighbour for several years. I remember her as a woman who knew how to transmit her joie de vivre.

She was my Quebec history teacher and it is with great humour that she told me anecdotes about René Lévesque and Quebec politics. This is a huge loss for Canada and Quebec. Rest in peace, Solange!

• (1420)

Hon. Serge Joyal: Honourable senators, I should like to mention two things in memory of Senator Solange Chaput-Rolland. You will have noticed that she kept her surname, Chaput. Rolland was her husband's name. She made that decision at a time when women were not active in politics and in communications.

One of her contemporaries, a great lady, had to use a man's name to get her writings published in a newspaper. I am referring to Madam Jean Despréz. Her real name was not Jean Despréz, but Laurette Auger. If she had been identified as a woman, newsrooms would have refused to publish her articles at the time.

Madam Chaput-Rolland stood up for women in public life at a time when they were not accepted. She did so not only as a woman, but with the sensitivity of a woman. At the time, one of the ways used in certain circles to set aside Madam Chaput-Rolland's remarks was to say that they were too emotional. Women who were entering politics had no choice but to pattern their behaviour on that of men.

[*English*]

There were no feminine role models at that time. Solange Chaput-Rolland has always maintained the participation of women as women in politics. If there is a house in which the situation is different, it is this house, because there are not only one, two, or three women, but they are of sufficient number that women can be women when they participate in public debate. This is one of the contributions that Senator Chaput-Rolland made to Canadian public life.

Honourable senators, Solange Chaput-Rolland's second contribution was her role in the first referendum. I am certain that all senators remember "les Yvette." If the result of the first referendum was important in affirming the conviction of the future of the country, it was because of the role of les Yvette. Who were at the forefront of les Yvette? There was former Senator Thérèse Casgrain; Madam Claude Ryan, who played a fantastic role in putting the group together; former Senator Solange Chaput-Rolland; and Senator Lise Bacon, who sits with us today. This group of women will be written about in the history books of Canada. These women saved Canada in 1980 because of their dedication to affirm the values of the Canadian family and the sense of sharing that we have for this great country. For that vision, we are indebted to Solange Chaput-Rolland and her contemporaries for their efforts in to ensure a bright future for Canadians.

SENATORS' STATEMENTS

PRINCE EDWARD ISLAND

FEDERATION OF AGRICULTURE—FARM SHARE LUNCHEON TO REFLECT CHEAP FOOD POLICY

Hon. Elizabeth Hubley: Honourable senators, the Prince Edward Island Federation of Agriculture, together with local commodity boards, recently hosted a gourmet luncheon in Charlottetown. The purpose of this farm share luncheon was to raise public awareness with respect to agriculture, and more particularly, to the low prices paid to farmers for the food they produce.

Honourable senators, I am told it was a meal fit for a King or a Queen. Appetizers included French bread with bean dip, grilled pork with cranberry juice, or greens and Scotch eggs. The main course consisted of a medley of grilled chicken and beef tenderloin in port wine juice, roast garlic mashed potatoes and a variety of fresh market vegetables. For dessert, the invited guests were treated to French cream cheesecake, strawberries with whipped cream, and plenty of Island milk to drink. It does sound rather good, does it not?

If such a meal were purchased in a restaurant, one would expect it to cost about $35 or more after taxes and gratuities. However, the Federation of Agriculture offered this same gourmet meal for $1.44, or what the Canadian farmer would have been paid for this food. That is right. The farmer's paltry share of this $35 meal was only $1.44.

Honourable senators, I believe this event vividly demonstrates the chronic plight of our farmers who have been victims of a cheap food policy in our country for decades. It is often argued that farmers receive too much in the way of subsidies and benefits from government, that crop failure is always followed by a cash bailout and that the farming community somehow has been preferentially treated over the years.

Nothing could be further from the truth, honourable senators. The grim reality is that most sectors of the agriculture industry have no income stability and that the family farm is a vanishing enterprise throughout Canada. In Prince Edward Island, only the dairy industry offers a degree of income stability as a result of supply management, and a number of farms has decreased by more than twice the national average.

In the entire scheme of food production, processing and distributing, it is the farmer who receives the smallest economic benefit; yet it is the farmer's expertise and labour that make food available to the population.

Farmers in Western Canada have been suffering through a terrible drought. This past year, potato farmers in my own province were unexpectedly shut out of a major international market. This was followed by a poor growing season.

Farming is an extremely risky business that requires high levels of capital investment, tremendous knowledge and skill, hard work and considerable intestinal fortitude. Without our farmers, Canada's food supply would be nonexistent.

I should like to commend the Prince Edward Island Federation of Agriculture for organizing the farm share luncheon in Charlottetown as an innovative way to increase the public's awareness of how little our farmers receive for the food that they grow.

NOVA SCOTIA

LUNENBURG—BURNING OF ST. JOHN'S ANGLICAN CHURCH

Hon. Wilfred P. Moore: Honourable senators, late in the night of October 31 or early in the morning of November 1, some person or persons tore a hole in the heart of Lunenburg, Nova Scotia. They did so by deliberately setting afire St. John's Anglican Church, a fire that raged for one-half day and consumed a structure of absolute beauty and peacefulness, a structure of refuge, a structure of tranquillity and of steadfast worship. An elderly parishioner told me yesterday that he has not seen the mood of the town so darkened since the days of World War II.

St. John's was built in 1753 by German Protestants who were sent to Lunenburg to settle the seaport. Those builders were shipwrights, millers, fishermen and farmers. Their work resulted in a wonderful church with wooden knees, arches and rounded ceilings, which moved visitors to remark that it was like being inside a ship.

Honourable senators, for nearly 250 years, St. John's was the object of devout care and stewardship. It was a place of assembly, celebration and remembrance for our forefathers and today's parish families, including my own. Little remains of this National Historic Site — the second oldest Anglican church in Canada.

Honourable senators, I did say "little." I did not say "nothing." Remarkably, the font, the altar, the processional cross and some other precious pieces survived.

We are hopeful that the authorities will apprehend those who committed this senseless act of destruction and that the full weight of the law will be brought to bear upon them. We are prayerful that St. John's will rise again. We are confident that her parishioners harbour the will and can harvest the resources from across Canada to build a replica around those surviving pieces of worship.

JUSTICE

CHARTER OF RIGHTS AND FREEDOMS FOR CHILDREN

Hon. Laurier L. LaPierre: Honourable senators, on Friday, October 26, 2001, a jury in Stratford, Ontario, acquitted Carline Vandenelsen of kidnapping her three children through a defence argument known as "virtue of necessity."

• (1430)

Although I do not wish to question the good faith of the jury, there is no doubt in my mind that Carline Vandenelsen is a criminal who should be in jail. She abused her children by traumatizing them, shoving them in the trunk of a car as she crossed the frontier between Canada and the United States and between the United States and Mexico. This irresponsible and criminal act caused the children that she is supposed to love great fear, anxiety and stress. Moreover, she endangered their lives by her criminal negligence for their safety and well-being. Finally, she deprived them for months of the love of their father, their schoolmates, their extended family and their friends. One of her children testified that he feared he would never see his father again.

Honourable senators, it is my fervent hope that the family court judge who designed her custody in the first place will so rule as to protect her children from any contact with their criminal mother.

What this sad event teaches me is not so much the strange ways of our judicial system as the need we have as a society to protect our children from the madness of some of their parents, and others. Honourable senators, it is for this reason that we need a specific Charter of Rights and Freedoms for children embodied in the Canadian Charter of Rights and Freedoms of which we are so justly proud. Only in this way will criminals like Vandenelsen, and others, for instance, like those in Aylmer, Ontario, who beat their children in the name of a certain god, will be dealt with as they deserve.

[*Translation*]

HEALTH

SERVICES IN FRENCH

Hon. Jean-Robert Gauthier: Honourable senators, as for all Canadians, health services are a major concern for minority French-language communities.

The Fédération des communautés francophones et acadienne coordinated a serious study of the issue of French-language services entitled: "Santé en français — Pour un meilleur accès à des services de santé en français." The FCFA released this important study on improving access to French-language health services in June 2001. It should be noted that the federal Minister of Health funded the study, which was part of the work done by the Comité consultatif des communautés francophones en situation minoritaire.

If we are interested in strengthening the fabric of our society, we must include the Francophone and Acadian communities in the health care reforms now underway throughout the country. the situation is becoming increasingly urgent, because there are one million French-speaking Canadians who are being left by the wayside. The report shows that francophones in minority situations are less healthy than their English-speaking counterparts.

The study gives examples of initiatives which have helped increase access to French-language health services in certain regions. It refers to them as levers. Let us look at a few of them.

First, there is information. We must study francophones' state of health in order to determine their needs, draw up lists of French-speaking physicians and other stakeholders, adapt certain awareness and promotion campaigns to the regional needs of French-speaking populations, and produce material in French.

Second, there is technology. We must develop the potential of telemedicine, adapt and implement call centres, and develop a Web portal for French-speaking professionals.

Third, a network is required. We must implement structures facilitating coordination and organization of the French-language health services environment, develop linkages between health care institutions, develop partnerships and alliances between the health care network and other networks such as those of the educational system, municipalities and community organizations.

Fourth, there is training and recruitment. We must support campaigns promoting careers in the health care sector, decentralize training in these careers, provide incentives to encourage francophone stakeholders to settle in French-language communities, and develop strategies to recruit outside the region and outside the country.

Fifth, the lever known as intake centres. Multiservice centres need to be put in place, French-language intake structures need to be developed, and francophones need to be given control of these intake centres.

To conclude, the study affirms that the vitality of Francophone and Acadian communities depends, in part, on the population's health. I quote from page 58 of the report:

> Given its importance to individuals and communities, health should be an issue of major concern to federal and provincial authorities, relevant institutions in the health and education sectors, as well as each and every minority francophone community.

Honourable senators, I should like to remind you that this past weekend, more than 200 stakeholders from across Canada came to study this report in Moncton, New Brunswick.

[*English*]

AGRICULTURE AND FORESTRY

REPORT RECOMMENDING MEETING OF COMMITTEE OF THE WHOLE TO HEAR MINISTER OF AGRICULTURE AND AGRI-FOOD

Hon. David Tkachuk: Honourable senators, last week, while I was away and during the debate on the Agriculture and Forestry Committee report calling for the Minister of Agriculture to appear before a Committee of the Whole Senate, some honourable senators said that I showed disrespect for a minister of the Crown because the report said that he had cancelled his appearance.

In retaliation, Liberal committee members passed a motion in committee asking that the committee apologize to the minister because of the word "cancel." I was not there to speak for myself, and that is my fault. I had other business to attend to. However, I should like to make it clear that I believe that the minister was to attend that meeting. Through the efforts of the steering committee led by Senator Gustafson, we have been trying to get the minister to attend since this past August.

Honourable senators, I also want to point out that not one Liberal member — not one — contradicted my use of that word during debate in committee. If they had, we could have amended the motion in committee, and I would have been fully supportive if I were convinced that the minister had not confirmed his appearance. My motion was made out of concern for the desperate plight and problems facing agriculture today not only in Western Canada but also in many parts of the country.

As members of the opposition in this place, we get few opportunities to get the attention of the government. I believe that merely confirming government policy is not necessarily an act of respect, and that is neither my job nor my role as a senator on this side of the chamber. I was disappointed that the government side did not use this motion as an opportunity to respond to the problems facing agriculture. Instead, they used their majority of over 60 senators to respond to the fact that they were defeated in committee.

Honourable senators, I am not apologizing for doing my job — not to the minister and not to the members of the committee from the government side. I showed no disrespect to the Minister of Agriculture. He is an elected member. I have been in politics a long time and one thing I do respect is the ability of someone being elected by their peers. They earn our respect by that alone. My job and the job of Parliament, when that elected member becomes a member of the executive, is to hold him or her to account.

The real disrespect that has been shown is this government's inaction regarding the current circumstances facing farmers in Canada. A copy of this statement is being sent to the Minister of Agriculture and to *The Western Producer.*

[*Translation*]

ROUTINE PROCEEDINGS

CARRIAGE BY AIR ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Lise Bacon, Chair of the Standing Senate Committee on Transport and Communications, presented the following report:

Tuesday, November 6, 2001

The Standing Senate Committee on Transport and Communications has the honour to present its

SEVENTH REPORT

Your Committee, to which was referred Bill S-33, An Act to amend the Carriage by Air Act, has, in obedience to the Order of Reference of Tuesday, October 16, 2001, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LISE BACON
Chair

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

• (1440)

On motion of Senator Fitzpatrick, and notwithstanding section 58(1)(*b*) of the *Rules of the Senate*, bill placed on the Orders of the Day for third reading later this day.

[*English*]

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

SEVENTH REPORT OF COMMITTEE PRESENTED

Hon. Jack Austin, Chair of the Standing Committee on Rules, Procedures and the Rights of Parliament, presented the following report:

Tuesday, November 6, 2001

The Standing Committee on Rules, Procedures and the Rights of Parliament *(formerly entitled the Standing Committee on Privileges, Standing Rules and Orders)* has the honour to present its

SEVENTH REPORT

1. On March 22, 2001, your Committee received the following order of reference from the Senate:

That the matter of officially recognizing a third party, within the procedures of the Senate, be referred to the Standing Committee on Privileges, Standing Rules and Orders for consideration and report.

2. Your Committee has been considering this issue for several months. On May 9, 2001, Senator Gerry St. Germain testified before your Committee on his proposal of officially recognizing a third party in the Senate. Members of your Committee have had several discussions of the issues related to such recognition.

3. A parliamentary system is based on there being a Government and an Opposition. This is reflected in the physical layout of many legislative chambers, including that of the Senate. In addition, the experience of the Senate has been the existence of two predominant parties, which have alternated in Government and Opposition. This, in turn, reflects the basic history of Canadian politics at the federal level, at least until recently.

4. The *Rules of the Senate*, in turn, are premised on there being only two parties in the Senate. Indeed, since Confederation, the vast majority of Senators have belonged to the Liberal or Progressive Conservative parties. While there have been, and are, independent Senators — and, more rarely, Senators belonging to other parties — in the upper chamber, the issues of recognition and the rights of third parties have not arisen. In the British House of Lords, there is a large group of "cross benchers," who are Peers who are not affiliated with any political party, but who have received recognition as a group.

5. Traditionally, the procedures in parliamentary systems have not acknowledged the existence of political parties. Within a parliamentary context, the grouping of members was considered largely a private matter. It was not until the latter part of the nineteenth century that parties in the modern sense coalesced and emerged. Electorally, in Canada, parties were not registered, nor was the political affiliation of candidates shown on ballots, until the 1970s.

6. Since the early 1950s in the House of Commons, there have been a series of rulings which granted limited rights to parties other than the Government and Official Opposition. In 1963, the *Senate and House of Commons Act* (now the *Parliament of Canada Act*) was amended so that party leaders in the House other than the Prime Minister and the Leader of the Opposition would receive an additional allowance. According to the amendment, those Members who led a party with a "recognized membership of 12 or more persons in the House of Commons" would be entitled to the additional stipend. House Leaders and Whips of such parties are also entitled to additional allowances. This figure of 12 has come to be used for many other purposes. Since 1968, officially-recognized parties in the House have received funds for research purposes.

7. Clearly, political parties have emerged as fundamental to political life and the operations of Parliament. Since 1997, there have been five recognized parties in the House of Commons. Moreover, Canada is experiencing an unprecedented period of upheaval with respect to political parties.

8. Against this background, your Committee believes that it is appropriate and prudent for the Senate to re-examine its procedures and practices with respect to the recognition of parties. We have carefully considered the submissions of Senator St. Germain, as well as the arguments put forth by other Senators, both in the Chamber and in the Committee. We have also reviewed the procedures and policies of other legislative bodies, including the House of Commons, provincial legislatures and the British House of Lords.

9. Your Committee has been very mindful of the role and the traditions of the Senate of Canada. Under the Canadian Constitution, the role of the Senate is, in part, to act as an independent check on the elected lower chamber and the executive. It is not a confidence chamber, in that a defeat of Government legislation does not necessarily lead to the Government's resignation. The Government party does not always have a majority in the Senate. While the Government of the day plays a significant role in determining the business of the Senate, it can face significant constraints on its ability to control the legislative agenda. The concept of the Official Opposition as a party that, in the event of the resignation of the Government, is willing to assume office, is absent in the case of the Senate.

10. It should also be noted that this report is concerned exclusively with the recognition of political parties in the Senate. Your Committee has not reached any conclusions with respect to the recognition of or rights of groups of Senators other than parties. At different times in the history of the Senate, groups of Senators — both within a party caucus and across party lines — have chosen to work together. Nothing in this report is intended to deal with such situations.

11. The significance of party recognition in Parliament has increased over time. It is important to remember that there are different aspects to recognition — legal, procedural and administrative.

12. Your Committee believes that the Senate should recognize parties. While it is not necessary or desirable to define what constitutes a party, some threshold requirements must be established. We believe that there should be two principal components to this: first, an objective organizational requirement, and, second, a numerical requirement, or minimum number of members in the Senate.

13. With respect to the objective requirement, your Committee recommends that a party must be registered as a party under the *Canada Elections Act* at the time that recognition is sought in the Senate. Your Committee emphasizes, however, that the relevant time is when the party first seeks recognition as a party in the Senate. If, subsequently, it ceases to be registered under the *Canada Elections Act*, it would retain its recognition in the Senate so long as it continued to meet the minimum number of members in the Senate. Only if it fell below this threshold and again sought to be recognized would its registration under the *Canada Elections Act* be relevant. While the *Canada Elections Act* does not apply to the Senate, there is a connection through the appointment of Senators by the Governor General on the advice of the Prime Minister. Moreover, registration under the *Canada Elections Act* represents a commitment to the political system, and represents an objective criterion for determining the *bona fides* of an organization.

14. As far as the minimum number of members required for recognition in the Senate, your Committee believes that a party must have at least five members in the Senate. This is premised on two arguments: First, in order to function as a party, it is necessary that the group have a leader, a deputy leader and a whip, and there must be at least two other members. Without such numbers, it is difficult to see how the group of Senators could function as a party. This is not to say that political parties may not continue to have — as they have had in the past — representatives in the Senate, without being recognized as a party. Second, your Committee notes that the number of members required for recognition as a party in most legislatures in Canada has a numerical component, and bears some relation to the total membership of the legislature. Given that the House of Commons currently has a membership of 301, and requires at least 12 members for a party to be recognized, your Committee believes that five is appropriate.

15. If the Senate is to recognize other parties, the *Parliament of Canada Act* should be amended to provide for additional allowances to be paid to the leader, deputy leader and whip.

16. In addition, the *Rules of the Senate* will need to be reviewed and revised accordingly. Procedurally, certain rights should be given to recognized third parties.

17. With respect to speaking times, your Committee believes that only the Leader of the Government in the Senate and the Leader of the Opposition in the Senate should be permitted unlimited time in debate. Leaders of other parties generally should be given the same period of time to speak as the sponsor of a bill and the first Senator speaking immediately thereafter — 45 minutes — under Rule 37(3).

18. With respect to committees of the Senate, your Committee believes that recognized third parties should receive membership on committees that is proportionate to their standings in the Senate. We do not believe, however, that it would be appropriate for members of recognized third parties to be *ex officio* members of Senate committees.

19. Other issues flow from recognition. Administrative matters, such as office accommodation and seating arrangements in the Chamber, and research and other budgetary matters will also have to be addressed. Your Committee believes that these can be worked out by the leadership and the Standing Committee on Internal Economy, Budgets and Administration.

Your Committee, therefore, recommends:

1. That the Senate accord official recognition to parties that are registered as parties under the *Canada Elections Act* at the time that recognition is sought in the Senate and have at least five members in the Senate. Recognition would be withdrawn only if the party's membership in the Senate fell below five members.

2. That the Government be asked to propose amendments to the *Parliament of Canada Act* to reflect the decision of the Senate.

3. That the *Rules of the Senate* be reviewed and that your Committee propose amendments following adoption of this report by the Senate.

Respectfully submitted,

JACK AUSTIN, P.C.
Chair

The Hon. the Speaker: When shall this report be taken into consideration?

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

[*Translation*]

BUSINESS OF THE SENATE

The Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, with leave of the Senate, and notwithstanding rule 58(1)(*a*), I move:

That for the duration of the present session, when the Senate sits on a Wednesday or a Thursday, it sits at 1:30 p.m., and that rule 5(1)(*a*) be suspended in relation thereto.

The Hon. the Speaker: Honourable senators, is leave granted?

Hon. Senators: Agreed.

Motion agreed to.

MISCELLANEOUS STATUTE LAW AMENDMENT BILL, 2001

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-40, to correct certain anomalies, inconsistencies and errors and to deal with other matters of a non-controversial and uncomplicated nature in the Statutes of Canada and to repeal certain provisions that have expired, lapsed, or otherwise ceased to have effect.

Bill read first time.

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

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

[*English*]

NUNAVUT WATERS AND NUNAVUT SURFACE RIGHTS TRIBUNAL BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-33, respecting the water resources of Nunavut and the Nunavut Surface Rights Tribunal and to make consequential amendments to other acts.

Bill read first time.

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

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

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

COUNCIL OF EUROPE PARLIAMENTARY ASSEMBLY MEETING, SEPTEMBER 24-28, 2001—REPORT OF CANADIAN DELEGATION TABLED

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I have the honour to table the report of the Canada-Europe Parliamentary Association delegation to the Parliamentary Assembly of the Council of Europe, Fourth Part Session, which was held in Strasbourg, France, from September 24 to 28, 2001.

AGRICULTURE AND FORESTRY

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

Hon. Jack Wiebe: Honourable senators, on behalf of Senator Gustafson, I give notice that on Wednesday, November 7, 2001, I will move:

> That the Standing Senate Committee on Agriculture and Forestry have the power to sit on Tuesday, November 20 at 3:30 p.m. to hear from Ambassador Danièle Smadja, Head of the European Commission in Canada, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

BIOLOGICAL WEAPONS AND BIOWARFARE

NOTICE OF INQUIRY

Hon. Sheila Finestone: Honourable senators, I give notice that on Thursday next, November 8, 2001, I will call the attention of the Senate to the issue of biological weapons and biowarfare.

[*Translation*]

THE SENATE

TIME ALLOTTED FOR TRIBUTES—NOTICE OF INQUIRY

Hon. Jean Lapointe: Honourable senators, I give notice that I will call the attention of the Senate to the time allotted for tributes.

[*English*]

ACCESS TO CENSUS INFORMATION

PETITION

Hon. Lorna Milne: Honourable senators, I am still at it. I have the honour today to present 979 signatures from Canadians in the provinces of B.C., Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick and Nova Scotia who are researching their ancestry, as well as signatures from 371 people from the United States who are researching their Canadian roots. A total of 1,350 people are petitioning the following:

> Your petitioners call upon Parliament to take whatever steps necessary to retroactively amend Confidentiality-Privacy clauses of Statistics Acts since 1906, to allow release to the Public after a reasonable period of time, of Post-1901 Census reports starting with the 1906 Census.

I have now presented petitions with 14,034 signatures to this 37th Parliament, and petitions with over 6,000 signatures to the 36th Parliament, all calling for immediate action on this very important matter of Canadian history.

• (1450)

QUESTION PERIOD

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTERS—ALLOCATION OF FUNDS IN UPCOMING BUDGET

Hon. J. Michael Forrestall: Honourable senators, I should like to ask the Leader of the Government whether or not, in the forthcoming budget, there are any additional funds allocated to National Defence and, if so, whether some of those funds are earmarked for the Sea King replacement program.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, surely the honourable senator is not asking me to leak the budget. That would really be in violation of parliamentary protocol in this country. Clearly I cannot tell him what is in the budget. I do not know, and if I did, I could not tell him for the reasons I have given.

Senator Forrestall: Honourable senators, I have learned around here that asking questions is not very fruitful, but I do not mind asking them. I did not ask the minister to reveal the budget.

REPLACEMENT OF SEA KING HELICOPTERS—UNBUNDLED PROCUREMENT PROCESS—CONTRACTS FOR CANADIAN COMPANIES

Hon. J. Michael Forrestall: Honourable senators, the government has said repeatedly that they split the Maritime Helicopter Project procurement to increase the benefits to Canadian industry, but the Department of Public Works and Government Services' own documents state that the way the current program is structured will decrease regional industrial benefits. The government knew this before — I emphasize "before" — they announced the Maritime Helicopter Project, with layoffs here in the high-tech sector practically going through the roof. Why has the government moved specifically to deny industry and the regions of this country, already approaching a recession, all the potential benefits of a properly structured Maritime Helicopter Project procurement process? I have some 17 indications that the government knew beforehand. Can the minister tell us why the government would take this deliberate action at this particular time?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, it is interesting that we can sit in the chamber and have three hours of debate and discussion on a procurement process and come to two totally different conclusions. I think there was only one conclusion to come from that debate and discussion that we had with the two able witnesses, one from Public Works and the other from DND, and that is that it is the desire and goal of the Canadian government that Canadian industry, particularly in its regions, receive benefit from the way in which this procurement process occurs.

Senator Forrestall: Honourable senators, if the minister does not want to answer the question, that is entirely within her purview and right to do so. However, for heaven's sake, when dealing with something as important as this issue, we should at least treat it as if it might just possibly be important. At one time it used to be important to the minister, when she came from a part of the country that has to rely on this industry.

I have, and I am tempted to read them, 17 indications from the Department of Public Works' own documentation which state that the unbundling of the contract, the dividing of the contract, not the issuance of a single contract, will have a deleterious effect on the industrial regional benefits portion of this contract.

When we had the opportunity the other day to look into this, which I welcomed and I thank the minister for, I had nine and one-half minutes to ask questions. I think that speaks for itself. Tell me why, knowing beforehand, the government proceeded with the unbundling.

Senator Carstairs: Honourable senators, Senator Forrestall insists that I did not answer his question. I did, but he just did not like the answer. I cannot guarantee that he will like the answer that I now give, which is that the Government of Canada believes that having two separate contracts will result in giving more companies bidding opportunities for the internal operations of the replacement for the Sea King helicopter than would have occurred prior.

JUSTICE

DEFINITION OF "TERRORIST ACTIVITY" IN STATUTES AND REGULATIONS

Hon. A. Raynell Andreychuk: Honourable senators, to the Leader of the Government in the Senate, now that Bill C-11 has left this place fully intact, will the government undertake that the definition of "terrorist activity," to be placed somewhere in the regulations, will be the same in Bill C-36 as it will be in Bill C-11 and that we will have only one definition of "terrorist activity" in Canada?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, as the honourable senator knows, we have not yet received Bill C-36, which has a definition of "terrorist activity" and which, from my reading of the report from a very able and capable committee, in fact, made some amendments. The definition in Bill C-36 is still to come, but I should hope that the regulations for Bill C-11 would reflect a similar if not equal definition.

Senator Andreychuk: Honourable senators, I am not asking what the bills will say. I understand the process. Is there an undertaking by the government that there will simply be one clear definition of "terrorist activity" and that it will be the same in both bills?

Senator Carstairs: It cannot be the same in both pieces of legislation, but the aim and objective is to ensure that the definition in the regulations for Bill C-11 would mirror the actual statement of the activity in Bill C-36. That is certainly what I hope will occur, and I will take the honourable senator's message to cabinet.

Senator Andreychuk: Honourable senators, will the government therefore look into the Canadian Security Intelligence Service Act to ensure that it conforms to the same definition of "terrorism" that will be in the other two acts?

Senator Carstairs: Honourable senators, as the honourable senator knows, they have not defined "terrorism;" they have dealt only with "terrorist activity." Again, I will take forward the message from the honourable senator that she would like the definition of "terrorist activity" — not of "terrorism," but of "terrorist activity" — to be the same in all pieces of government legislation, including the CSIS Act.

FINANCE

DEVALUATION OF DOLLAR

Hon. Donald H. Oliver: Honourable senators, my question is directed to the Leader of the Government in the Senate. It seems that whenever there are discussions of the current economic downturn, rising unemployment, weak capital markets and a weak Canadian dollar, the Minister of Finance's standard line is, "The fundamentals are right." Could the Leader of the Government explain why, after eight years of Liberal government, the dollar has fallen from U.S. 77 cents when Paul Martin took his oath of office to less than U.S. 63 cents today, if the fundamentals are right?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, as the honourable senator well knows, the value of our dollar is not just a result of activity in this country but also of the international marketplace, and Canada's dollar has done extremely well in relation to other currencies, although not the United States' currency. In reality, neither have others, be they European currencies, Central American currencies, Latin American currencies, or indeed the Canadian dollar, although the Canadian dollar has done very well.

The senator asks why the Minister of Finance, the Honourable Paul Martin, keeps talking about the fundamentals being right. Mr. Martin is clearly talking about the fact that we have brought the deficit under control, that we have started in very large measure to pay down the debt, and that we have a vibrant economy.

• (1500)

For example, last week the unemployment figures came out. In comparison with the United States, which lost a full half percentage point and in fact increased their unemployment rate by .5 per cent, Canada's only went up by .1 per cent. I think the minister is quite correct, the fundamentals are right in this country.

Senator Oliver: Honourable senators, in her answer, the honourable minister referred to other currencies and I would like to have her elaborate on that. Canadians have long looked at problems of some of the world's other nations and felt secure in the knowledge that our dollar, while not as strong as the American dollar, has been doing much better than the currencies of many other nations. Since January of this year, our dollar has lost 11 per cent against the Mexican peso. Back in January, our dollar bought 6.5 pesos while today it buys only 5.8 pesos. Back on September 11 our dollar bought an even 6 pesos. The downward trend has continued.

We used to laugh at the Russians when they would run out to spend their rubles before they would lose their value. Since the beginning of this year, our dollar has lost 2.5 per cent against the Russian ruble. Is our dollar losing ground against the ruble and the peso because those countries are doing a better job of getting their economic fundamentals right?

Senator Carstairs: Honourable senators, the comparisons are interesting ones because the currencies we normally compare ours to are the Australian dollar, the euro, the U.K. pound, the Japanese yen, against all of which we have performed much better. In terms of the Russian and the Mexican currencies, I think one would have to take a look at where those currencies were, not just in January 2001, but also in January 1999, January 1998 and January 1996, for example.

INTERNATIONAL TRADE

UNITED STATES—RENEWAL OF SOFTWOOD LUMBER AGREEMENT

Hon. Gerry St. Germain: Honourable senators, my question is directed to the Leader of the Government in the Senate. As of today, 21 sawmills have closed down and 85 per cent of the logging has curtailed in British Columbia. Another four or five sawmills will be closing down in the next few weeks. These closures represent over 75 per cent of the lumber production of the West Coast industry, which cannot resume until some form of resolution is achieved with the U.S. Department of Commerce. Thousands of British Columbians are being put out of work.

The Americans have named a Mr. Marc Racicot from Montana as special envoy. Will the minister recommend to her cabinet colleagues that the Prime Minister appoint a new high level senior official dedicated to deal solely with finding a resolution to this critically important trade dispute that has now affected these thousands of British Columbians of whom I speak?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I thank the honourable senator for that question because it is indeed a very serious issue, not just to the people of British Columbia but to all other provinces in this country that depend on the lumber industry for a great deal of their economic strength.

The messages from the Minister for International Trade have been clear. The decisions of the United States Department of Commerce are punitive and harmful, and he took those messages to Mr. Racicot when they lunched together. Those strong messages emphasize that we think that Canada, and particularly the lumber industry, has been treated very badly.

Personally, I think this issue should remain as the number one item for the Honourable Pierre Pettigrew, and I would be reluctant to see it handed off to someone else for negotiation. However, it is a valid suggestion that the honourable senator makes and I will ensure that that suggestion is brought forward to my colleagues.

Senator St. Germain: Honourable senators, inasmuch as various other disputes have been settled by senior officials, often the political arena cannot solve such problems. That is why I have asked the minister to go to cabinet and I am appreciative of the fact she is prepared to do so.

The Minister of Finance may say the fundamentals are right, but one of the problems with this softwood lumber issue is the value of our dollar. It cannot be ignored. We can stand up here and say the fundamentals are right and we can be compared to Japan and all the other countries in the world, but it really does not help when 85 per cent or more of our trade, in the billions of dollars, is with the United States. That is the country we have to compare ourselves with, not these other nations where we do have trading relations but not to such a significant level.

Regardless of whether we say the fundamentals are right, it does not help a British Columbia family in Maple Ridge or Prince George. The mayor was on the airplane from Prince George last night, and other mayors from various communities are coming to Ottawa on virtually a daily and weekly basis to try to solve this problem. The fundamentals may be right in some aspects, but if we do not deal with the value of the dollar this problem will continue.

Honourable senators, the industry wanted the last agreement because it did not want to fight, but we should have fought the good fight five or six years ago when we entered into the agreement. Will the government at least take a look at the value of the dollar? I know there is rhetoric that suggests we raise interest rates, or do this or that. I believe we must address the issue. I should like to hear the leader's comment.

Senator Carstairs: Honourable senators, Senator St. Germain has to some degree identified the real dilemma. Even in the United States, there is a considerable conflict between the lumber industry and the housing industry. The housing industry south of the border would like this issue settled quickly because they like Canadian lumber and they like the value of Canadian lumber, both in terms of the quality of the lumber and its price. So far it would appear that the President's ear has been held primarily by the industry representing the lumber barons, if you will, and he is not hearing much from the homeowner perspective. Perhaps as the recession becomes more complex, the urgings of the building industry south of the border will help us in bringing pressure on the United States government.

FINANCE

MINISTER'S SPEECHWRITER—CONTRACTUAL ARRANGEMENT

Hon. David Tkachuk: Honourable senators, could the government leader confirm a report in Sunday's *Ottawa Citizen* that a Mr. David Lockhart has been given a non-tendered contract worth $214,000 per year to write speeches for the Minister of Finance?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I cannot confirm that particular item, but I will ask the appropriate authorities and get back to Senator Tkachuk with a reply.

Senator Tkachuk: Is this same David Lockhart working exclusively for the Minister of Finance writing speeches, or does he have contracts with other federal government ministers, agencies, Crowns and departments?

Senator Carstairs: Honourable senators, since I do not even know if he has one with the Minister of Finance, I certainly cannot say whether he has one with other members of cabinet. He certainly does not have one with me. I will broaden the question to include others for whom he may be working.

Senator Tkachuk: Honourable senators, since the Minister of Finance gave no speeches after September 11 of this year for some four weeks, could the minister confirm that Mr. Lockhart was on holidays during that time, or is he perhaps on an 11-month contract?

• (1510)

Senator Carstairs: Honourable senators, I can certainly ask. I am not sure whether that kind of private information is available to us, but I will certainly put the question forward. I suspect that the Finance Minister will be making a great number of speeches, beginning with the delivery of the budget in December and while traversing the country to tell Canadians about that budget.

[*Translation*]

INTERNATIONAL TRADE

WORLD TRADE ORGANIZATION—MULTILATERAL NEGOTIATIONS—SENATE INVOLVEMENT

Hon. Roch Bolduc: Honourable senators, my question is for the Leader of the Government in the Senate. This weekend in Qatar, a meeting will be held to initiate multilateral trade negotiations. Could the minister inform us as to the agenda of this meeting? Will the government be presenting its position, and if so, what will that position be? Also, can the minister tell us about the Canadian delegation that will be attending?

[*English*]

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I am somewhat confused by the honourable senator's question. If he is referring to the multilateral negotiations taking place with the World Trade Organization, they will actually begin on November 9, which is later this week, not last week.

Senator Bolduc: I was referring to this coming weekend.

Senator Carstairs: The meetings will begin on November 9. I understand that the first item on the agenda will be the agriculture subsidies.

Senator Bolduc: Does the Leader of the Government in the Senate have additional information about the mandate, at least, or the points of view that Canada represents outside of those surrounding agriculture? I know that there are other aspects. However, any information in regard to the delegation would be appreciated.

Senator Carstairs: Honourable senators, I do not have those details. As I obtain them, I would be pleased to share them with the honourable senator. To the best of my knowledge, there will be a large delegation from Canada. Our delegation will certainly focus on the issue that we almost reached agreement on in Seattle, which agreement unfortunately fell apart in the dying hours of that meeting. That issue is of great importance to our farmers in this country; that is, the agricultural subsidies paid by both the Europeans and the Americans.

Senator Bolduc: The Leader of the Government in the Senate referred to a large delegation that will be involved. Agriculture will not be the only topic that is addressed. As far as I know, there are about 168 people involved in our delegation and senators are missing from the list.

Senator Carstairs: Honourable senators, it might interest the honourable senator to know that I learned of that information on Thursday last. I immediately went to the honourable minister responsible and asked why senators were not included. Apparently, the minister invited up to six senators and they all declined. I then said, "How was this asking done?" Apparently, the minister's staff spoke to senators individually.

I have now asked that minister as well as all other ministers to please work through the whips on both sides so that if one senator, for whatever reason, is unable to attend, we will not lose our participation in the delegation. The leadership had no knowledge of these invitations, and I have been assured that the procedure will be changed.

FOREIGN AFFAIRS

AFGHANISTAN—AID TO REFUGEES

Hon. Douglas Roche: Honourable senators, my question is directed to the Leader of the Government in the Senate. Representatives from three United Nations agencies — the World Food Program, the High Commissioner for Refugees and UNICEF — spoke out over the weekend, stating that thousands of refugees in Afghanistan are living out in the open and it has already started snowing in parts of the country. These UN agencies are racing to provide food and other relief supplies to vulnerable people in desperate need of assistance. The continued bombing is hampering the work of these agencies and worsening the humanitarian crisis, as former Canadian Foreign Minister Lloyd Axworthy, who is in the region, has confirmed.

I am aware that the Prime Minister said yesterday that Canada does not wish to break with the coalition supporting the bombing. However, public opinion in Europe has started to shift away from support of the bombing. I sense growing concern in Canada.

Will the Leader of the Government in the Senate take to the Prime Minister an expression of this concern that a pause be instituted in the bombing to enable humanitarian agencies to get supplies to desperate people?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the honourable senator asks an important question, but one which I could not answer more eloquently than the Prime Minister when he said that this is not the time to put any wedges between the coalition members. In terms of the expression that the honourable senator has raised today, I will bring that forward to my colleagues.

[*Translation*]

JUSTICE

YOUTH CRIMINAL JUSTICE BILL—
AMENDMENTS TO LEGISLATION

Hon. Jean-Claude Rivest: Honourable senators, my question is for the Leader of the Government in the Senate and concerns Bill C-7, respecting the criminal justice system for young persons.

Last week, in her testimony before the Standing Senate Committee on Legal and Constitutional Affairs, the Minister of Justice said peremptorily that she would accept no amendment to the bill. It is rather strange to hear such a statement from a minister and rather rude given the considerable work done by the Senate committee on Bill C-7.

This bill raises very serious concerns in Quebec. As you know, all the stakeholders from the from the community — judges, young offenders, social workers, psychologists, and so on — totally oppose the bill, which introduces notions of criminal law and adult criminal law into the treatment of children and adolescents guilty of a criminal act. The minister's comments were also very insulting to all those who took the trouble to appear before the committee to express their point of view and their opposition.

Has the Government Leader in the Senate been informed by the Minister of Justice that it is her government's firm intention not to accept any amendments to this bill, as she mentioned to the members of the Standing Senate Committee on Legal and Constitutional Affairs? If this is the case, what should the committee do when it meets in the next few days?

[*English*]

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I thank the honourable senator for his question. The proposed Youth Criminal Justice Act, which is presently before the Standing Senate Committee on Legal and Constitutional Affairs, is not the first edition of this bill. As the honourable senator is well aware, the proposed legislation had a previous incarnation known as Bill C-3. As soon as I leave this chamber, I will be pleased to send to the honourable senator all of the changes that the Honourable Minister of Justice has made to that first bill in comparison to the present bill. The minister has indicated that there is an enormous amount of flexibility.

• (1520)

I have been particularly interested in this proposed legislation for some time. Young offenders and the way in which they are treated in this nation is a subject that, as someone who spent 20 years teaching young people, some of whom unfortunately were young offenders, is dear to my heart. Unfortunately, the reality is that we do not have a consensus among the provinces as to what would be the best youth criminal justice system in this country. In my view, we have an excellent example in the province of Quebec of the best system anywhere in this nation. However, we also have politicians of other political stripes wanting to throw the key away on 10-year-olds.

It is incumbent upon the Minister of Justice to strike a balance, and that is what she has tried to do. The committee will deal with clause-by-clause study tomorrow and then determine what the report shall be.

[*Translation*]

Senator Rivest: I know that the minister takes a particular interest in this issue and I thank her for this tribute to the Quebec system.

Instead of adopting a brand new act that introduces new concepts and that could create legal problems, why did the Government of Canada not take the Quebec system as a model and make the necessary adjustments? Thus, all Canadians could have benefitted from it.

[*English*]

Senator Carstairs: Honourable senators, unfortunately the majority of provinces are not prepared to accept the excellent model that has been proven to work in the Province of Quebec. That fills me with deep regret. However, that is the reality at the present time. I hope that there have been sufficient accommodations made in the legislation that will allow Quebec to continue to practise its excellent system and not drive it into having to look at alternative systems.

[*Translation*]

Senator Rivest: In this case, we should allow Quebec, through an amendment, to be excluded from the proposed federal bill. The Minister of Justice referred to the bill's flexibility, but all the stakeholders said that it will sabotage the Quebec initiative.

If the government and the Minister of Justice want to keep the Quebec initiative, Quebec must be allowed, through a formal amendment, to be exempted from the legislation introduced by the Minister of Justice.

[*English*]

Senator Carstairs: Honourable senators, as the honourable senator well knows, criminal law falls under federal jurisdiction. It has been determined in the Constitution that it must be the same from coast to coast to coast. That is, unfortunately, the reality. As the honourable senator well knows, the administration of justice is carried out by the provinces. I am of the view that there is enough flexibility in this bill to allow Quebec to continue with its excellent system.

[*Translation*]

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, as regards government orders today, we would like to proceed first with consideration of Item No. 3 on the Order Paper, Bill C-15A, and then carry on with Items Nos. 1, 2, 4 and 5, as well as Bill S-33, reported earlier today.

CRIMINAL LAW AMENDMENT BILL, 2001

SECOND READING

Hon. Pierre Claude Nolin moved the second reading of Bill C-15A, to amend the Criminal Code and to amend other acts.

He said: Honourable senators, I am pleased to address Bill C-15A, to amend the Criminal Code and to amend other acts.

I will take the time allotted to me today to share with you my reservations regarding some provisions of this bill. I will briefly comment on the provisions of the Criminal Code that deal with offences relating to child pornography and criminal harassment.

Let us begin with the amendments concerning child pornography. Honourable senators, too often, unscrupulous adults take advantage of the extreme vulnerability of children and become involved in the possession, production, distribution and sale of child pornography. This is a serious form of sexual exploitation of children which our society must not tolerate. Accordingly, in June 1993, the Parliament of Canada passed Bill C-128 to crack down on such activity.

Since then, paragraphs 163.1(2) and 163.1(3) of the Criminal Code have prohibited the production, distribution and sale of child pornography in Canada. In addition, paragraph 163.1(4) makes possession of this kind of material illegal. For purposes of enforcement, the Criminal Code defines child pornography as the visual representation of explicit sexual activity involving persons under the age of 18 or any material that advocates or counsels sexual activity with a person under the age of 18.

However, subsection 163.1 provides for two defences in order to respect the right to freedom of expression guaranteed by paragraph 2(b) of the Canadian Charter of Rights and Freedoms. First, under paragraph 163.1(6), a person may not be found guilty of possession of child pornography if the representation or written material that is alleged to constitute child pornography has artistic merit or an educational, scientific or medical purpose.

Second, paragraph 161.1(7) provides that no one may be charged with an offence under subsection 163.1 if the public good was served by the acts that are alleged to constitute the offence and if the acts alleged did not extend beyond what served the public good.

As things now stand, an accused may rely on one of these two defences by pointing out to the court facts in support, after which the public department must refute them beyond a reasonable doubt if the individual is to be sentenced.

Honourable senators, on January 19, when asked to interpret these provisions, a majority of Supreme Court of Canada judges found paragraph 163.1(4) of the Criminal Code to be constitutional in *R. v. Sharpe*.

The Minister of Justice, through Bill C-15A, has created five new offences related to the sexual exploitation of children. Their purpose is to give police and the courts the necessary tools to effectively combat the distribution and proliferation of child pornography over the Internet.

Honourable senators, having examined the five new offences proposed, I firmly believe that one of them could pose an enforcement problem. Paragraph 5(3) of Bill C-15A makes it an offence to knowingly access child pornography. This new provision, which would be included in subsection 163.1, does not make it an offence to inadvertently access child pornography on the Internet.

However, there is an error in the wording of clause 5(3), which could call into question the validity of this new offence, and I shall explain why. Unlike the other offences outlined in section 163.1 of the Criminal Code, a person accused of knowingly accessing child pornography could not invoke the exculpatory defence outlined in the sections that I mentioned earlier, sections 163(6) and (7).

This legislative oversight could severely compromise the rights of the accused, and consequently, the constitutionality of the new offence. In fact, the *C. v. Sharpe* decision of the Supreme Court rests on the existence of sections 163(6) and (7) to confirm the constitutionality of section 163(4) of the Criminal Code.

Why would the exculpatory defences based on artistic value, and medical or educational objectives, or public interest apply only to the offences of mere possession, production, distribution and sale of child pornography, and not to the offence of accessing this type of material? The Minister of Justice will have to answer this question when the Standing Senate Committee on Legal and Constitutional Affairs studies the matter.

Honourable senators, I believe that there is another provision in Bill C-15A regarding child pornography that appears problematic. Clause 7 of this bill introduces new provisions in the Criminal Code to eliminate child pornography from a web site.

• (1530)

Thus, a court could order the custodian of a computer system, such as an Internet service provider, to ensure that the material in question was no longer stored on or made available through the computer system, and to provide the information necessary to identify and locate the person who posted the child pornography on the company's server.

Honourable senators, in practice, enforcing such a measure could give rise to two problems. First, clause 7 raises the thorny issue of the legal responsibility of companies for material distributed using their equipment. In fact, by its very general nature, the wording of this provision seems to indicate, that the federal authority would impose an obligation on the supplier with respect to the content of material distributed using its computer equipment.

According to the Canadian Association of Internet Providers — CAIP —, the wording of clause 7 could make it possible for a court to hold a company specializing in this field responsible for criminal offences such as the distribution or sale of child pornography under paragraph 3 of section 163 of the Criminal Code.

Second, again according to CAIP, the enforcement of this provision could be complicated by the technical difficulties inherent in the operation of the computer equipment of Internet service providers, the activities of computer pirates, and the very structure of the Internet.

Honourable senators, the two concerns I have just mentioned indicate the limits of the provisions intended to apply to the broadcast of child pornography over the Internet. That does not mean that service providers have no responsibility for content carried over their information servers. Quite the contrary! Clearly, these companies have a certain obligation in specific instances. The CAIP is aware of this fact.

In this connection, the fourth element of the code of conduct of this association reads, and I quote:

> CAIP Members will not knowingly host illegal content or condone illegal conduct, and they will take action when notified about either.

In this context, the representatives of the association must explain the measures put into effect by the industry to honour this obligation.

However, we must be sensitive to the concerns of the private sector, since it will be working with the courts to ensure the successful implementation of Bill C-15A and since it has the expertise necessary to assess the effectiveness of the changes proposed by the federal government.

Honourable senators, I will now deal with the amendments proposed under clause 10 of Bill C-15A on the offence of criminal harassment. Unlike biases that are widespread in our society, criminal harassment is a complex form of crime, with eight victims out of ten being women and nine out of ten of those charged in cases being men.

It is far more than a mere public nuisance crime, because it frequently degenerates into assault, threats, aggression and sometimes murder! Criminal harassment can have serious psychological repercussions on all aspects of the victim's life, leading him or her to self-doubt and sometimes to under-estimating the seriousness of the crime.

Since August 1, 1993, when Bill C-126 came into effect, section 264 of the Criminal Code defines criminal harassment as follows:

> ...without lawful authority and knowing that another person is harassed or recklessly as to whether the other person is harassed, [engaging] in conduct that causes that other person reasonably, in all the circumstances, to fear for their safety or the safety of anyone known to them.

The maximum penalty for this offence is five years. Clause 10 of Bill C-15A would increase this to ten years.

This change is mainly inspired by an identical provision in Private Bill S-6, formerly S-17. This was sponsored by Senator Donald Oliver, who had the courage to raise a public debate on the implementation of section 264 of the Criminal Code. Unfortunately, his legislative initiative died on the Order Paper, with the prorogation of the 36th Parliament on October 22, 2000.

When he appeared before the Senate Committee on Legal and Constitutional Affairs on February 3, 1999, Senator Oliver justified the passage of his bill as follows:

> The biggest problem with the harassment law as set out in the Canadian Criminal Code today is that most people do not take it seriously. The perception is that harassment is just a very small matter, that it is not serious, and that no serious consequences can flow therefrom.

Honourable senators, like my colleague, I find that the provisions adopted in 1993 to combat this terrible crime have not had the desired results the legislator had hoped for. According to a 1996 study on the implementation of section 264 of the Criminal Code of Canada (Criminal Harassment) commissioned by the Department of Justice, 60 per cent of criminal harassment charges were withdrawn or given a suspended sentence, and 75 per cent of those found guilty were given either mandatory supervision or suspended sentences. These rather un-reassuring conclusions appear to confirm the hypothesis that the courts are ineffective at adequately suppressing criminal harassment.

But will increasing the maximum sentence as set out in clause 264 improve the effectiveness of this provision of the Criminal Code. Will it convince Crown Prosecutors to establish solid evidence in order to prove that a crime has been committed, one which is highly complex by definition? Will it increase judges' awareness, so that they will impose more severe sentences for this type of offence? I have my doubts, if I may say so.

As many witnesses who appeared before the Standing Senate Committee on Legal and Constitutional Affairs said regarding Bill S-17, the ineffectiveness of section 264 of the Criminal Code is not related to the jail term provided, but to the definition of "criminal harassment". Indeed, the expressions "is harassed," "recklessly" and "reasonably" do not take into account the very nature of the crime of criminal harassment and its impact on the victim.

On April 21, 1999, Gillian Judkins, of the Canadian Resource Centre for Victims of Crime, said the following when she appeared before the committee, and I quote:

> Although section 264 is a step towards improving the legislation, criminal harassment laws must be reviewed. The criteria laid out in section 264 can make it difficult to prosecute certain cases. In addition, due to the fact that intervention often escalates involvement between the victim and the offender, many victims are reluctant to press charges. Legislation should affirm that the victim's safety is paramount, while being a deterrent to offenders.

Honourable senators, unfortunately the legislation does not propose any such review. So, in order to conduct a rigorous study of the change proposed in clause 10 of Bill C-15A, the Senate should authorize members of the Standing Senate Committee on Legal and Constitutional Affairs to consult the papers and evidence collected by that same committee during the first session of the 36th Parliament regarding Bill S-17. Following my speech, I will move a motion to that effect.

• (1540)

In conclusion, honourable senators, the omnibus nature of Bill C-15A must not make us forget that this legislation deals with unacceptable and complex social phenomena. Its adoption will have a significant impact on several groups of Canadians. I am thinking of children, victims of criminal harassment, victims of miscarriage of justice, and the various stakeholders in the Canadian justice system. In this context, committee members will have to ensure that this legislation respects the interests and rights of the individuals and groups that it seeks to protect, while ensuring the effective implementation of these provisions by the courts.

Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(*f*) of the *Rules of the Senate*, I move:

> That the papers and evidence received and taken by the Standing Senate Committee on Legal and Constitutional Affairs during its study of Bill S-17, An Act to amend the Criminal Code respecting criminal harassment and other related matters, in the First Session of the Thirty-sixth Parliament be referred to the said Committee for its study of Bill C-15A, An Act to amend the Criminal Code and to amend other Acts, if and when the bill is referred.

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

Hon. Senators: Agreed.

Motion agreed to.

[*English*]

The Hon. the Speaker *pro tempore***:** Honourable senators, is it your pleasure to adopt the motion for second reading of Bill C-15A?

Hon. Senators: Agreed.

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 Pearson, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

TRANSPORTATION APPEAL TRIBUNAL OF CANADA BILL

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Gill, seconded by the Honourable Senator Setlakwe, for the second reading of Bill C-34, to establish the Transportation Appeal Tribunal of Canada and to make consequential amendments to other Acts.

Hon. J. Trevor Eyton: Honourable senators, it is my pleasure to speak to Bill C-34, at second reading.

Bill C-34 creates the Transportation Appeal Tribunal of Canada as a multi-modal transportation tribunal to review the enforcement and compliance measures taken under several pieces of transportation legislation now dealing with the rail, marine and aviation sectors. I have been made aware of the background work done by the Department of Transport leading up to the creation of this legislation. It appears very thorough.

Over the last few years, the Department of Transport has been working toward the establishment of a multi-modal transportation tribunal system to provide an independent review mechanism for enforcement and compliance measures undertaken by the Department of Transport in the aviation, marine and railway sectors. Such an independent mechanism already exists in the aviation sector, namely, the Civil Aviation Tribunal, which reviews certain administrative actions and enforcement decisions taken by the Minister of Transport under the Aeronautics Act.

The Civil Aviation Tribunal, which was created by the former Progressive Conservative government, has been in operation since June 1, 1986. Its principal mandate is to hold review and appeal hearings at the request of an affected party with respect to certain licensing and enforcement actions taken by the Minister of Transport.

Honourable senators, on the surface, Bill C-34 basically takes the Civil Aviation Tribunal model for the aviation sector and expands it to include the marine and rail sectors. Also, according to the government, this new tribunal will improve on the approaches and measures available to the Civil Aviation Tribunal.

I mention the Department of Transport's consultation and regulatory review process for a reason, and I want to elaborate on that. In January of 1998, the "Final Report: Review of the Railway Safety Act" recommended the development of new tools to complement existing mechanisms for overseeing safety and ensuring compliance for the rail transportation sector, including a process for reviewing enforcement actions by an independent body similar to the Civil Aviation Tribunal.

Similarly, for the marine sector, a recommendation for an independent review mechanism emanated from the Canada Shipping Act reform team in its discussion document on enforcement in April of 1998. Also during the period of the consultation and review leading up to Bill C-34, the Department of Transport, in its departmental performance report for the period ending March 31, 2000, stated that it wanted to achieve three key objectives in creating a new, multi-modal transportation tribunal.

The first of these objectives is to achieve increased consistency in the treatment of those whom the department regulates. The second objective is to go in the direction of greater use of administrative-based — as opposed to criminal-based — compliance and enforcement tools. Third, the department said that it wanted to achieve a more simplified review mechanism.

Honourable senators, my reason for referring to the process and background that led to this regulation genesis is simple: As we send this bill to committee, it would be my hope that we will evaluate this piece of legislation against the criteria set out in the objectives contained in the department's own performance report and other official documents. I feel that this is important because it speaks to upholding the integrity of the consultation process in which the department has engaged with interested stakeholders since 1998.

In other words, during this process of creating a new, multi-modal transportation tribunal, the government told stakeholders and other interested parties that these objectives are what it wanted to achieve once the final legislation came to fruition. Our job as legislators should be to hear from some of these stakeholders and interested parties in order to assess the levels to which these objectives have been met. We should also be sensitive to the degree to which these stakeholders and interested parties are happy with the result.

I want to briefly discuss the substance of Bill C-34. In examining the contents of the bill, most things seem quite straightforward. For instance, Bill C-34 makes the necessary amendments to the Aeronautics Act, the Canada Shipping Act, the Canada Transportation Act, the Marine Transportation Security Act, and the Railway Safety Act, to establish the jurisdiction and decision-making authorities of the new tribunal under those acts.

As well, Bill C-34 sets out the general powers and authorities of the new tribunal to conduct its affairs. Similarly, nothing appears out of the ordinary with the transitional provisions governing the changeover from the old Civil Aviation Authority to the new tribunal.

However, one area that I hope we will focus on in the committee deliberation over this bill will be Bill C-34's provisions for an independent process of review of the various administrative enforcement actions taken under various federal transportation acts. I say this for two reasons: First, consistent with the consultation process leading up to Bill C-34, this will be one area where we will see how close the initial vision that the government spelled out in its 2000 performance report matches with the regime that this bill would create.

My second reason for citing this area of Bill C-34 relates to independence. To what degree will the processes and mechanisms that this bill creates be independent?

Similarly, I am curious about this bill's provisions for the appointment of full- and part-time members to the tribunal by cabinet. Bill C-34 stipulates that members of the tribunal must, and I quote here, "collectively have expertise" in transportation sectors.

In scrutinizing the bill at committee, it is my hope that we will seek further clarification of what the government means by the phrase "collectively have expertise."

As well, members of the tribunal will be appointed by cabinet for renewable seven-year terms, so the question of their independence is a factor that we will have to take into account when scrutinizing this legislation.

• (1550)

Honourable senators, in summary, my party supports the general objectives of this piece of legislation. We also acknowledge and appreciate the amount of work the Department of Transport has done to bring this bill to fruition. While there are some items that I am hopeful will be addressed at committee, I also feel that the committee's scrutiny of Bill C-34 should focus on how successfully it has achieved the government's initial objectives from the time it began working on the concept of creating this new multi-modal transportation tribunal. In doing that, we should be mindful of what industry stakeholders and other interested parties have to say about the end result embodied in Bill C-34.

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 Robichaud, bill referred to the Standing Senate Committee on Transport and Communications.

CANADA-COSTA RICA FREE TRADE AGREEMENT IMPLEMENTATION BILL

SECOND READING—DEBATE ADJOURNED

Hon. Jack Austin moved the second reading of Bill C-32, to implement the Free Trade Agreement between the Government of Canada and the Government of Costa Rica.

He said: Honourable senators, I am pleased today to begin the debate on second reading of Bill C-32. I shall provide some comments on the current international setting for new free trade initiatives.

World Bank President James Wolfensohn, speaking in Sydney, Australia, in early August, 2001, made clear his concern that the much needed-reform of the worldwide economic and trade systems was threatened by the inability of the First and Third Worlds to communicate on issues arising from globalization. His key point was in recognizing that World Bank studies have identified that 1 billion people, mainly in the Third World economy, were not benefiting from globalization. Indeed, there was a clearly defined divide between those in the Third World and elsewhere who were winners and those who were not beneficiaries, or who were losers.

In his address, Mr. Wolfensohn said:

> There is a danger that you will lose the next round of trade reform, but not because of the streets. It'll be lost because of the different understandings between rich and poor countries and the inability to establish a dialogue.

Mr. Wolfensohn also said:

> The real problem is that in today's world we estimate that there are 3 billion people in countries that have benefited from globalization and probably 1 billion that have not benefited.

Speaking at about the same time in Washington, D.C., Robert Hormats, Vice-Chairman of Goldman Sachs International and former U.S. government official, also expressed concern about the chances for early economic and trade reform led by the World Trade Organization. His key point is that the slowdown in the world economy and in the United States economy in particular, taken together with the strong U.S. dollar, creates exceptional protectionist tendencies in the U.S. political and business leadership. Mr. Hormats is quoted as saying:

> The big casualty is trade liberalization, by making it difficult to get support for trade expansion because of the strong U.S. dollar.

U.S. economists say that second quarter growth for 2001 is in the unadjusted range of 0.7 to 0.1 per cent. The U.S. manufacturing sector has been in recession since early 2000 and has lost 837,000 jobs from January 1 to June 30 this year. The strong U.S. dollar is affecting manufacturing, agriculture and the service sector in the United States by attracting imports, while making U.S. exports less competitive.

Despite the weakening U.S. economy, the Bush Administration, after an initial wavering, has confirmed its conviction that its number one economic priority is to attract foreign capital to finance the U.S. foreign debt. In 1980, foreign obligations to the United States exceeded the U.S. debt by U.S. $339 billion. At the end of 2000, the U.S. net foreign debt stood at U.S. $1.8 trillion, or 20 per cent of the U.S. GDP.

A second reason for the strong U.S. dollar policy is that it supports the Federal Reserve policy to hold down inflation. A weaker dollar would eventually create a higher interest rate response.

Thus, honourable senators, we have a background in which the absence of a weaker dollar policy has the U.S. government looking at trade sanctions of one kind or another to offset the damage done to U.S. industry and agriculture by its own strong dollar policy. In Canada, we have only to look at the consequences to our bilateral trade in such areas as softwood lumber, steel, grains, tomatoes and so on.

The Fourth Ministerial Conference of the World Trade Organization, scheduled to take place in Doha, Qatar, from November 9 to 13 to discuss the initiation of a new round of trade reforms, has daunting challenges. In a speech to trade envoys meeting in Geneva in the WTO General Council, which took place in late July, WTO Director General Mike Moore warned that failure to launch a successful round would be at the cost of the poorest economies in the world system. However, the remarks of various countries' representatives gave little reason for encouragement.

India insisted that the last round created serious distortions, which it was the obligation of the developed countries to correct. India also refused to negotiate universal rules to protect foreign investors. The Latin American countries said they would not participate unless the developed world agreed to drop all agricultural subsidies. Other disputed areas include investment rules, labour standards, competition policy and the environment.

Frankly, honourable senators, Canadians should not, and do not, expect much progress from the Doha meeting of the WTO. At a time when the world trade system is facing troublesome conditions in trade, in finance and in human security, it may be progress simply that the Doha meeting is being held, and it may be progress should the Doha meeting set up a system of working groups to deal with and report on specific trade issues, including the protectionist use of countervail and dumping laws contrary to their real purposes.

With these background comments on the development of world trade liberalization as context, I wish to introduce to the chamber Bill C-32, the Canada-Costa Rica Free Trade Agreement Implementation Act. While by no means can Bill C-32 be presented as having a major impact on Canadian trade values, it does clearly represent the implementation of important principles in trade liberalization, and it can act as a signal to the trade world of Canada's continuing commitment to trade liberalization and to the improvement of the economies of the developing world.

For those who are not familiar with Costa Rica, it is something of a miracle country. For many decades, Costa Rica has been a fully functioning democracy and has lived in peace within its region, while its neighbours were caught in horrible civil wars. For more than 50 years, Costa Rica has had no standing army to protect it. While Costa Rica is a small country — it has a population of nearly 4 million — it is an exceptional country in its cosmopolitan outlook and its progressive social agenda. There can be no more appropriate country in Central America with which Canada might wish to implement a free trade agreement.

• (1600)

The first bilateral commercial agreement was signed with Costa Rica in 1950. It founded a cooperative trading relationship that has been a positive experience for both our countries. In the last five years, our bilateral trade with Costa Rica has seen an average annual growth rate of over 6 per cent. Of course, the total trade relationship is not large, being valued at about $270 million, which currently favours Costa Rica in the ratio of about two-to-one.

It is interesting to note that, in the year 2000, Canada's exports to Costa Rica grew by 25 per cent. Also, Canadians have invested over $500 million in Costa Rica while reverse investment is only a few million dollars. In 1999, Canada and Costa Rica entered into a Foreign Investment Protection Agreement.

I will turn now to the key features of this free trade agreement. First, it is the first agreement with a Central American country and demonstrates the successful conclusion of a mutually beneficial agreement between a relatively large and a relatively small economy. As with our free trade agreement with Chile, it shows Canada's positive attitude to the prospects of a Free Trade Area of the Americas.

Second, Bill C-32 includes new precedents in the area of trade facilitation and competition policy.

Third, the agreement includes side agreements on the environment and labour that are an advance over the previous agreements in these areas.

Fourth, Bill C-32 will assist Canadian exporters in a variety of sectors to enter the Costa Rican market. The improved access will give Canadian business a competitive edge over competitors who do not have the benefit of this type of agreement.

Fifth, we will see the immediate elimination of tariffs on most industrial products upon implementation. This includes automotive goods, environmental goods, prefabricated buildings and some construction products such as steel structures.

Sixth, dealing with agriculture, Canada exports between $25 million and $30 million of agri-food products to Costa Rica annually, of which approximately 60 per cent enter duty free, with wheat comprising most of this amount. This reflects the fact that 147 of Costa Rica's 800 agri-food product categories are not subject to import duties. For the approximately 40 per cent of annual Canadian agri-food exports to Costa Rica that are subject to import duties, tariffs range from 5 per cent to 159 per cent. This agreement secures improvements in market access for over 90 per cent of Canada's dutiable agri-food exports to Costa Rica and provides overall for immediate elimination of tariffs on 194 of Costa Rica's 653 dutiable agri-food product categories, elimination of tariffs over seven years on 75 categories, elimination of tariffs over 14 years on 294 categories, exclusion with improved trade-related quota access for 20 categories and complete exclusion of 68 categories.

Products of export interest to Canada benefiting from tariff reductions under the agreement include, among others: apples, cranberries, blueberries, lentils, buckwheat, chickpeas, canary seed, barley flour, canola seed, maple syrup, wine and whiskey in the immediate tariff elimination category. Frozen french fries, certain dried beans and dried peas are in the seven-year phase-out category. Flour, canola oil, margarine, honey, breakfast cereals, pasta, mineral waters and beer are in the 14-year phase-out category. Pork, onions and certain dried beans and peas are in the improved tariff rate quota access category.

In the case of french fries, Canada's largest dutiable agri-food export to Costa Rica, which amounts to about $5 million in annual exports, Costa Rica's 41 per cent tariff will be phased out over eight years. In addition, Costa Rica will provide a duty free tariff rate quota for imports of Canadian french fries beginning in the first year of the agreement and growing during the tariff phase-out period until the tariff is completely eliminated in the eighth year of the agreement.

Costa Rica will also provide a duty free tariff rate quota for imports of Canadian refined sugar beginning in the second year of the agreement and growing during the tariff phase-out period until the 50 per cent tariff is completely eliminated in the tenth year of the agreement.

Both countries have agreed to exclude dairy, poultry, egg and beef products from the tariff reduction provisions of the agreement. In addition, Costa Rica will exclude an additional number of import-sensitive agri-food products from tariff reduction including potatoes and a number of other fresh and frozen vegetable products.

Costa Rica, in turn, exports between $100 million and $120 million of agri-food products to Canada annually. Approximately 95 per cent of these products presently enter Canada duty free. Under the terms of the agreement, Canada will eliminate tariffs on all agri-food products imported from Costa Rica except on the aforementioned dairy, poultry, egg and beef products.

I should like to turn to some of the provisions on refined sugar because this topic has been of concern to the Canadian refined sugar industry and beet sugar producers. Canada and Costa Rica have agreed to eliminate the respective tariffs on refined sugar over an eight-year period. Canada will provide Costa Rica with duty-free access within a tariff rate quota for up to 20,000 metric tonnes of refined sugar beginning in year two of the agreement, increasing to 40,000 metric tonnes in year nine. Costa Rica will provide Canada with up to 3,528 metric tonnes of duty-free access within a tariff rate quota for refined sugar in year two of the agreement, rising to 6,990 metric tonnes in year nine.

These volumes are based on an estimated 1.6 per cent share of the respective parties' domestic markets in year two of the agreement, rising to 3 per cent of market share in year nine.

In year 10 of the agreement, there will be no duties applied on Costa Rican refined sugar entering Canada and no duties applied on Canadian refined sugar entering Costa Rica.

In practical terms, preferred access for Canadian refined sugar exports to Costa Rica will be limited by the rule of origin provisions of the agreement. Specifically, the only refined sugar eligible for preferential access to the Costa Rican domestic market will be that which first meets the rule of origin requirement, that is, either sugar refined from raw beet sugar produced in Canada or sugar refined from raw sugar imported from Costa Rica or, second, that entering under the negotiated exception to the rule of origin.

Honourable senators, I could go on with all sorts of detail on the provisions relating to sugar but, in simple terms, Costa Rica does not refine sugar and, therefore, under the rules of origin, will not be able to export refined sugar to Canada until and unless it does refine sugar. In the meantime, Canadian sugar refiners can, if they wish, export refined sugar from Canadian-grown sugar beet to Costa Rica if they find it economically feasible to do so.

There are other benefits, honourable senators, of this agreement. This is the first bilateral free trade agreement that includes innovative stand-alone procedures on trade facilitation that will reduce costs and red tape for Canadian business at the border. The agreement also includes a precedent setting framework for competition policy that we expect can serve as a model for the entire region in the context of the Free Trade Area of the Americas.

In light of the growing economic, environmental and social links between Canada and Costa Rica, both countries have also agreed that a commitment to environmental and labour cooperation, along with effective enforcement of domestic laws, must go hand in hand with this agreement, which is why side agreements on the environment and labour were negotiated in parallel.

• (1610)

To give a little more detail, the Canada-Costa Rica Environmental Cooperation Agreement includes obligations that provide for improved levels of environmental quality, the effective enforcement of environmental laws that promote open, transparent and equitable judicial and administrative procedures. It also seeks to involve the public as appropriate in all aspects of the implementation of the agreement.

On the labour front, the two countries have signed the Canada-Costa Rica Agreement on Labour Cooperation. The main elements of this agreement include: coverage of industrial relations, employment standards and occupational safety and health; a mechanism allowing the public to raise concerns about the application of labour law in the other country; and development assistance to help the Costa Rican Department of Labour and Social Welfare improve its institutional capacity.

This free trade deal must be good not only for Canada but also for Costa Rica. All of us who support free trade believe that it is the best way to create greater prosperity and, with it, a chance for the poorer countries of the hemisphere to improve their economic situation.

In the end, our efforts to liberalize trade on the multilateral, regional and, in the case of Costa Rica, bilateral level, all lead to the same goal: a more open rules-based trading system. Such a result will greatly benefit the people of this country and, indeed, people around the world.

Honourable senators, I believe that Bill C-32 is a step in the right direction. For these reasons, I encourage you to support this bill.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I wish to thank the Honourable Senator Austin for a fine explication of the bill dealing with the implementation of the free trade agreement with the Government of the Republic of Costa Rica.

It is warming to my heart, honourable senators, to hear such enthusiastic support coming from the benches opposite for free trade agreements. I did check Hansard from a few years back and, like St. Paul on the road to Damascus, there has been a remarkable conversion.

I should like to underscore the leadership that Costa Rica has shown, both in this hemisphere and in South America, in the promotion and the protection of human rights. Costa Rica has been a real leader in this field. It is noteworthy to underscore as well that Costa Rica has more school teachers than soldiers, which is to the credit of both the people and the Government of the Republic of Costa Rica.

It seems to me, honourable senators, that trade and human rights go together. I support the principle of this bill.

My colleague the Honourable Senator Kelleher, who has expertise in this bill as a former trade minister, will speak on the bill probably tomorrow. Therefore, in his name, I wish to move the adjournment of the debate.

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

INTERNATIONAL BOUNDARY WATERS TREATY ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Corbin, seconded by the Honourable Senator Day, for the second reading of Bill C-6, to amend the International Boundary Waters Treaty Act.

Hon. Mira Spivak: Honourable senators, we are told that the government's intent in proposing Bill C-6 is to ensure that Canada's waters are not for sale. To effect that policy, we have this legislation for waters under federal jurisdiction and the so-called Canada-wide accord to protect waters under the control of the provinces.

I am certainly in agreement with preventing any bulk exports of water from anywhere in Canada. Like many of my colleagues, however, I question whether this bill will do what the government says it wants to do for fresh water under federal jurisdiction.

I want to thank the Honourable Senator Corbin for his clear explanation of the bill. The Honourable Senator Carney's masterful exposition has alerted us to the clear and present danger here. I also have strong doubts, based on recent events, that the government's overall strategy and its Canada-wide accord are sufficient to prevent bulk water exports.

Previous speakers have talked about the importance of the Great Lakes Basin, New Brunswick's St. Croix River, Ontario's Lake of the Woods, and the basins of waters and rivers in British Columbia. These are major fresh water resources that we share with the United States, but they are by no means the only bodies of water that have been eyed by those who would like to profit by shipping our water south or to other parts of the world.

Decades ago, entrepreneurs began to talk openly about capturing water that flows into James Bay and exporting it south through to a combination of canals and natural lake and river systems. A member of Parliament revived that discussion in September 1998. Other proponents of bulk water exports have put plans on paper that would draw water that flows east from the Rockies across the prairies. They could export it south via natural rivers such as the Souris River, which originates in Saskatchewan and crosses the border to North Dakota.

There are some 300 lakes and rivers along and crisscrossing the Canada-U.S. border. Many have the potential to become export routes not only for water in their natural watersheds but also for fresh water that lies north and is diverted into them.

For decades, these grand schemes have been seen as wild-eyed ventures. The economics to support them were simply not there. Now, North America faces predictions of water shortages in the agricultural Midwest as a result of climate change. Elsewhere in the world, fresh water is a precious commodity. The economics of such ventures appear to be changing and are certain to change more in the future if the climate change projections prove correct.

In recent years, we have seen the Ontario government grant a permit to the Nova Group to take 10 million litres a day from Lake Superior for export. Fortunately, Nova withdrew its application after an appeal was filed. In British Columbia, the provincial government's refusal to allow Sun Belt Inc. to export billions of litres of fresh water to California is the subject of a NAFTA challenge. In Newfoundland, Premier Roger Grimes appeared ready to consider lifting that province's ban on the export of bulk water to allow the McCurdy Group to draw more than 20 million cubic metres annually from Gisborne Lake and pipe it to tankers or bottle it for export. Last month, the premier changed his mind when a report showed that royalty revenues would be far less than expected.

The worrisome part that of decision lay in the comments of the province's justice minister. He said:

> Should circumstances change in the future, any proposal would have to be evaluated on a case-by-case basis to decide whether or not the ban should be lifted.

The government would like to assure us that the Canada-wide accord to ban bulk exports is our insurance policy. I suggest we now have evidence to the contrary. A change in leadership, a change in government, a change in the economics of bulk exports could render it meaningless.

My colleagues, through their questions and speeches, have raised serious doubts about the ability of Bill C-6 to deliver on the federal portion of this promise. The bill that purports to prevent bulk water exports from boundary waters does not, as Senator Carney has stated, define what constitutes a "bulk export." We are told that a regulation will deal with the matter.

The bill purports to close the door to bulk exports through clause 13(1), which states:

> 13(1) ...no person shall use or divert boundary waters by removing water from the boundary waters and taking it outside the water basin in which the boundary waters are located.

It then potentially opens the floodgates in subclauses (3) and (4) by stating that the prohibition shall apply only to water basins described in the regulations and will not apply to exceptions specified in the regulations.

• (1620)

The bill, through clause 21(1), gives the Governor in Council, on the recommendation of the minister, the power to define through regulation any word or expression not defined in the act. This amending bill has only three definitions. It does not define such key terms as "use," "obstruction" or diversion" of water.

Reasonable people may ask why the bill is so loosely drafted. Why is the minister given such extensive discretionary powers? Why is Parliament not being asked to define what constitutes a bulk export? Why does the government want the minister, not Parliament, to determine those water basins to which this act will apply or the exceptions to the purported ban? It is reasonable to suggest, as my colleague has suggested, that either the drafters did not know what they were doing or, if they did, there is a bureaucratic, if not a ministerial, interest in exporting fresh water.

We are told that some, but perhaps not all, of the draft regulations that will define the critical elements of this bill will be available to our committee as we study this bill. I appreciate the undertaking but I do not believe that it is sufficient.

Today's regulation can be changed tomorrow without prior scrutiny of Parliament. We have the Standing Joint Committee for the Scrutiny of Regulations to review regulations after they are in place, but its powers of review and disallowance are limited. Disallowance has only been exercised eight times since 1987. That committee may examine regulations to determine whether they constitute "some unusual or unexpected use of the powers" delegated to the executive — either the minister or the Governor in Council. It may determine whether a regulation "amounts to the exercise of a substantive legislative power properly the subject of direct parliamentary involvement." In practice, however, the joint committee has always refrained from reviewing the merits or policy of regulation. The committee's work is not a substitute for Parliament ensuring that it does not delegate what properly belongs to Parliament.

Members of that committee are given a useful handbook that sets out the history, the rationale and the practice of Parliament's delegation of its legislative powers to the executive. Much of what it says is worth considering in the context of this bill. First, it reminds us that the rule of law and parliamentary supremacy are two core constitutional values in our system of government.

Second, it reminds us that the maintenance of those core values ensures, in the long term, the preservation of the rights and freedoms of citizens.

> Never have those rights and freedoms endured long in a society where all the powers of the State are concentrated in the same hands.

Few matters are as important to Canadians as the security of fresh water. We must take extra care to ensure that Parliament is maintaining its supremacy and thereby meeting its duty to our citizens.

Third, it cites the wisdom of other bodies, including a committee of the British Parliament that in 1932 investigated the growing legislative power of the executive through Parliament's granting of ministerial discretion and the power to make regulations. The committee laid down certain instances when delegation was justified only in exceptional and emergency situations. One of those instances is as follows:

> ...conferring on the Executive so wide a discretion 'that it is almost impossible to know what limit Parliament did intend to impose.'

That describes the ministerial discretion found in this bill. If parliamentarians do not define what constitutes bulk exports or the water basins that will be protected or the exceptions that will be granted, it will be impossible to know Parliament's intent on the matter. The government has not made a case for exceptional circumstances or emergency measures. We should not agree to the delegation of such sweeping powers. If we do, we are not fulfilling our duty as parliamentarians.

Do we need to reject this bill outright or can we amend it to define what must be defined and to remove the extraordinary delegation of Parliament's authority to make the laws of the land? Is there some middle ground?

There are precedents for parliamentary oversight of regulations, apart from the joint committee's work. The Hazardous Products Act requires the Governor in Council to table before both Houses all orders adding a product to the hazardous products schedule. If both Houses so resolve an order is revoked automatically. Under the National Parks Act, the House of Commons must consent to any proclamation to expand the boundaries of a national park. Those on the Standing Senate Committee on Energy, the Environment and Natural Resources will remember that debate.

Under the Firearms Act, the minister must place proposed regulations before each House and each has the opportunity to refer them to committee, to hold inquiries or public hearings and to report to the House. These procedures can draw considerable public attention to inappropriate regulations but here, too, there are loopholes. The minister can decide whether the regulatory changes are immaterial or unsubstantial and do not require parliamentary oversight. The minister can also ignore the process by declaring that the regulation is urgently needed.

At a minimum, a similar procedure without the loopholes and with the clear direction for Parliament to amend inappropriate regulations is needed for Bill C-6. In a matter as essential as the protection of our freshwater resources, it is Parliament, not simply the executive, that must legislate.

There are good reasons for Parliament to delegate its authority for the technical details of law-making but that is not what is at stake in this bill. The pith and substance of the bill would be delegated. The approach that Bill C-6 takes is frankly disrespectful of Parliament. I would certainly hope that the committee to which this bill is referred — I understand it is the Standing Senate Committee on Foreign Affairs — will delve further into this issue.

Three other matters require the committee's attention. The penalty section of the bill provides for fines and imprisonment of those who export water contrary to the act. A fine of $1 million and three years' imprisonment would be a significant deterrent. However, if legal action were to proceed by summary conviction, the penalty would be substantially less and could be considered, as it often is, the cost of doing business. It happens with pesticides applied on lawns. With fines of $20 a day or $2,000 a day, people do it anyway even though it is banned. It is the cost of doing business.

The bill contains the now standard clause "for greater certainty" respecting Aboriginal or treaty rights of Aboriginal peoples — which is generally laudable. However, reports obtained last summer under the Access to Information Act raise serious questions. The first report found that brokers proposing multi-million dollar schemes to export water from treaty lands have approached some First Nations. The second report, a legal study, contained the opinion that such a scheme "could involve a conflict between provincial laws, federal laws and treaty rights." We need to look at that potential conflict to be certain that the clause does not create a sieve in the policy to contain Canada's fresh water.

I do not have these reports, but they were received through the access to information process by a reporter.

Finally, we need to know how the government's policy will mesh with policy on the U.S. side of the border. Efforts to protect our portion of a river will be futile if there is no downstream protection.

In conclusion, I agree fully with the government's stated intent to prohibit bulk water exports. It is our job here to make sure that this bill can deliver on the promise.

On motion of Senator Murray, debate adjourned.

• (1630)

CARRIAGE BY AIR ACT

TO AMEND—THIRD READING

Hon. Ross Fitzpatrick moved third reading of Bill S-33, to amend the Carriage by Air Act.

Motion agreed to and bill read third time and passed.

CONSTITUTION AMENDMENT, 2001, NEWFOUNDLAND AND LABRADOR

MOTION—DEBATE ADJOURNED

Hon. Sharon Carstairs (Leader of the Government), pursuant to notice of October 25, 2001, moved the following motion:

> WHEREAS section 43 of the *Constitution Act, 1982* provides that an amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province to which the amendment applies;

NOW THEREFORE the Senate resolves that an amendment to the Constitution of Canada be authorized to be made by proclamation issued by Her Excellency the Governor General under the Great Seal of Canada in accordance with the schedule hereto.

SCHEDULE
AMENDMENT TO THE
CONSTITUTION OF CANADA

1. The Terms of Union of Newfoundland with Canada set out in the Schedule to the *Newfoundland Act* are amended by striking out the words "Province of Newfoundland" wherever they occur and substituting the words "Province of Newfoundland and Labrador".

2. Paragraph (*g*) of Term 33 of the Schedule to the Act is amended by striking out the word "Newfoundland" and substituting the words "the Province of Newfoundland and Labrador".

3. Term 38 of the Schedule to the Act is amended by striking out the words "Newfoundland veterans" wherever they occur and substituting the words "Newfoundland and Labrador veterans".

4. Term 42 of the Schedule to the Act is amended by striking out the words "Newfoundland merchant seamen" and "Newfoundland merchant seaman" wherever they occur and substituting the words "Newfoundland and Labrador merchant seamen" and "Newfoundland and Labrador merchant seaman", respectively.

5. Subsection (2) of Term 46 of the Schedule to the Act is amended by adding immediately after the word "Newfoundland" where it first occurs the words "and Labrador".

Citation 6. This Amendment may be cited as the *Constitution Amendment, [year of proclamation] (Newfoundland and Labrador)*.

She said: Honourable senators, I am pleased today to introduce a resolution authorizing a bilateral amendment to Term 1 of the Terms of Union of Newfoundland with Canada. This amendment will change the name of the Province of Newfoundland to "the Province of Newfoundland and Labrador."

Newfoundland became a part of Canada on March 31, 1949, when the Terms of Union of Newfoundland with Canada were ratified under the Newfoundland Act.

In 1964, the Government of Newfoundland and Labrador passed the Labrador Act, which provided for the official recognition of Labrador and a provincial code of arms on government stationary and in government publications. The 1964, legislation was intended to recognize a fundamental reality in the life of Canada's easternmost province — that Labrador is an integral part of that province. However, despite the importance of the Labrador Act, the fact remained that the name of the province, in its Terms of Union with Canada, was still the "Province of Newfoundland."

A province's name is a symbol of the entire province and its people. The importance of Labrador to our easternmost province is not reflected so long as the province's name remains unchanged.

In April, 1992, the Newfoundland House of Assembly called upon the provincial government to take the necessary steps to change the name. A House committee held public hearings across the province, and Newfoundlanders spoke loud and clear. "Change the name," they said. On April 29, 1999, the Newfoundland House of Assembly set in motion the constitutional amendment process to respond to this call for change. On that date, it unanimously adopted a resolution authorizing the Governor General to issue a proclamation to amend Term 1 of the Terms of Union to reflect the new name of the province as that of "Newfoundland and Labrador."

Honourable senators, we are now being called upon to address this constitutional amendment which is close to the hearts of the people of Newfoundland, be they on the mainland or the island. It is a gesture of inclusion that demonstrates a great generosity of spirit on the part of Newfoundland and Labrador. It is an important symbolic recognition of Labrador's status as a full and vital part of that province, with its own unique geography, history and culture. This amendment will allow us to show our appreciation for the many contributions the people of Newfoundland and Labrador have made to the Canadian federation. It is my heartfelt belief that this amendment deserves the full support of the Senate.

The name change is accomplished through a bilateral amendment under section 43 of the Constitution Act of 1982. Section 43 provides for an amendment to Canada's Constitution in relation to any provision that applies to one or more, but not all, provinces. Such an amendment may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by resolutions of the Senate and the House of Commons, and of the legislative assembly of each province to which the amendment applies.

This amendment is not just symbolic of the deep and enduring bond between Newfoundlanders and Labradorians, it is also symbolic of the strength and flexibility of the Canadian federation itself. Since the amending formula was adopted in 1982, six other bilateral amendments to the Constitution have been proclaimed into law, demonstrating clearly that the federation is continuing to evolve and improve in significant ways.

I should like to underline that this amendment applies only to the Province of Newfoundland and Labrador. The name change has nothing to do with borders and will have no impact on the boundary between Labrador and Quebec. It is an entirely appropriate measure, and it deserves the full support of the upper chamber.

Newfoundlanders and Labradorians alike have requested this change, and I am proud to say I support them wholeheartedly in their desire to reflect the reality of their province in the Constitution of Canada. I invite my fellow senators to join me in supporting this amendment.

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

[*Translation*]

THE ESTIMATES, 2001-02

NATIONAL FINANCE COMMITTEE AUTHORIZED TO STUDY SUPPLEMENTARY ESTIMATES (A)

Hon. Fernand Robichaud (Deputy Leader of the Government) pursuant to notice of November 1, 2001, moved:

> That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Supplementary Estimates (A) for the fiscal year ending March 31, 2002.

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

Hon. Senators: Agreed.

Motion agreed to.

[*English*]

DEFENCE AND SECURITY

BUDGET—REPORT OF COMMITTEE ADOPTED

On the Order:

> Resuming debate on the motion of the Honourable Senator Kenny, seconded by the Honourable Senator Moore, for the adoption of the Second Report of the Standing Senate Committee on Defence and Security (budget—release of additional funds) presented in the Senate on September 25, 2001.—(*Honourable Senator Bryden)*.

Hon. John G. Bryden: Honourable senators, I should like to take a few moments to address this report. In order to do that, and to indicate why I think it is important that it be addressed, I need to give a little bit of background.

In my opinion, this report and the creation of this committee and the funding of the committee itself to do a general search inside and outside Canada to see if it has jurisdiction in addition to veterans affairs is just one example of initiatives or processes which, when taken together with others, may change this institution in fundamental ways.

• (1640)

For example, there is the issue of Royal Assent; the role of independent senators; the recognition of political parties other than the two traditional parties; the protection of safety, security and the integrity of our institution; and the redistribution of jurisdictions and areas of responsibility of standing and special committees with the creation of the two new standing committees, one on human rights and one on defence and security.

This is not an exhaustive list, nor is it meant to be. Any senator in this chamber could add to the list. Each change, reform and addition taken alone may seem rather incidental, but taken together, in the end, may result in a much different institution from the one that has functioned for the last 130 or so years.

Put another way, I utter a word of caution that we pay attention to the details of changes to our institutions and to things like our committees and their operations, because it may be those details that shape the very future of the Senate of Canada.

On March 15, 2001, rule 86 of the *Rules of the Senate* were amended by adding a new committee. Rule 86(1) reads:

> The standing committees shall be as follows:
>
> (*r*) The Senate Committee on Defence and Security, composed of nine members, four of whom shall constitute a quorum, to which may be referred, as the Senate may decide, bills, messages, petitions, inquiries, papers and other matters relating to national defence and security generally, including veterans affairs.

On the same day, in the same amendment, the paragraph pertaining to the Standing Senate Committee on Social Affairs, Science and Technology was amended by deleting veterans affairs from its list of included matters, presumably since it now is to be a matter for the Defence and Security Committee. It is important to compare these. The amended paragraph under rule 86(1) states:

> The standing committee shall be as follows:
>
> (*m*) The Senate Committee on Social Affairs, Science and Technology...to which shall be referred, if there is an order of the Senate to that effect —

— virtually the same words as the prior committee —

> — bills, messages, petitions, inquiries, papers and other matters relating to social affairs, science and technology generally, including:

— and this is after taking veterans affairs away —

> (i) Indian and Inuit affairs;
> (ii) cultural affairs and the arts;
> (iii) social and labour matters;
> (iv) health and welfare;
> (v) pensions;
> (vi) housing;
> (vii) fitness and amateur sports;
> (viii) employment and immigration;
> (ix) consumer affairs; and
> (x) youth affairs.

In addition, the amendment also removed defence from the list of matters the Foreign Affairs Committee had formerly dealt with, presumably because the amendment created a full-blown committee on defence.

Honourable senators, I find it helpful to compare the similarities and the differences in the terms of reference between the new Defence and Security Committee and the long-established Social Affairs Committee. First, the general terms of reference of both committees are virtually identical. Each is empowered to deal with bills, messages, petitions, inquiries, papers and other matters that the Senate decides to refer to it relating to national defence and security, generally, in one case and relating to social affairs, science and technology, generally, in the other case.

In both cases, it is clear that the Senate and the Senate alone decides which matters are referred. If there are none, there is no power for these committees to take action on their own. This is particularly notable because one standing committee does have such power. The Rules Committee is "empowered: (i) on its own initiative to propose from time to time, amendments to the rules for the consideration of the Senate."

In creating the Standing Senate Committee on Defence and Security, the Senate took the jurisdiction for defence away from the Foreign Affairs Committee and the jurisdiction for veterans affairs away from the Social Affairs Committee.

I assume that when the Standing Senate Committee on Defence and Security has completed its "introductory survey of the major security and defence issues facing Canada," and before it prepares "a detailed work plan for future comprehensive studies," it will bring proposed amendments to rule 86(1)(*r*) to add policy areas to its included list after "veterans affairs," particularly if it is a policy area that currently is within the jurisdiction of another standing committee in order that any issues can be fully debated by the Senate.

Honourable senators, this institution has been operating for approximately 130 years and committees have functioned for a long time now. It is hard for me to accept that there are a number of significant policy areas that this institution has not directed to the attention of some of its standing or special committees.

Whatever is added to the jurisdiction will be taken away from another committee. I do not believe that it is appropriate — this is why I said it must come back here to be debated in the Senate — nor should it be contemplated that the chairs of standing committees would hand off or trade areas of responsibility among themselves, as was indicated in some of the discussions leading up to this report.

I want to, for want of a better phrase, follow the money, if I can. On June 11, 2001, the Senate adopted the first report of the Standing Committee on Defence and Security, which stated in part:

> Your Committee, which was authorized by the Senate on May 31, 2001, to conduct an introductory survey of the major security and defence issues facing Canada with a view to preparing a detailed work plan for future comprehensive studies, respectfully requests that it be empowered to engage the services of such counsel and technical, clerical and other personnel as may be necessary, and to adjourn from place to place within and outside Canada for the purpose of such study.

Appended to that report was the following budget. It says, "Budget attached."

• (1650)

Under "Summary of Expenditures" beside "Professional and Other Services" is the sum $80,500. The sum beside "Transport and Communications" is $278,700. Next to "Other Expenditures" is the sum $5,000, for a total budget of $364,200. The foregoing budget was approved by the Standing Senate Committee on Defence and Security on May 28, 2001.

On June 4, 2001, it was submitted by the Chair of the Defence and Security Committee to the Internal Economy Committee. On June 7, 2001, it was signed by the Chair of the Standing Committee on Internal Economy, Budgets and Administration. Also attached to the first report was a copy of the order of reference.

Appendix (B) to the report of the Standing Committee on Internal Economy, Budgets and Administration, dated June 7, 2001, approved the budget of the committee as follows. For professional and other services the amount is $80,500; for transport and communications the sum is $20,500; while next to "Miscellaneous" is "0." The total is $100,500. Thus, we have a budget before Internal Economy on behalf of the new committee in the amount of $364,200, of which, on June 7, 2001, some $100,500, to use the term that was used later on, was released to the committee.

In its second report, which was submitted to the Senate on September 25, 2001, the committee incorporates by reference its budget of June 7, 2001, for $364,200, and states that, on June 11, 2001, the Senate approved the release of $100,500 to the committee. The report of the Standing Committee on Internal Economy, Budgets and Administration recommending the release of additional funds is appended to their report. This report was signed by the Chair of the Defence and Security Committee.

Appendix (B) to the accompanying Internal Economy Committee report of September 25, 2001, states, in part:

> The Committee recommends the release of the following additional funds:
>
> Professional and Other Services $0.

That is because the funds for professional and other services were totally released from the budget contained in the first report.

> Transport and Communications $95,500.
> Miscellaneous $0.

That is for a total second release or, as I believe the Chairman of the Defence and Security Committee prefers to refer to it, the second tranche of the budget.

If this report is adopted, the situation will be such that the statement of account for the Defence and Security Committee will be as follows. The budget filed on June 4, 2001 will include for professional and other services the amount of $80,500; for transportation and communications the amount of $278,700; and all other expenditures $5,000.

On June 11, the sums of $80,500 for professional and other services and $20,500 for transport and communications were released for a total amount of $100,500.

On September 23, the Internal Economy Committee authorized $0 for professional and other services and $95,500 for transport and communications, for a total requested second tranche of $95,500.

The status of the budget is as follows. The balance available from the budget for future release, presumably, for professional and other services is zero; the balance for transport and communications is $162,700; and for other expenditures the amount of $5,000. There is a total amount of $167,700 of the budget remaining to be released in either a third tranche or a third and fourth tranche as requested by the committee, and presumably approved.

The Hon. the Speaker *pro tempore***:** Honourable senators, I am sorry to inform the Honourable Senator Bryden that his alloted time has expired.

Is leave granted for the honourable senator to continue?

The Fernand Robichaud (Deputy Leader of the Government: Honourable senators, to be fair, I have asked other speakers on other days how much time they will need to complete their remarks. I would like to be consistent and ask Senator Bryden how much time he will need.

The Hon. the Speaker *pro tempore***:** How much time does the honourable senator need?

Senator Bryden: Honourable senators, no more than five minutes.

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

Hon. Senators: Agreed.

Senator Bryden: Over the last number of years with the exposure I have had to the difficulty in finding enough funds to satisfy the demands of the various standing or special committees for special studies and inquiries, I find it difficult to see how we are making the best use of the committee budget of the Senate of Canada by spending $364,000 to have a new committee travel to find out what jurisdictions, if any, it should or will be responsible for. I am no longer a member of the Standing Committee on Internal Economy, Budgets and Administration. However, I would be surprised if there is not a higher demand for the use of committee funds than there are funds available.

Some time ago I proposed that there should be a fair peer-based formula whereby chairs of committees meet to discuss and to assess the proposed studies to be done by their committees and the amount of funds to be spent. Only when those peers had assessed and determined a legitimate area of inquiry would Internal Economy allocate funds. It is not dissimilar to what happens in the House of Commons.

There needs to be a more open, responsible and transparent way of allowing the people who wish to function in committees the opportunity to not only be fairly treated, but to believe that they are fairly treated.

Hon. Roch Bolduc: Would the Honourable Senator Bryden accept a question?

Senator Bryden: Yes.

• (1700)

Senator Bolduc: Honourable senators, having been in public administration for more that 30 years, and having worked at setting budgets, I cannot understand how it is possible for the Standing Committee on Internal Economy, Budgets and Administration to accept a budget of $365,000 without having a work plan for the committee. First comes the work plan, and then we talk about money.

They have apparently an acceptance for $365,000, plus what would be required. More than that, they put an exact amount on travel, $262,000 plus another $100,000. How can they do that before having a work plan before us? That is my question.

Senator Lynch-Staunton: That is everyone's question.

Senator Bryden: Do I get more time?

Honourable senators, in fairness — and that is why I say that it must be more open and transparent — we authorized that the committee do the travelling, that it go and find out what it is supposed to do. I should have examined the budget much earlier. However, because the budget amount was in the record somewhere else from where we normally would look in the proceedings of the Senate, I did not realize that it was almost $400,000. I should have done so.

The responsibility really rests with us. I am not referring simply to this committee. Senator Bolduc asked the question and I have the right to answer, I think. It should not be the case that the wheel that squeaks the most gets the grease. Not that I have ever seen it actually happen, but we never want to be in a situation where someone, because of his or her strength of personality, places other senators in the position of having to make a competing application. Honourable senators, that could only be handled if the process is open and fair to everyone, and a level of peers assesses it; not one-on-one, with negotiations that sometimes occur.

Senator Bolduc: Honourable senators, perhaps we should have a new rule — and this is a proposition: Perhaps we should have a new rule in the Senate that we not approve money expenditures between June 10 and June 20. I have been in government for a long time. The follies happen at the end of December and the end of June, every year.

I move the adjournment of the debate.

The Hon. the Speaker *pro tempore***:** It is moved by the Honourable Senator Boluc, seconded by —

Hon. Anne C. Cools: I have a question.

The Hon. the Speaker *pro tempore***:** I am sorry, Senator Cools, I did not see you. You have a question?

Senator Cools: I want to put a question to Senator Bryden.

The Hon. the Speaker *pro tempore***:** Senator Cools, I would remind you that we gave leave to Senator Bryden for five minutes. Those five minutes have now expired.

Senator Cools: Perhaps Senator Bryden should ask to extend the time.

POINT OF ORDER

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, on a point of order, the Chair is indicating that somewhere in the rule there must be a provision that says that you can give unanimous consent for a time limited. There is nothing in the *Rules of the Senate* that provides for that. Leave was granted to continue beyond the 15 minutes. Unless someone can demonstrate that the *Rules of the Senate* provides for something other than the granting of leave, either the leave is granted, or it is not. In this case, the leave was granted.

[*Translation*]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I concede that the Deputy Leader of the Opposition is raising a good point. We have recently followed this practice intended to limit time. It is defined in the *Rules of the Senate*. In order to enable senators to finish their remarks, among other reasons, we granted them limited time. We have tried it out in certain instances. By granting leave of the Senate, we might have had a never-ending question period that could have caused a lot of problems when committees were sitting and the Senate had to have its work done by a certain time.

I had agreed to this procedure, but had anyone asked my opinion on the matter, I would have refused leave. I gave leave for five minutes. However, with the unanimous consent of the Senate, we could reconsider what I agreed to. In that case, I would not give leave to return to it. We should stick to the rule. The practice in recent months has shown that we have agreed to act this way.

[*English*]

Hon. Peter A. Stollery: Honourable senators, on the same point of order, it seems unfortunate that we have now become involved in a procedure in which senators have taken positions that are not being responded to.

I have been a member of the Standing Committee on Internal Economy, Budgets and Administration for 20 years. The impression has been left that the Internal Economy Committee operates in a most unparliamentary manner. That is just not so. I am sorry that Senator Kroft, the chairman, is not here to respond. However, on the point of order, it is not good order to leave the Canadian public with an impression that, in my opinion, is not correct.

Senator Bryden: Honourable senators, I have seen everyone in this chamber accept the time limit placed by the deputy leader on an extension of time. In fairness, I cannot ask for more time than he had given. Therefore, I am not asking for an extension and, therefore, I cannot accept any more questions.

The Hon. the Speaker *pro tempore***:** Honourable Senator Cools, the honourable senator cannot accept any more questions.

Hon. Anne C. Cools: Honourable senators, was Senator Bryden speaking on the point of order or not? I am not sure.

It was my clear understanding that we were on a point of order. Senator Robichaud granted extra time to Senator Bryden. You know that I do not agree with that process. It has been adopted recently, but it is a very improper process, and we would have to challenge that in a set of circumstances other than these.

However, it was my clear understanding that, at this point in time, we were on a point of order. Senator Stollery had just spoken on that point of order. I do not know what topic Senator Bryden was on, but my understanding is that there is a point of order on the floor. Therefore perhaps someone, the leadership presumably, should clarify. Are we on a point of order or are we not?

The Hon. the Speaker *pro tempore***:** There was a point of order. However, there is no rule that identifies exactly the amount of time to be granted on an extension. As you said, Senator Cools, it is a practice that we have adopted lately, but there is no rule with respect to that. However, I consider that that point has been debated.

Senator Kinsella: Honourable senators, I always want to be helpful to the house. I think that we have had a good discussion on this matter. My understanding is that Senator Bryden has also helped us. He will not answer any more questions, and that is his right. Therefore, my point of order is somewhat moot.

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

• (1710)

Senator Cools: Honourable senators, I rise on a point of order. The fact of the matter is that Senator Stollery has raised an important, valid point. The fact of the matter is that, in his speech, Senator Bryden raised the need for change. I would assume that at some point in time it would be his intention to, perhaps, move a motion or to make such proposals. The fact is that certain questions were put before the Senate that would make it appear to any reader of the record that perhaps Senator Kenny and the Standing Senate Committee on National Security and Defence did not satisfy the proper process, in terms of obtaining funds and a mandate from the Senate.

Honourable senators, it was my clear understanding that Senator Kenny and the committee did comply with every requirement, as is currently required, and with every regulation and rule. It indicates to me that, to the extent that some uncertainty has been created, there was not proper compliance, or that the Senate as a whole was less than attentive, or somewhat negligent. Therefore, the matter must be settled right now.

Thus, I made an effort to have the question put to Senator Bryden so that it would be crystal clear to all of us that Senator Kenny and the committee are in no way being questioned or impugned. In fact, a new proposal for a future time is being proposed. Whether as a point of order or whether it is done in debate, the facts should be represented clearly on the record and the matter clarified. The Honourable Senator Bryden ought to be given the opportunity to provide us with clarification.

The Hon. the Speaker *pro tempore***:** Honourable senators, a point of order was raised. There is no need for a ruling, so there is no point of order . Perhaps the questions that Senator Cools has raised will be answered when Senator Bolduc takes the adjournment and debate resumes.

Is it your pleasure honourable senator to adopt the motion?

Some Hon. Senators: Yea.

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker *pro tempore***:** Honourable senators, for how long should the bells ring?

Senator Kinsella: We have not been notified of an acting whip.

Hon. Terry Stratton: The question must be: Is there notification that there is a whip other than Senator Rompkey?

The Hon. the Speaker *pro tempore***:** Senator Moore is acting whip.

Senator Kinsella: The table does not have notification.

Hon. John Lynch-Staunton (Leader of the Opposition): There cannot be a vote if there is no whip.

Hon. Wilfred P. Moore: Honourable senators, Senator Rompkey asked me to fill in because he had to run to his office.

Senator Kinsella: He does not have that authority.

Senator Lynch-Staunton: The clerk must be notified.

Senator Kinsella: The clerk must be notified in writing.

Senator Lynch-Staunton: Ask the officials if it can be done by the leadership.

Senator Moore: I could quickly arrange a written note if I had the time.

[*Translation*]

Senator Robichaud: Honourable senators, I am allowed a certain amount of time.

Senator Lynch-Staunton: Fifteen minutes!

Senator Robichaud: Yes, certainly. We need to determine how long the bells will ring before a vote is held on this adjournment motion.

At the suggestion of the members of the opposition, I am going to take a little time to cast some light — and I need some encouragement on this — on this very important matter.

The honourable senators have paid a great deal of attention to the speeches that have been given. Needless to say, the matter of a committee's expenses must be dealt with very seriously, for a number of reasons. It is often said that committee work lends a great deal of visibility to the Senate.

Honourable senators, we are in the process of determining how long the bells could ring, and I am getting to that. The members of the opposition having clearly indicated to me that I have 15 minutes to do so, I will stick to that.

The Hon. the Speaker *pro tempore***:** Honourable senators, when the whip is not present to make the decision, then the bells must ring for one hour.

[*English*]

Senator Stratton: We, on this side, agree to a 15-minute bell.

Senator Robichaud: We, on this side, also agree.

The Hon. the Speaker *pro tempore***:** Is leave granted for a 15-minute bell?

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore***:** Call in the senators.

• (1730)

Motion negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk	Kelleher
Bolduc	Kinsella
Bryden	Lynch-Staunton
Buchanan	Murray
Chalifoux	Oliver
Comeau	Pearson
Di Nino	Rivest
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• (1740)

The Hon. the Speaker *pro tempore***:** Honourable senators, I recognize the Honourable Senator Kinsella.

Senator Kinsella: Honourable senators, I am glad that some of our colleagues who are more familiar with the details of this matter, particularly those who are members of the Standing Committee on Internal Economy, Budgets and Administration, are in the chamber to help us understand the numbers related to this matter. A short time ago, Senator Bryden gave an analysis of the history of the budget proposal of this new committee on security and defence. If I understand correctly, the original submission from that committee was for $364,200. Honourable senators will recall that at the time we were debating the establishment of this new committee, we were also considering the establishment of the Standing Senate Committee on Human Rights. It is my understanding that the Committee on Human Rights has received $6,000 to commence its study. It seems to me that we will have to face an issue of equity.

I do not doubt for a moment the mandate the Senate has given. I accept that it was a decision of this body to give a mandate to, first, define the terms of reference of the new Standing Senate Committee on National Security and Defence. I do not question the committee's preparation of a budget or the process of submitting it. However, it seems that something has failed in the system. One committee is submitting a budget for $364,000 while another is submitting a budget for about $6,000. The chairs of all the other standing committees who are in this chamber know the amounts they have requested.

Each of our Senate committees is doing important work. I do not think that the work of any committee is less important or less valuable than that of other committees, and I do not think this chamber believes that. However, these numbers indicate that there is something out of alignment. There is something wrong with our process and Senator Bryden is appealing to this chamber to revisit the process.

Honourable senators, we need to transcend any personalities that may be involved. We must look at the structure and, more important, the process by which budget submissions are made and the way they are scrutinized by the Standing Committee on Internal Economy, Budgets and Administration and its respective subcommittees.

I did ask for some information to help me understand what has been taking place. I should like to be corrected if I am wrong, but it is my understanding that, as Senator Bryden indicated, on June 7 the Senate approved the release of $100,500 to the Standing Senate Committee on Defence and Security and that this report is asking for the release of another $95,000. I do not like the term "release" at all. We are making a *de novo* judgment. We are being asked whether we wish to authorize the expenditure of $95,000 of Canadian taxpayers' money for the work that has been proposed by the committee that we have established. It is simply that.

It may be argued, in light of the events of September 11, that it was very wise of the Senate to establish a committee dedicated to defence and security and that it was wise to change the name, as we did the other day, from "defence and security" to "national security and defence."

If I have understood correctly, if we adopt this motion this afternoon, we will have authorized this committee to spend up to $196,000. That is a lot of money compared to the budgets of all the other committees. Whether or not it is expended is an accounting question.

The question of why we should be spending this amount of money must be answered, honourable senators. Why are so many trips necessary to carry out the mandate clarification study? Could the number of senators taking part in these fact-finding trips be reduced? Are there other ways in which the budget could be pared down?

It is the process that concerns me.It seems to me that the Standing Committee on Internal Economy, Budgets and Administration has some responsibility here. Perhaps we need to understand how questions are asked of committee chairs when they submit their budgets. Perhaps it was the opinion of the members of Internal Economy that the Chairman of the National Security and Defence Committee made a good case.

We have received a recommendation that this budget proposal from the National Security and Defence Committee be adopted.

In terms of person years, it is my understanding that the committee is requesting three consultants. I wonder why a committee that is sorting out its mandate needs three consultants.

In the "Explanation of Cost Elements" under "Professional and Other Services," the budget submission provides for a consultant on military matters for 10 months at $2,400 per month for a total of $24,000; another consultant on policing and prisons at a cost of $24,000; and a third consultant, this one on intelligence matters, for only $12,000.

We changed the name of the committee only the other day, indicating a greater focus, presumably in light of September 11, on issues of intelligence. In that case, why would the committee spend $48,000 on policing and military issues and only $12,000 on intelligence issues? These questions must be answered if we are to make an intelligent judgment.

There is a submission for travel within Canada and travel outside of Canada. That travel is under the heading "Travel to Conferences and Meetings in Canada — Vancouver, Calgary, Toronto, Quebec City and Halifax; in US — Washington; and in Europe — Brussels." The budget item for that is $54,750.

• (1750)

I am curious in that I did receive another document indicating some of the travel expenditures already incurred by the committee, and on the list is a trip to Oslo. With your permission, I will find it, because it is important.

If the honourable senator wishes to speak, please do so.

Hon. Laurier L. LaPierre: I was wondering if Senator Kinsella had the same itinerary breakdown of the expenses of all the other committees, and whether he intended going through that today, or is the honourable senator only interested in the committee that is now called the Standing Senate Committee on National Defence and Security?

Senator Kinsella: I thank the honourable senator for the question. I am obviously only interested in the committee that is the subject matter of the motion being debated this afternoon.

It is reported in this document that there was a trip between September 3 and 8 to Oslo, at a cost of $5,511.35. In fact, a total of $13,000 appears at the bottom. In the budget submission, I cannot find mention of Oslo anywhere. Again, in terms of process, how does a member of a committee obtain permission to spend committee money to go to Oslo when that was not even part of the plan, so far as the documents I have read are concerned? Honourable senators, no doubt there are clear explanations for all of these things but I have not heard them in this chamber.

This is the juncture that we are at now: The work and the process has not been sufficiently effective and there has not been sufficient clarity in this matter, to this point, in the chamber, where we would much prefer not to be debating this issue in a micromanagement fashion, but that is the problem here.

Honourable senators, if the committee has not spent all of the money that has already been allocated to it, what is the rush? Let us try to get to the bottom of this thing and try to sort out the process so that the committee would know that it has the full support of the chamber in the conduct of its important work.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the debate today goes to the fundamental purpose of the committees that we organize, the budgetary process that we have put into place and the approval of mandates and, ultimately, budgets.

I have long thought that we did it all wrong. It seems to me that we should not put the burden on the Standing Committee on Internal Economy, Budgets and Administration to determine what a budget for a particular committee should be, after the Senate has already approved the mandate of that committee, yet that is what we do. We let committees, through their chairs, bring forward mandates to this body. Frankly, senators, we rarely debate them. A senator says, "I would like to do a study on this," or "I would like to do a study on that," or a committee says, "We would like to do this study." We not only do not debate them for their own merit, we do not even set them up according to their priorities, saying, "Well, this is the year 2002-03, we cannot study 25 different things in any depth and with any great development, so let us choose the five, six or seven that we feel we could do a first-class job on in that particular period of time."

What we do is we approve the mandate, and then we allow that committee chair, with his approved mandate, to go before the Standing Committee on Internal Economy, Budgets and Administration, first through the budgets committee and then to the main committee, and they are all left, I would suggest, in a difficult position. The Senate has approved the mandate and says they have permission to do this valuable work. This is what their committee chair says it will cost to do this valuable work, and so it is approved. In recent years, the Internal Economy Committee has been approving in tranches, 25 per cent here and 25 per cent there.

Honourable senators, it is difficult to compare the work of one committee with another committee. It may be replaced by the Standing Senate Committee on Human Rights, but traditionally in this chamber the committee that has spent the least amount of money has been the Standing Senate Committee on Legal and Constitutional Affairs, which is also the committee that traditionally has sat the most time, dealt with the greatest amount of legislation and could arguably be called the most effective committee in the Senate. Why do they not spend a great deal of money? They do not spend a great deal of money because they are so busy with government legislation that they never travel. They never move outside of Ottawa. They do their work here, two days a week sometimes, and now three days a week, because they have a heavy government agenda laid before them and they must deal with it to the best of their ability.

On the other hand, we have had special committees for which we have approved quite costly budgets. I chaired a subcommittee of the Standing Senate Committee on Social Affairs, Science and Technology on palliative care, the right of every Canadian to quality end-of-life care. I think our final amount spent was $7,000. I believe we produced a pretty good report but, to be fair, it was mainly based on an earlier Senate report that had spent over $300,000. All we were doing was examining the recommendations and what had happened to those recommendations, which was unfortunately not much, five years after the fact. It is difficult to make a value judgment as to whether the actual expenditure of money has made that committee worthwhile. I think honourable senators would find far too many variables.

What is my difficulty right now with this motion? It seems that we have chosen one committee with which to be particularly careful about placing it under the microscope, whereas we have not done that to other committees. I am not sure that is totally fair to this particular committee. Having said that, it is one of the committees demanding a larger portion of the overall Senate budget for committees than other committees, although there are some within that same range. I do not want to say that it is the only one in that range. There are five or six others that are in that range of expenditure of money.

What I would hope would come from this debate is the following: I would hope that the members of the Standing Senate Committee on National Security and Defence would go back and look again at their proposed expenditures for the balance of this fiscal year, that they would take a careful look at how much they have spent to this point in time, and determine whether they need the third and the fourth set of expenditures, or whether they have enough money now to exist on, if you will, for the remainder of the year. I would hope that other committees would do exactly the same thing.

Honourable senators, it is important that Canadians get good value for the work we do in this institution. It behooves us as members of any committee to ask whether we are getting the best bang for our buck, if you will, and whether we could look at alternatives to travel — although I think travel, in many instances, is a good thing. Could video conferencing, in some instances, be as valuable as a personal visit? Could we stand up in the court of public opinion as members of a committee and justify every single dollar that we have spent? If we can do that, and if we can hold our heads high as members of committees and say, "Yes, that was good value," then we have done the best that we possibly could have done as members of the committee.

• (1800)

I hope that we can move past this particular debate on this particular committee to a broader debate and a broader consideration of all committees and whether we are getting good value.

The Hon. the Speaker: Honourable senators, it is six o'clock, and I am obliged under the rules to rise and adjourn unless there is unanimous consent not to see the clock. Shall we not see the clock?

Hon. Senators: Agreed.

Hon. A. Raynell Andreychuk: I am pleased at what the Leader of the Government in the Senate had to say about looking at all the committees. I think we do a good job in all of our committees, and we try to do the best we can. However, the taxpayers, the people of Canada, have limited means. We want to be sure that we use the dollars fairly and adequately. We could study many more issues than we do. There is merit in doing it differently, and in travelling to obtain the kind of education and information that we need from all the corners of the world. However, the problem is always one of dollars.

Eight years ago, I asked the Standing Committee on Internal Economy, Budgets and Administration a question that they have yet to answer: that is, if we knew how many dollars there were, then each one of us could try to narrow down the art of the possible for our committee. In that, there would be some fairness. The difficulty is that we do not have any sort of guideline on how to apportion across the committees, and consequently each committee is free to approach its work differently. That is when the inequities begin to show up. How do we drive a process so that the committees know what the dollar limits are, and work within that mandate?

If there is a committee that needs to seek foreign opinions and information, it is the Foreign Affairs Committee. It could be on the go, as is the House of Commons' committee, a fair bit of the time, and they do very valuable work because of that. I will not speak for the present chair. He can speak for himself. The previous chair always said, "I must be mindful that there are only so many dollars. We must curtail our work. We will not travel. We will see if we can do a chunk of what we really want to do, because that is all we can afford to do."

I am trying to support the Government Leader in the Senate. It is true that we must dare to stand up and question our colleagues more, but surely we also need to know what the budget is. I keep hearing that the budget is a global budget of X number of dollars. Then I hear of something called "supplementals." I never know whether I should gear my request and my support for chairs of committees based on the global budget figure that I hear or whether I should just say, "Well, the sky is the limit because we can always get more." I would like to know what the outer limits are, what a fair apportionment is, and I would like us all to work with it.

In the embassies in which I worked, we knew certain embassies got more than we did because they were more in the eye of the storm, but we all knew that there was some apportioning for all of us. It was not who gets in there first, and it was not the squeaky wheel. There was some fairness. Whether we are judging the committee that is the subject matter here or others, it is very unfair when there are not some guidelines.

I appreciate what the honourable senator has said, but it seems to me that there is a piece that needs to be put in place. Would you agree?

Senator Carstairs: I do agree that there is a serious piece that needs to be put in place. We have a budgetary process in the Senate. It starts in the Internal Economy Committee. The budgets are eventually signed by the Speaker and submitted to the Government of Canada for each fiscal year. The year 2002-03 will shortly be upon us. The Internal Economy Committee is, at the present time, working on what that overall budget will be, and one portion of that overall budget will be committees. That is the way it has always worked.

What piece is missing? We do not seek from the committee chairs now, while the Internal Economy Committee is doing their review of the budgetary needs for the next fiscal year, what it is that they think they will need as a committee for the next fiscal year. That is where we must start thinking more ahead, if you will, to what the ultimate figure is.

In terms of your question with respect to supplementals, that really does open something of a minefield, and I will attempt to address it as best I can. The parliamentary process, both in this place and in the other place, always goes seeking supplementals. Supplementals are additional requirements that you may need. Some supplementals make perfectly good sense in that that need could not possibly have been identified earlier.

For example, when we voted for a bill that gave us a substantial wage increase, obviously we had to find the dollars for that wage increase. The government clearly made it known that since they were supportive of the wage increase, they were also supportive of the need for the supplementals to create the necessary moneys for that wage increase. That is a perfectly reasonable thing.

I did sit on the Internal Economy Committee for a period of time, and there was the sense that, "Well, committees are such a jewel of the Senate that if we put in for additional moneys for committees, no one would dare say 'no' to us." I think we will be reaching a point in the budgetary process where, for next year, that may not be true. There will be many demands on governments in relation to issues of defence and security, and we will perhaps not have the same kind of flexibility.

I would like to see us start on this process now and have our committees identify what they think their needs will be for next year so that the Internal Economy Committee, when it is submitting its budget, can have a better comprehension. Getting the budget and then saying on April 1, "Okay everyone, give me your wish list," is working backwards to the way we should be working.

Hon. Lowell Murray: I congratulate the Leader of the Government on her speech. I think she has given the leadership that the Senate has a right to expect on a matter of this kind. Her concerns, as she will know, are not entirely new. They have been around for a good long time.

That being said, one thought occurs to me as a way of dealing with these matters in the future. Does the honourable senator think that we could reach some sort of informal or formal agreement under which, in any 12-month period, there would be a limited number of special studies undertaken by committees and a global budget put out for that, and then divided appropriately? It might be four committees, or five, or fewer. I would not attempt to put a number on it right now. That is one thought that occurs to me. A 12-month planning period is not too long. It is quite "do-able."

The second thought that occurs to me is that while there are studies — such as the health study that is going forward now — that have gone on, and will have gone on for several years, in general does the honourable senator think that, when we decide to hold special studies, we could insist that, from opening gavel to report, they be conducted and concluded within a 12-month period, indeed within a fiscal year?

Senator Carstairs: Honourable senators, I disagree with both of Senator Murray's points. First, I would not like to just see a one-year plan; I would almost like to see a five-year plan. In order to maintain the rule that we are only to do four special studies per year, it might be appropriate to say to someone who also asked to conduct a special study, "Not this year, but next year. We cannot fit you into this schedule, but perhaps we can fit your special study in in the following year."

• (1810)

Ideally, I should like to see studies completed in a one-year time frame. Some of them could be if they were narrow enough like the equalization study. That is a perfect example. The quality-of-life study was a perfectly natural one to fit into a relatively short period of time.

Other studies, by their very nature, will probably go on for a longer period of time. For example, that the Standing Senate Committee on Foreign Affairs has been doing a special study on Ukraine. Circumstances are such right now that a visit to Ukraine or Russia is probably not something in which one wants to engage. To put it off until the spring makes perfect sense to me. That would then carry the report over a longer period of time. We must be flexible.

Honourable senators, I agree. We should try, if we can, to limit our special studies, remembering that our most important function as committees is the legislative function. I also should like to see us come up with a time frame.

Hon. Richard H. Kroft: Honourable senators, I welcome this debate led by the Leader of the Government in the Senate. The issue of priorities is a critical one. It is one with which I have been preoccupied since taking on the chairmanship of the Standing Committee on Internal Economy, Budgets, and Administration and the chairmanship of the Subcommittee on Budgets. Hopefully, the debate will continue and we will find some useful answers.

However, I do not want to get away from the specifics of the issue at hand. There have been suggestions and views expressed of the process in this particular budget and committee that should be addressed in the interests of our process and in the interests of the Standing Committee on Internal Economy, Budgets and Administration, and very much in the interests of the Standing Senate Committee on National Security and Defence.

Due to the interest Senator Murray and many others have shown, and because of the newness of this committee and the number of committees that have come before, there are few committees of which I can think, and certainly none in this year, that have received the attention that this particular committee has. The Standing Committee on Rules, Procedures and the Rights of Parliament spent a great deal of time on the subject of name and on the subject of mandate.

I want to pause on this question of mandate. With all due respect for the skills in this chamber of Senator Murray, we have been spun a little into this question of a committee in search of a mandate. I do not think there is any doubt as to the mandate of the committee. It may be broad and it may get definition as time goes on. However, this chamber said that the Senate should have a committee that appropriately preoccupies itself with defence and security matters, and that we should get about the business of doing that.

Senator Kenny took on the chairmanship and a committee was struck for that purpose. We all hear again and again in the media, this chamber and the other place that we do not understand the lives of our Armed Forces; we do not understand what life at sea is like. Senator Forrestall is always telling us to talk to the people who are flying these things; they will tell you what it is really like.

We have a committee that has been struck and set up with very capable senators who are ready to work hard. What are they supposed to do? They are supposed to sit in Ottawa and get, if I can say with all due respect to our officials and our Armed Forces, an official line. We have been stuck with an official command line for a long time.

This committee was charged with the task of finding the real facts and of getting a real sense of what is going on in this country in terms of our Armed Forces. That is very much the case since September 11 in a wider range of things. The committee has set out to do that.

When the Internal Economy Committee and the subcommittee examined this budget, it did not merely take a set of figures and pick a name — it went to the mandate. Questions were asked about why trips would be made. To where would trips be made? What would be done on these trips?

That process was followed absolutely, Senator Kinsella and Senator Bryden. There is not a question of process here. There is not a committee that has had better process here. Nor is there a committee that has accounted for itself in this chamber as fully as has this committee through its chairman Senator Kenny.

If one goes to the *Debates of the Senate*, one will find that from the time the questions were asked, there has been an accounting, an explanation, a work path, a work plan and a budget structure set out before all senators. Not one committee could stand up to the scrutiny that this one has.

I do not stand here as any particular defender of this or any other committee. However, I do stand as the Chairman of Standing Committee on Internal Economy, Budgets and Administration because the processes with which we have been charged by this house have been called into question.

Hon. Consiglio Di Nino: Will Senator Kroft accept a question?

Senator Kroft: I will.

Senator Di Nino: This has been a useful debate. It is probably overdue. We have talked around this issue in committee. I served for a number of years on the Standing Committee on Internal Economy, Budgets and Administration, and the honourable senator has my condolences. It is the most difficult of all the committees upon which I served. With my condolences comes my highest esteem.

The debate deals with the fundamental principles of which we, as senators, should be aware. That principle is the expenditure of public funds in the discharge of our responsibilities. As I said before, the debate is very useful.

One of the questions that is raised frequently is the openness of this kind of a discussion. It is good that it be done on the floor of the chamber. Transparency is another word that is used.

I ask Senator Kroft the following question: With respect to these discussions on budgets of committees that take place either in the subcommittee and/or the full committee, are they conducted in a public forum or *in camera*?

Senator Kroft: Honourable senators, I will respond as best I can. I believe that the meetings of the Subcommittee of Internal Economy are *in camera*. Senator Furey might be able to confirm that.

Any senator can attend any meeting. My honourable friend is concerned more with the public aspect as opposed to other senators attending.

Meetings of Standing Committee on Internal Economy, Budgets and Administration have traditionally been held *in camera*. However, there are circumstances when we are discussing matters that are held publicly. The tradition of the Senate, and I stand to be corrected, is that the Internal Economy Committee meetings are held *in camera*.

Senator Di Nino: It is important that this kind of discussion take place. Senator Kroft was very eloquent in his comments on this committee, and I applaud him for that. The public has a right to know.

• (1820)

The record will show that I insisted, away back when, that that discussion on budgets for committees be held in an open meeting rather than during an *in camera* meeting. In that way, the record could show, for anyone who has an interest, the amount of money expended, why it was expended or how it will be expended, and the justification for the expenditure. It is important that this be on the public record and not hidden in a corner, which gives the impression, or the perception, that we are not encouraging scrutiny by the public of our expenditures, particularly of this nature. Has the Honourable Senator Kroft an opinion on that?

Senator Kroft: Honourable senators, I am always in favour of openness and honesty. As honourable senators, we are faced with a long-standing parliamentary tradition, which I believe is true in the other place as well. The budgeting processes of the Standing Senate Committee on Internal Economy, Budgets and Administration and the Board of Internal Economy in the other place are *in camera* decisions.

My own view is that the process of budgeting in itself, and the process of the debate and the tradeoffs that are inherent parts of that, while interesting, may not be most effective for the public interest by being done in a public forum. The results, the understanding of those results, the understanding of where we are spending our money, how we are spending our money and the accountability with which we are spending our money, should be well understood by the public and should be available to the public. It is a matter of process.

Honourable senators, for the moment, I can only stand with the parliamentary tradition as we found it.

Senator Di Nino: For clarification, I am not talking about the budget process, but I am talking about the presentations by committees of their budgets for the expenses that they will incur, either domestically or internationally, for travel, et cetera. If the honourable senator will look back, he will find that a number of years ago, the practice of the Internal Economy Committee was to demand that those be made in open meetings. I certainly participated in enough of them and, unless my memory fails me, I am sure that they were not held *in camera*.

Senator Cools: I thank the Honourable Senator Kroft for his insightful and thoughtful intervention. I especially appreciated the light that he shed on this particular subject and for the clarification that he provided to this chamber that Senator Kenny had followed the proper budgetary process and that he had fulfilled all that was required for that particular committee.

Honourable senators, I raised this question on a point of order about one hour or so ago that these questions had been raised by Senator Bryden and that they should be answered, particularly in respect of any thoughts that might be created in the public mind that Senator Kenny or the Standing Senate Committee on National Security and Defence had not acted properly and within the proper framework.

In debate, Senator Bryden had raised another question. I would be pleased if the Chairman of the Standing Committee on Internal Economy, Budgets and Administration could respond to that question which concerned the redefining of the Senate committee and the name change. Senator Bryden has essentially said that parts of this new committee's mandate had been withdrawn from the Foreign Affairs Committee.

Could Senator Kroft comment on that for the record, particularly on the long-standing tradition, not only of the Senate but also of the country as a whole, that questions of defence and security were usually treated as part of the larger question of foreign affairs. It is important, Senator Kroft, that the public mind be satisfied and that the Senate mind be satisfied that all is in order.

Senator Kroft: Honourable senators, it is beyond the scope of the Internal Economy Committee to answer that question. We received a final product that had to be budgeted. In fact, it has been a matter for the Rules Committee, and working with other committees, to define the range of their subject matter.

Some Hon. Senators: Question!

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

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

An Hon. Senator: On division.

Motion agreed to and report adopted, on division.

[*Earlier*]

AGRICULTURE AND FORESTRY

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Leave having been given to revert to Notices of Motions:

Hon. Leonard J. Gustafson: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(*a*), I move:

> That the Standing Senate Committee on Agriculture and Forestry have the power to sit at 6:00 p.m. today for the purpose of hearing from the Minister of Natural Resources and Minister responsible for the Canadian Wheat Board, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

The Hon. the Speaker *pro tempore***:** Honourable senators, is leave granted?

Hon. Senators: Agreed.

Motion agreed to.

FOREIGN AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Peter A. Stollery: Honourable senators, as we are talked earlier about efficiency, the Standing Senate Committee on Foreign Affairs had a meeting scheduled for six o'clock. I would ask honourable senators if the Foreign Affairs Committee could be allowed to proceed with its meeting. I believe that our witness is in the gallery.

The Hon. the Speaker: Honourable senators, the Honourable Senator Stollery is interrupting to ask leave to revert to Notices of Motions to put a motion before the house that would allow his committee to sit.

Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Stollery: Honourable senators, I move, seconded by the Honourable Senator De Bané:

> That the Standing Senate Committee on Foreign Affairs have power to sit at 6:15 today even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

Motion agreed to.

NATIONAL HORSE OF CANADA BILL

REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the sixth report of the Standing Senate Committee on Agriculture and Forestry (Bill S-22, to provide for the recognition of the *Canadien* Horse as the national horse of Canada, with amendments), presented in the Senate on October 31, 2001.—(*Honourable Senator Gustafson*).

Hon. Noël A. Kinsella (Deputy Leader of the Opposition), for Senator Gustafson, moved the adoption of the report.

Hon. Lowell Murray: Honourable senators, I rise to speak to Bill S-22, to provide for the recognition of the Canadian Horse as the national horse of Canada.

Those of you who are avid readers of *The Globe and Mail* may have seen, in Saturday's edition, a book review written by Elizabeth Renzetti. The book in question was written by Lawrence Scanlan and published by Random House Canada. The title of the book is *Little Horse of Iron: A Quest for the Canadian Horse*.

The Canadian is the horse that is the subject matter of Bill S-22. I do not know for certain whether the debate on this bill will help to sell the book or whether the book will help to propel the bill through the Senate and the House of Commons. I am hopeful that both will be the case. Honourable senators, I draw your attention to this matter.

Among other things, Ms Renzetti points out that this breed — the Canadian — is so little known in Canada that it faced extinction as recently as the latter half of the 20th century. Ms Renzetti also stated in her review:

> Yet until recently, only a handful of aficionados and history nuts knew the characteristic traits of the Canadian — the ability to trot all day, the amazing strength — that made it such an important player in the story of this country.

The review continues, as the book does, with the tracing of the history of this horse. I have placed this information on the record with some help from my friends during the second reading debate. A number of these horses — two stallions and 20 mares — were a gift from Louis XIV in 1665 and, as the review mentioned:

> Eventually, the descendants of these horses would become favourites of the habitants, lend their blood to today's standardbred, go to battle in the Civil and Boer wars, and suffer terribly in the Great War.

Honourable senators, Bill S-22, after second reading, went to the Standing Senate Committee on Agriculture and Forestry, which held three meetings on this bill, on October 16, 23, and 30.

• (1830)

The committee heard from 12 witnesses, including Mr. Guy Paquet and Mr. Denis Robitaille from the Société des Éleveurs de Chevaux Canadiens; from Ray Lalonde, the president, and Jerry Lalonde, a member of the Upper Canada (Ontario) District Horse Breeders; from Dr. Kelly Ferguson and Alex Hayward of the Canadian Horse Breeders of Ontario; from Dan Wilson of Woodmont Angus Farms in British Columbia; from Darkise St-Arnaud, la présidente, and André Auclair, vice-président de l'Association québécoise du cheval canadien, and from Me Yves Bernatchez, président du Fonds commun des races du patrimoine. Finally, on October 30, Mr. Murray Calder, MP, and I appeared before the committee in support of the bill.

Let me inform honourable senators that all the witnesses who appeared before the committee were strongly supportive of the bill.

There were two issues that might be of interest to the Senate. One concerned standards. I hasten to remark that standards are not established by the government. The government recognizes the breed associations under the Animal Pedigree Act and the breed associations determine the standards. Some of the proponents of this bill are very anxious about maintaining the historic standards of this breed and they hope and believe that this bill, symbolic as it is, will help to do that, to maintain the standards.

However, there are different perspectives on this. The aforementioned Mr. Wilson, when he appeared before the committee on October 23, said:

> Frankly, it is the buying public who will decide the standard of the horse. If we want this horse to survive we must evolve the horse to meet the changing society... We are lucky today because people are moving into pleasure riding and the Canadian horse fits well into that area.

To this, a contrary statement was made on behalf of quite a number of the witnesses by Mr. Auclair, to whom I referred earlier.

[*Translation*]

At the October 23 meeting of the Standing Senate Committee on Agriculture and Forestry, Mr. Auclair said:

> Instead, we must promote the excellence and quality of our product, which has well established characteristics. It is within these parameters that the breed must constantly be improved and not on demand.

[*English*]

Just for the record, the standards that they are talking about are: 15.3 hands in height for the stallion, and 15.2 for mares; otherwise in the records of the breed association, between 14 and 16 hands, and between 1,000 and 1,400 pounds in weight.

The other issue that arose, interestingly enough, perhaps inevitably in this country, was a language issue. You will note that Bill S-22, as it now stands, refers in the English version to "the Canadien horse" and in the French version to "le cheval de race canadienne."

As far back as 1905, when this horse was given official recognition in the records, it was called, in English, "the French Canadian horse," and "le cheval canadien" in French.

In 1935, the then Minister of Agriculture, James Gardiner, decreed that the word "French" should be dropped and the horse should be known as "the Canadian horse" in English. Taking their cue from that, the Breeders Association went on to call the horse "the Canadian horse" in English and "le cheval canadien" in French.

The Quebec National Assembly, which, like Parliament, is required to pass its laws in both languages, in 1999 passed a law designating "le cheval canadien comme faisant partie du patrimoine du Québec," in the French version, and the "Canadian horse" as forming part of the agricultural heritage of Quebec in the English version.

Jurilinguists were consulted as we proceeded with this bill and the result of all of this was that I asked the committee to amend the bill to designate this animal in English as "the Canadian Horse" and in French as "le cheval canadien." Senator Day, un bon bilingue du Nouveau-Brunswick, gave me his cooperation on this matter and presented the amendments that have been endorsed by the committee.

In *The Globe and Mail* report to which I referred, the reviewer says:

> At one point, the Canadian even mirrored the country's fractured soul as a fight developed between the federal government and that of Quebec over who would symbolically claim the breed as its own: Was he the Canadian horse, or *le cheval canadien*?

The answer, honourable senators, is that, if this bill passes, he will be both the Canadian horse and le cheval canadien. He will be both in Canada, as indeed he, or she, is in Quebec.

It remains only for me, in conclusion, to thank the chairman, Senator Gustafson, and the members of the committee for the thorough and serious way in which they canvassed all the issues over a period of three meetings and 12 witnesses. The conduct of that committee is really a source of pride and satisfaction to the witnesses who appeared and to other proponents of this bill.

I thank Senator Wiebe for having given me his support for this bill at second reading, and Senator Fairbairn, who has been constant in her support, as she is in her considerable knowledge of this breed.

Just as the committee was adjourning, a week ago, we had had several witnesses from Quebec, Ontario and British Columbia, and the chairman said: "I was impressed by the sense of unity." Honourable senators, I can think of no better words with which to commend these amendments and this bill to your support.

Before I sit down, it is not perhaps for me to say, but there is a Liberal senator who would like to take part in this debate, and rather than let the bill go through immediately, my friends opposite might like to take the adjournment in her name. That will be Senator Hubley of Prince Edward Island. She probably thought that we would not be proceeding as we did this evening.

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

[*Translation*]

BUSINESS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, given the lateness of the hour, I believe that there would be unanimous consent to have all items on the Orders of the Day and on the Order Paper not yet discussed stood until the next sitting of the Senate, with the exception of Motion No. 87 by Senator Milne.

[*English*]

The Hon. the Speaker: Honourable senators, is leave granted?

Hon. Marcel Prud'homme: Honourable senators, I was just coming back to speak on all my items, even though it is very late. I did not know that it was the intention of my friend Senator Robichaud to put such a proposal. In the good spirit that we must always show to each other, I am ready — do not provoke me — to accept with great pleasure to make it unanimous, if such is the wish of my colleagues, of course.

Hon. Senators: Hear, hear!

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): That is with the understanding that the items that are stood maintain their status.

• 1840)

Senator Prud'homme: As I said, there are many new senators, and I always feel as though I am a new senator. The four items that stand in my name that are on the fourteenth day will remain at the fourteenth day tomorrow. Am I correct that the earliest we could debate them is Thursday?

The Hon. the Speaker: That is correct. When we say "stand in their place" it means that they remain on the Order Paper with the same number of days that have passed since they were last debated.

Motion agreed to.

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO REVIEW REFERENDUM REGULATION PROPOSED BY CHIEF ELECTORAL OFFICER

Hon. Lorna Milne, pursuant to notice of November 1, 2001, moved:

> That the Standing Senate Committee on Legal and Constitutional Affairs be empowered to review the regulation proposed by the Chief Electoral Officer, tabled in the Senate on October 16, 2001; and
>
> That the Committee report to the Senate no later than November 29, 2001.

She said: Honourable senators, the Chief Electoral Officer of Canada deposited with the Clerk of the Senate a copy of the proposed referendum regulations and they were tabled in the Senate on October 16, 2001.

The Referendum Act provides, in section 7, that the Chief Electoral Officer may, by regulation, adapt the Canada Elections Act in such a manner as he or she considers necessary for the purposes of applying that act in respect of a referendum.

The Referendum Act deals only with certain matters and it incorporates by reference other provisions from the Canada Elections Act. The objective of adapting the Canada Elections Act for the purposes of a referendum is to permit the referendum process to function within a framework that is, as much as possible, identical to that of an election.

Section 7 of the act further provides that a copy of each regulation is to be deposited with the clerks of the Senate and the House of Commons at least seven days before the day on which the regulation is proposed to be made. The regulation stands referred to such committee of the Senate, if any, as is designated or established prior to the deposit to review the regulation.

This regulation adapting the Canada Elections Act for the purposes of a referendum was first made in 1992 and was subsequently amended to reflect changes in electoral legislation. In all of these cases, the proposed referendum regulation was reviewed by the Standing Senate Committee on Legal and Constitutional Affairs. This is the committee that traditionally deals with matters and legislation relating to elections and referenda. Indeed, the draft regulation now before the Senate would adopt the provisions of Bill C-2, the new Canada Elections Act, which was studied by the Standing Senate Committee on Legal and Constitutional Affairs in March and April of 2000. As well, this spring the committee examined Bill C-9, which made changes to the Canada Elections Act that are also reflected in these proposed regulations.

The committee wishes to meet with Mr. Jean-Pierre Kingsley, the Chief Electoral Officer, this Thursday, November 8, to review and discuss the proposed referendum regulations. It is very important that the Senate of Canada exercise its duty under section 7 of the Referendum Act. It is an important oversight function of our committee.

Hon. Lowell Murray: What is the proposed coming-into-force date for these regulations? Also, is it one regulation or several?

Senator Milne: Senator Murray, the proposed regulations are about half an inch thick. Although Mr. Kingsley is enabled by legislation to proceed with these regulations seven days after he has deposited them and they have been tabled in the Senate, he has kindly agreed to postpone proceeding with them until he has appeared before the committee. The committee is now asking for a mandate from the Senate to meet with Mr. Kingsley on Thursday morning.

Senator Murray: Since I doubt that there is any urgency to this matter, I trust that he would agree to wait until he has the committee's report before he allows the regulations to come into force?

Senator Milne: I am confident that he will.

Motion agreed to.

The Senate adjourned until Wednesday, November 7, 2001 at 1:30 p.m.

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