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Tuesday, June 11, 2002

THE HONOURABLE DAN HAYS
SPEAKER

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THE SENATE

Tuesday, June 11, 2002

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

Prayers.

THE HONOURABLE JIM TUNNEY

TRIBUTES ON RETIREMENT

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I rise today with great pleasure, combined with some sadness, I must say, to pay tribute to our colleague the Honourable Jim Tunney, on his retirement from the Senate later this week.

During his time in Parliament, Senator Tunney served on the Agriculture and Forestry Committee, on the Fisheries Committee and on the National Finance Committee. His commitment to issues that are critical to his fellow citizens was evident last week when he called an inquiry to investigate the impact of corporate governance in Canada.

Senator Tunney's background as a fourth-generation farmer and his experience with the Dairy Bureau of Canada and the Milk Marketing Board of Ontario made him a very informed member of the Senate committees on which he sat. His expertise will be difficult to replace.

For many senators, certainly for those who sat on the Foreign Affairs Committee, the highlight of Senator Tunney's time in the Senate was the afternoon he spent with members of that committee explaining to them his work in Russia and Ukraine, and his experiences in those countries. Senator Tunney's enthusiasm for his work and for this institution has left a favourable impression on all who were fortunate enough to work with him. His sunny disposition will be much missed by his colleagues. I should like to convey my appreciation for Senator Tunney's service to this institution.

My colleagues join me in wishing Senator Jim Tunney the very best as he embarks upon another new phase in his life.

Hon. Senators: Hear, hear!

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, on behalf of my colleagues in the opposition, and in my own name, I wish to associate with the words of the Leader of the Government in the Senate in paying tribute to our colleague Senator Jim Tunney, whose good fortune in celebrating his 75th birthday on Sunday also marks his loss to us as a valuable participant in this chamber. He has been a real Senate laureate.

Senator Tunney joined us just 15 months ago and he has been a steadfast contributor to all matters agricultural ever since. Whether it is supply management, genetically modified organisms, food exports, grains, fertilizers, pesticides or just farm-related financing, he has been more than willing to delve into the issues as they arise. His prior knowledge of farming and agricultural issues was combined with international experience before coming to the Senate. Senator Tunney assisted as a consultant in Russia and Ukraine in the establishment of farm marketing and production boards.

Senator Tunney continued to expand his horizons in the Senate, having travelled to Europe with the Agriculture and Forestry Committee in March this year for meetings in London, Brussels, Strasbourg and Belfast, where he brought his own Canadian point of view to the discussions. In fact, his 30 years as a dairy farmer have proven to be invaluable because it seems that almost everything we do in the Senate, and in the country as a whole, can be related to the dairy industry and its operations. It has been said that Senator Tunney can wax eloquent on the subject until the cows come home!

In addition to serving on the Standing Senate Committee on Agriculture and Forestry, where he was an extremely knowledgeable and active member, Senator Tunney also participated in two other committees: the Standing Senate Committee on Banking, Trade and Commerce and the Standing Senate Committee on National Finance, as recently as this morning.

Most newcomers to this house, particularly those without prior experience as legislators, require some time in which to adapt to the new environment. Although Senator Tunney did not have the luxury of time in which to settle into his new role, he did arrive with considerable expertise in an area where partisanship is not required. Our one regret is that his service in the Senate has been so brief, but we wish him well in his future endeavours. The one certainty is that dairy farming and agricultural matters will never be far from his mind.

Hon. Isobel Finnerty: Honourable senators, Jim Tunney must have been born a Liberal; I know that he has carried with dignity his Liberal colours throughout his eventful life. He has been at the centre of political activity in Eastern Ontario throughout this time and he has had a long and impressive record of championing the interests of rural Canada. Since being summoned to the Senate, Jim Tunney has vigorously promoted the concerns of those Canadians who bravely continue to pursue their livelihood in the production of our food.

It has been of great interest for me to follow his presentations and arguments in Senate committees. I am saddened that the retirement rule of 75 years prevents us from being stimulated by vital and experienced minds like that of Senator Tunney, who must now bow to the time limit imposed by our Constitution.

Jim Tunney is from Northumberland, in the heart of Eastern Ontario, where the apples grow; where there once was a great deal of tobacco; where the soil is rich; and where descendants of Aboriginals and early English, Scottish and Irish settlers have been joined by Canadians from everywhere. Northumberland is God's country; and Jim Tunney will be home.

Years ago, a woman in Northumberland, Lettice Drope Bingham, whom I am sure Senator Tunney knew, wrote a song that proudly expresses Jim Tunney's affection for home. As he leaves us now, the words of that song seem to be appropriate:

Come back to Old Northumberland,
The hills are very blue;
And skies as soft as slumber
Are waiting here for you;
The old church bells are ringing,
In green grove birds are singing,
And the magic's spell is clinging
To Old Northumberland.

Best wishes to Senator Jim Tunney as he retires to his hills of Old Northumberland.

• (1410)

Hon. Lowell Murray: Honourable senators, apropos the remarks we have just heard from Senator Finnerty, it is not only the hills that are blue in Eastern Ontario but much of the politics also.

All his life, Senator Tunney has been an active and valued Liberal in a part of the country where that is a difficult label to wear. Otherwise, he might have had quite a distinguished career in the elected House of Parliament, had he sought election there. It is our good fortune to have had him here for the last little while.

The purpose of my intervention is to speak as Chairman of the Standing Senate Committee on National Finance, where Senator Tunney has been a member almost from his first day here. He has been an extremely positive and valuable member of that committee. As many witnesses before the committee might attest, he has a way of prefacing his questions with a homespun, almost diffident wisdom before coming to his point with devastating precision, as is his habit. He has been excellent at examining witnesses and cross-examining them, especially officials of the government. The honourable senator comes to the point himself and brings them to the point quickly and efficiently. He has been a superb senator and I, for one, am sorry to lose him, as are, I am sure, other members of the Standing Senate Committee on National Finance.

On top of all that, Senator Tunney has always been wonderfully good company. Winston Churchill used to divide the world, not so much into Tories, Liberals and Labour, but into the two categories of those with whom it would be agreeable to dine and those with whom it would not. Senator Tunney is in the first category. He has always been wonderful company, and we are very glad to have had him this past little while in the Senate.

I wish, on behalf of the members of our committee, to thank Senator Tunney most sincerely for his diligence, the preparation he has always put into his committee work, and the very constructive contribution he has made there and in the Senate as a whole.

Hon. Herbert O. Sparrow: Honourable senators, first, I wish to pay tribute to Jim Tunney and his stay in this place. Senators have heard it said before and will hear it again: One can tell that a man is a farmer because he is a man outstanding in his field.

Senator Forrestall: That is the oldest joke in the book.

Senator Sparrow: That is right, but I really believe that Jim has been a man outstanding in his field of agriculture. I say this because not only is he in the dairy industry and very aware of the problems and the advantages there, but in his time here he has proven to me that he is interested and knowledgeable about agriculture in all of Canada. I say that because of the problems we have had in Western Canada. I have discussed this matter in the Agriculture Committee and separately with the senator. He has been a great deal of help in getting the message across of the serious situation in agriculture in Canada and in Western Canada. I commend Senator Tunney for that and thank him for taking the time to share that knowledge with us. In his 18 months here, he has probably done more for agriculture in getting that message across than many of us who have been here for years. I wish to thank him for that.

I particularly refer to the AIDA program that has been such an issue in Western Canada over the last couple of years. The senator has assisted in trying to rectify the serious problems with that program, and I want to extend to him my appreciation for that.

We will miss Jim in the Senate. I am sure he will carry on in the agricultural field in the private sector. On behalf of the chamber, I want to thank him very much for his efforts related to agricultural issues in this country.

Hon. Ione Christensen: Honourable senators, I wish to add my sincere best wishes to Senator Tunney. He has been my office neighbour since he arrived in the Senate. It takes some senators quite a number of years to graduate from the Senate, but he has managed it in just over a year, a time during which he contributed fully. I think that is an accomplishment in itself.

I will miss Senator Tunney's bright light in his office every morning. I am an early riser and I get to the office early in the morning, but being a dairy farmer, he was always there before me.

All my best wishes to Jim as he goes forward into his new career.

Hon. Marcel Prud'homme: Honourable senators, Senator Roche and I wish to join in everything that has been said about Senator Tunney. I would only add one comment: If every witness appearing before the Standing Senate Committee on Foreign Affairs had Senator Tunney's knowledge, that would be the committee to attend. Senators may not know that Senator Tunney appeared as a witness before the Standing Senate Foreign Affairs Committee, a committee for which I have a lot of admiration and wish to be part of before I die. However, that is not the subject matter of today's tributes.

Senator Tunney was the most knowledgeable witness to appear before the committee. I dare say, in front of some members of the committee who may have a tendency to take lightly what I say, that he was the best witness during the committee's examination of Ukraine and Russia. I call it the eternal study. Senator Tunney testified as a volunteer who had done some work in rural communities in Ukraine and Russia. He knew what he was talking about.

Senator Tunney was to testify for half an hour, and at first I saw some members who thought that 15 minutes would have been enough. However, after two hours they wanted more, which meant that he knew what he was talking about. I thank him for that because I learned more about the situation in Ukraine and Russia that night than in reading the testimony of almost every other scholar who spoke to us about the situation over there.

For that, and many other kindnesses, I salute Senator Tunney and thank him. All senators wish him happiness. He knows that our offices will always be at his disposal when he passes by and that we will always be happy to receive him.

Hon. Anne C. Cools: Honourable senators, I join all senators on both sides in paying tribute and saying goodbye, farewell, to Senator Tunney today.

Senator Tunney's time with us in this chamber has not been long; it has been short. However, I hasten to add that his knowledge of agriculture, farming and all those related matters made him a welcome addition to the Senate.

The work that Senator Tunney has done on agricultural and farming issues has been not only excellent but also timely. If there is a community in this country that needs support at the present time, it is the agricultural and farming community.

To that extent, honourable senators, I am respectful of Senator Tunney's great knowledge on these issues, and I join all in wishing him great success in his next career, whatever that will be. I take the opportunity today to thank him. I also wish his family all the best in his retirement.

Hon. Jim Tunney: Honourable senators, thank you very much. I was wondering just how much exaggeration would be tolerated in this place because several senators got away with a lot just now.

• (1420)

I want to express my delight in having met and come to know so many fine people — more than I could have imagined.

I have been coming to Ottawa for a long time. My first trip to Ottawa was in June of 1947, when I came here as a late teenager to attend the Marian Congress, which is a worldwide Catholic youth organization. I was at the counter in the Château Laurier Hotel one morning, getting papers of some sort, when I suddenly realized that the Right Honourable Mackenzie King was standing right beside me. I pretty nearly fainted. I said, "Prime Minister, could I have your autograph?" He looked a little bit fussed up. He said, "I hope there will not be a crowd gathering here, but if you have something to write on, I will do it." I pulled out an agenda for a meeting that day and a blue Eversharp pencil. He scribbled his autograph on that and I went away so happy.

That, you will understand, was before I was of legal age — not old enough to vote, not old enough to even be allowed into a polling booth. However, from then on, I have been a campaigner at every election, and I guess between elections. I always knew that I wanted to campaign for good government. I must tell you that that implied a Liberal government.

Senator Carstairs: Of course!

Senator Tunney: A good part of the time, I was successful. I was assigned a seat over here and I was kind of dubious about the reception I would get; dubious if I were really in my right place. It did not take long before I found out that I was. I am proud to say that I have as many good friends on this side of the chamber as on the other side — not quite as numerous, but all of these senators I count as my friends.

I will mention three or four of them. I serve on three committees, all chaired by Tory senators. I could not dream of having better chairs for any committees that I ever sat on.

Hon. Senators: Hear, hear!

Senator Robichaud: We have to work on that!

Senator Tunney: I have not discussed this with Senator Carstairs, but the senators to whom I am referring know who they are. Some time ago I took the liberty to invite those three chairs to the better side of this chamber. Another senator down here whom I consider just rock solid is also a candidate. The encouraging part of it is that not one of them has refused me! I expect to see the day when they will accept this suggestion — although probably not right now, as there is a bit of a fuss-up in the ruling party at the moment.

Senator Forrestall: Now who is exaggerating?

Senator Tunney: They will wait until things smooth out before they apply to join.

I want to thank my wife very much for all the support that she has given me, not just during my time here but for 30 years — and we celebrated our 30th anniversary on Sunday last — for all of the times I had to be away, either in Toronto or somewhere across the country, or overseas in Eastern Europe. I could never have done it without her. I would never have tried, either.

I would like to speak for a moment about my great-grandfather, who came to this country in 1838. He became a farmer; I am the fourth generation. His life was so difficult. Honourable senators know what our salary is here. My great-grandfather was trying to grow rye for 60 cents a bushel, which he would load on a railway car at Grafton to go down to Corbyville, to the Corby Distilleries. He could not make a living at that.

However, he found a better way. He set up a little still back in the bush. He was doing very well. The problem was — and this was before Confederation — that what he was doing was against the law. More than that, it was a mortal sin. Grandfather was at confession and told a young priest all his sins. He said, "Father, I made eight gallons of moonshine." The young priest said, "I know what the penance should be for these other sins, but I do not know what it would be for making moonshine. Wait here and I will be right back."

In the vestry, the old bishop was sitting half asleep. The young priest said, "Bishop, I have a fellow out there who made eight gallons of moonshine. What will I give him for it?" He said, "Given him a dollar and a half a gallon, not a cent more."

I am not permitted this kind of jocular performance, I am sure, but perhaps His Honour will permit me another half minute.

When I came to the Senate, I thought I was very honoured, and I was. You may not know that in my earlier life I graduated fairly early. During the war — it was the Second World War — my dad, with a 400-acre farm, had no help. The men were all overseas. I said, "As soon as I get my grade eight I will stay home and help you. I will go back to high school because I will probably

want to be a lawyer." At 14, I graduated, barely — I think I got 55 per cent in marks — and I never did get back to high school. Sometimes, over the years, I have said, "I quit at age 14 and that was a mistake. I should have quit when I was 12 and I would have had two more years to make something of myself!"

I was telling a so-called friend, a farmer neighbour of mine, about my work here. I said, "I am sure you are happy that I was appointed to the Senate." He said, "Not really. To tell you the truth, I never really did want a senator in this area. You are the closest thing to not having one that I could ever imagine!"

I tried to avoid that farmer since then because, of course, you can get far too conceited when you hear these kinds of tributes. I would dare to say that they are exaggerations, but of course one likes to hear them.

• (1430)

I will be tracking the work that you do here, fully conscious of how important it is. I will be watching the development of an inquiry I launched last week.

Honourable senators, it is time I sat down. I often do not know when it is time to sit down, but I see the Speaker is watching me. He will be calling my time soon. I will beat him to it.

Hon. Senators: Hear, hear!

SENATOR'S STATEMENT

MILAD-UN-NABI CELEBRATIONS ON PARLIAMENT HILL

Hon. Mobina S. B. Jaffer: Honourable senators, Parliament Hill was the venue for two joyous Milad-un-Nabi celebrations over the past two weeks, which commemorated the birthday of the Holy Prophet of Islam, Prophet Muhammad. May peace be upon him.

On Thursday May 30, 2002, the Ottawa Muslim Association, in conjunction with other local Muslim organizations, held a Milad celebration in Room 200 of the West Block. I had the pleasure of co-sponsoring this event with His Excellency Dr. Mohammed R. Al-Hussaini, Ambassador of the Kingdom of Saudi Arabia, and His Excellency Dr. Mohammed A. Mousavi, Ambassador of the Islamic Republic of Iran.

In his address, the Saudi ambassador spoke of the nature of Islam and extolled the prophet's virtues. He said:

> For more than one fifth of the world's population, Islam is a religion and complete way of life. Prophet Mohammed, as a messenger of God, received the revelation over the last 23 years of his life. We, as Muslims, strive to follow the Prophet's steps.

His Excellency continued:

> The Prophet's virtues are reflected in his great modesty, honesty, compassion and love for other human beings regardless of race, colour or origin. These are the qualities of a great man chosen by God to be his messenger.

The Iranian ambassador spoke of the positive effect that events like the Milad on the Hill could have. He said:

> As the Muslim nations of the world are currently facing numerous challenges related to having a negative perception and identity crises, I believe these kinds of forums can positively help in dissuading the concerns of the Western world, if they have any.

On the afternoon of Sunday, June 9, 2002, Ottawa's Ismaili Muslim community held a celebration of the Holy Prophet's birthday in Room 200 in the West Block. Professor Karim Aly Kassam of the University of Calgary gave the keynote address on the topic: "To whom much is given, much is expected: Prospective from a Canadian Muslim." Senator Prud'homme spoke at both of these events.

Professor Kassam spoke about the significance of celebrating the Milad on Parliament Hill. He said:

> The recent Milad events commemorating the birth of Prophet Muhammad on Parliament Hill are a testament to the Muslim presence in Canada and the Canadian commitment to pluralism and religious diversity.

I hope all honourable senators will join me in celebrating the Holy Prophet's birthday and acknowledging his monumental contribution to humanity.

ROUTINE PROCEEDINGS

INFORMATION COMMISSIONER

ANNUAL REPORT TABLED

The Hon. the Speaker: Honourable senators, pursuant to section 38 of the Access to Information Act, I have the honour to table the 2001-02 annual report of the Information Commissioner of Canada.

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

FOURTEENTH REPORT OF COMMITTEE PRESENTED

Hon. Jack Austin: Honourable senators, I have the honour to present the fourteenth report of the Standing Committee on Rules, Procedures and the Rights of Parliament, regarding issues raised by individual senators with respect to the restructuring of Senate committees.

(*For text of report, see today's* Journals of the Senate, *Appendix p. 1719.*)

The Hon. the Speaker: Honourable senators, 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.

APPROPRIATION BILL NO. 2, 2002-03

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-59, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2003.

Bill read first time.

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

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

BANKING, TRADE AND COMMERCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY BANKRUPTCY AND INSOLVENCY ACT AND COMPANIES' CREDITORS ARRANGEMENT ACT

Hon. E. Leo Kolber: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That, in accordance with the provisions contained in section 216 of the Bankruptcy and Insolvency Act and in section 22 of the Companies' Creditors Arrangement Act, the Standing Senate Committee on Banking, Trade and Commerce be authorized to examine and report on the administration and operation of the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act;
>
> That the Committee submit its final report no later than June 5, 2003.

ABORIGINAL PEOPLES

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF ISSUES AFFECTING URBAN ABORIGINAL YOUTH

Hon. Thelma J. Chalifoux: Honourable senators, I am not sure whether we are at the correct point in the agenda, but I would ask leave of the Senate to move a motion that is on the Order Paper for later this day regarding a change —

The Hon. the Speaker: If you are requesting leave, we will do that after Government Business.

Senator Chalifoux: Honourable senators, with leave of the Senate, I move:

> That, notwithstanding the Order of the Senate adopted on September 27, 2001, the Standing Senate Committee on Aboriginal Peoples, which was authorized to examine and report on issues affecting urban Aboriginal youth, be empowered to present its final report no later than December 19, 2002.

• (1440)

The Hon. the Speaker: Senator Chalifoux, will you please explain why you are requesting leave now?

Senator Chalifoux: Honourable senators, I request leave now because I will not be here tomorrow.

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

Hon. Senators: Agreed.

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

Motion agreed to.

QUESTION PERIOD

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTERS—REQUEST FOR REMOVAL OF PRE-QUALIFICATION PHASE FROM COMPETITION

Hon. J. Michael Forrestall: Honourable senators, I have questions for the Leader of the Government in the Senate. Will the minister also be able to include, in her responses, replies to a couple of questions I asked last week?

Honourable senators, today we have two more reports calling for higher defence spending. One is from the C. D. Howe Institute; the other is from the Institute for Research on Public Policy. The minister knows, as we all do, that every day the Sea King replacement is delayed is a waste of taxpayers' money from an already very tight budget.

The government is moving away from the test flight in the pre-qualification phase of the Maritime Helicopter Project, meaning that there is little need or reason for a pre-qualification phase — no reason at all for it now. Thus, more time and money is wasted.

Will the minister urge the government to skip the pre-qualification phase and move directly to a competition to replace the Sea King?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, it is not the intention of the government to skip any of the processes it has put in place. Those processes have been clearly identified on the Web site to all potential bidders for a long period of time. The government does not think it would be advisable to cut steps from the process now.

Senator Forrestall: Honourable senators, why is it that, in the last number of hours, the necessity for pre-flight qualifications has been done away with? I do not understand that. I understand what the response says to me, but it does not quite jibe with what, in fact, is happening.

Honourable senators, we know from a briefing note sent to the Minister of National Defence on February 27, 2001, that the last delay in this program — and in that case a delay of less than a year — cost us $100 million. We are almost a year behind again. Again, the increase is $100 million.

Considering that the defence budget is as strapped as it is, although we read in the paper today that there are billions for distribution by the Prime Minister, will the Leader of the Government in the Senate approach her colleagues and impress upon them the need to stop wasting money and, above that, the need to replace the Sea King helicopters?

Senator Carstairs: Honourable senators, I do not agree with the honourable senator's preamble with respect to what he considers wastage of money. The question is: Are we proceeding with the helicopter bid? Yes, we are. It is hoped that we will know who the winner is by the end of this year and that we will know who is making the other components by early next year. We are still aiming for the 2005 deadline.

Senator Forrestall: The honourable senator said 2006 a couple of months ago.

INTERNATIONAL TRADE

UNITED STATES—MEASURES LABELLING FISHERIES AND AGRICULTURAL PRODUCTS BY COUNTRY OF ORIGIN—INFLUENCE ON CANADIAN INDUSTRIES

Hon. Gerald J. Comeau: Honourable senators, is the Leader of the Government in the Senate aware that in the past couple of weeks the U.S. government has passed protectionist measures that would make it such that the country of origin of fisheries and agricultural products are to be labelled as being from countries other than the U.S.? Has the government done an analysis or assessment of the impact of such country-of-origin measures on our industries in Canada?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, we are well aware of the legislation passed by the United States because it is monitored on a regular basis. I do not know whether such an impact study has been undertaken. I will inquire and get back to the honourable senator as soon as I can.

Senator Comeau: Honourable senators, I suppose one should not ask, but I will anyway. Would such a subject not be discussed at cabinet, given the importance of the subject matter? If so — and I am not asking the minister to move away from cabinet confidentiality — would she suggest whether there have been discussions in cabinet about this subject and whether we might be able to allay the fears of those in the industries? For the past number of years, these people have placed a huge amount of investment in those industries. Naturally, they would not want to see their industries subjected to the kind of harassment that we have seen from the U.S. government in the past few years.

Senator Carstairs: I know that there have been some leaks from cabinet discussions over the last few weeks. However, let me assure honourable senators that I have not been the author of any such leaks and that I do not intend to begin the practice this afternoon.

PRIME MINISTER'S OFFICE

PUBLIC WORKS AND GOVERNMENT SERVICES SPONSORSHIP PROGRAM—RESPONSE TO AUDITS

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate. It concerns the ongoing sponsorship scandal. The essence of the question is, who knew what and when.

On Friday, the *National Post* reported that the Prime Minister's Office learned of the problems involving the sponsorship programs some two years ago. Meetings were held in the Langevin Block to discuss the potential fallout of the internal audit. In the words of the article in the *National Post*:

> Senior government officials went to work to limit the potential public-relations damage from the audit's release by drafting a detailed communications strategy — a tactic they used in the HRDC job creation grants scandal.

The Prime Minister's Office knew, two years ago, that marketing companies were charging twice for the same services, that the government did not have sufficient controls over payment of sponsorship invoices, and that the marketing companies were buying services from their own affiliates and then billing the government an 18 per cent markup on the services provided.

Could the Leader of the Government advise the Senate as to why the Prime Minister's Office responded to this problem in September 2000 not by ordering it fixed but by ordering a communications plan?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, let us go back to before the date mentioned by the honourable senator. The very audit to which he refers was undertaken as a result of instructions by the government. The government ordered that audit. In fact, it placed that audit on the Web site on October 11, 2000.

At that point there were, indeed, media stories with respect to the sponsorship program and the regulations within the department were at that point firmed up and tightened up.

The Minister of Public Works has now indicated that more tightening needs to be done, but there was clear action taken, both in posting the information as well as in the operations of the Department of Public Works on a day-to-day basis.

• (1450)

Senator Oliver: Honourable senators, I should like to remind the honourable leader of a more cogent quotation from the *National Post* article that said:

> Officials were told to deflect questions about waste, financial mismanagement or fraud by announcing "an action plan" — as they did during the HRDC affair — under which past mistakes would be corrected and steps taken to avoid them in the future.

On Sunday, appearing on CTV's *Question Period*, the Minister of Public Works told Canadians:

> Obviously, there is something fundamentally wrong with this particular program.

Honourable senators, it has been two years since the government became aware of this problem. Why has the government not put in place an effective plan to deal with things that are, in the words of the minister, "fundamentally wrong with this particular program"?

Senator Carstairs: Honourable senators, the government has put in place rules and regulations that it hopes will result in clear lines of authority and appropriate decision making.

Many of the so-called items that are now being raised actually predate the time at which this audit was conducted. However, the Minister of Public Works is still not satisfied. That is why he has curtailed grants within the sponsorship program until he is absolutely clear in his own mind that things are working in an appropriate fashion.

[*Translation*]

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, under Government Business, I would like us to start with Item No. 6, that is third reading of Bill S-41, and then revert to the order of business as listed on the Order Paper.

LEGISLATIVE INSTRUMENTS RE-ENACTMENT BILL

THIRD READING

Hon. Serge Joyal moved third reading of Bill S-41, to re-enact legislative instruments enacted in only one official language.

He said: Honourable senators, I would like to continue the debate initiated at the time of second reading of Bill S-41. The proceedings in the Standing Senate Committee on Legal and Constitutional Affairs have proven useful in reviewing the underlying principles of this bill and in establishing a process for examination of regulatory instruments and orders in council that were enacted or published in only one official language and are therefore non-compliant with the essence of section 133 of the Constitution of Canada.

This bill, honourable senators, has constitutional value. It implements the obligations of the Parliament of Canada and the Government of Canada as far as the enactment of texts and regulations under various laws are concerned, which come up in the normal exercise of the legislative activity of this Chamber.

In the opinion of the committee members, the original version of this bill had several flaws. The first is that it did not enable a process to be put in place that would have given us, after a specified period of time, a complete assessment of all the regulatory texts that had not been enacted, printed and published in both official languages, nor did it make it possible to define at what exact moment the regulatory situation of the Parliament of Canada would be normalized or, in other words, when both official languages would be respected. On several occasions, committee members from both sides of this house addressed this constitutional obligation arising out of section 133, as interpreted by the Supreme Court, in the *Reference re Manitoba Language Rights*, 1985.

Honourable senators will recall, in connection with the *Reference re Manitoba Language Rights*, that all Manitoba's legislation had been enacted in one official language since 1890 — in other words, English — contrary to section 23 of the Constitution of Manitoba, which is in every way similar to section 133 of our Constitution as it applies to federal legislative and regulatory activity.

The Supreme Court interpreted in a very specific way the obligations of Parliament and of the Government of Canada. It said, and I quote:

> Section 23 of the Manitoba Act, 1870 entrenches a mandatory requirement to enact, print and publish all Acts of the Legislature in both official languages.

So, there are three stages: enactment, printing and publication.

I see that the Honourable Senator Beaudoin is listening carefully. He will remember that when the Supreme Court of Canada invalidated all of Manitoba's statutes, the issue was how to deal with the regulatory vacuum, the constitutional vacuum in which Manitoba found itself. In its ruling, the Supreme Court asked the parties involved to see how they could deal with this situation, that is, how long they would need before appearing before the courts and demonstrating that a process had been put in place to meet the constitutional obligation of the Government of Manitoba.

In its original form, that is, before being reviewed by the Standing Senate Committee on Legal and Constitutional Affairs, Bill S-41 did not include a process. In other words, it did not provide a specific period of time within which the Government of Canada would enact, print and publish the regulations in both official languages. No timeframe was specified in the bill. No reasonable period was defined in the legislation, and there was no deadline beyond which the regulations would be presumed invalid and would therefore be repealed.

Honourable senators, this aspect of Bill S-41 was a concern to each and every member of the Standing Senate Committee on Legal and Constitutional Affairs. We heard, among others, the co-chairs of the Joint Committee for the Scrutiny of Regulations, who prepared a very useful and specific report on the approach that they would suggest to committee members to correct this flaw in the original bill. The approach proposed by your committee and presented by the Honourable Senator Milne was reviewed by the members of your committee. It is an approach that I submit to your attention this afternoon and for which I seek your approval.

The bill, as amended, contains several new elements which, in our view, are essential to ensure the constitutional obligations of Parliament and of the Government of Canada. First, there is a deadline, after which any regulatory activity by the Government of Canada will have to comply strictly with the principles of linguistic equality, i.e. 1988, the year in which the Parliament of

Canada passed the most recent version of Canada's Official Languages Act. We feel that, as of 1988, any regulatory activity by the Government of Canada should strictly and scrupulously respect the principles of linguistic equality.

• (1500)

The second element of the report that we feel is fundamental to the respect of the principles incumbent on our legal order is that there be no retroactivity. I see my honourable colleague, Senator Nolin nodding. The initial bill contained a clause that would have made it possible to charge someone with an offence if it could be proved that they were aware of the contents of a regulation which had not been adopted or printed in both official languages.

So there was a retroactive element in the bill. Several of my colleagues on the committee raised this aspect. We made the decision — a judicious one in my view — to withdraw from the bill any element of retroactivity, in accordance with the principles which, as we all know, are clearly set out in the Canadian Charter of Rights and Freedoms.

The third element of the bill, which preoccupied us greatly, particularly Senator Beaudoin and myself, has to do with the publication of regulations. As you know, honourable senators, it is a principle of the common law and of Quebec's civil law that ignorance of the law is no excuse. This principle is based on the fact that laws must be published. But if a law has not been published, how can a citizen know about it?

When we read Bill S-41, we noticed an ambiguity: The bill was designed to deal with, or could have had the effect of correcting, a failure to publish a regulatory enactment in addition, obviously, to a failure to publish in both official languages. We felt that the purpose of the bill was only to correct failures to enact and failures to adopt in both official languages, not failures to publish. This was the third point which we dwelt on in our consideration of the bill.

The fourth element is that the bill did not contain a procedure to identify regulations, statutory instruments or orders that had not been enacted, adopted or published in both official languages. The Honourable Senator Murray raised this issue. He asked me at second reading how many such regulations there would be. We do not know the answer to this question at this point. However, we incorporated into the bill a process to identify these instruments, at the end of which, after one year, the Minister of Justice must report to us and identify the process he will use to do the inventory of these regulations. Second, the minister must establish a list of proposed regulations that have been enacted and/or repealed and, finally, a list of proposed regulations that are simply considered no longer applicable and, consequently, of no legal force.

We believe that five years after this report has been obtained, the government will have had enough time to do the full inventory of these statutory instruments and in the sixth year the instruments that were not yet re-enacted, printed and published in both official languages would be repealed.

This, honourable senators, is for one simple reason: the constitutional obligation to enact, adopt and publish statutory instruments in both official languages is a strict constitutional obligation. It is not one that Parliament can suspend. Only the courts, in certain circumstances, may order the Government of Canada not to comply with certain provisions of Canada's Constitution. Section 133 is a constitutional provision. It is not a provision that we can amend unilaterally. It is a provision that is protected under the Constitution Act, 1982, which specifically excludes the constitutional linguistic obligations of the Government of Canada.

In other words, we cannot, by a simple act of our Parliament passed by both Houses, suspend, change or diminish our responsibility to legislate in both official languages. Legislating includes passing, printing and publishing in both official languages.

Honourable senators, your committee, which works on behalf of the entire Senate, gave this bill incredibly careful consideration. This report considerably strengthens the original bill, and I ask for your support at third reading.

[*English*]

MOTION IN AMENDMENT

Hon. Lorna Milne: Honourable senators, after praising the work done in committee to a high degree last week, I must rise this afternoon to inform you that a small clerical amendment is required to Bill S-41 before it is passed by this chamber on third reading.

I therefore move:

> That Bill S-41 be not now read a third time but that it be amended in clause 9, on page 3, by replacing subclause (3) with the following:
>
> "(3) The report referred to in subsection (2) shall, in respect of legislative instruments of a class referred to in subsection 15(3) of the *Statutory Instruments Regulations*, set out only the number of such instruments that are of the types described in paragraphs 2(*b*) and 2(*c*)."

The committee's report referred to paragraphs 2(*a*) and 2(*b*). With this amendment, we are merely correcting a clerical error. It is merely a housekeeping amendment, and for those who are interested, I will take a few minutes to describe why this clerical change must be made.

Proposed clause 9 of the bill sets out the requirements that the Minister of Justice must fulfil when reporting to Parliament about the work conducted under Bill S-41. Under subclause 9(2), the minister must inform Parliament of (*a*) a description of the measures taken to find all instruments that need to be fixed, and this is just a description; (*b*) a list of all the instruments that have been repealed and enacted under the act; and (*c*) a list of all instruments that need to be fixed but have not yet been repealed and re-enacted under the act.

As currently written, proposed subclause 9(3) states that where there are matters of national security involved, as defined in section 15(3) of the Statutory Instruments Act, the government can fulfil its responsibilities by listing the number of instruments that were dealt with under paragraphs 9(2)(*a*) and (*b*).

Proposed paragraph 9(2)(*a*) deals with a description. A description cannot be listed. Those two letters should have been (*b*) and (*c*). It was always intended that subclause 9(3) deal with the other two categories set out in that proposed clause of the bill.

• (1510)

Where national security is involved, the government should only have to provide the number of instruments fixed and the number of instruments that have been identified as problematic but not yet fixed.

Honourable senators, this amendment simply changes the wording in subclause 9(3) to refer to paragraphs 9(2)(*b*) and (*c*). It is just a housekeeping amendment, not substantive, and I hope senators will allow for the quick correction of this oversight.

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

[*Translation*]

Hon. Gérald-A. Beaudoin: Honourable senators, I would like to say a few words on this amendment. I agree with the proposed amendment, because it is in line with the decision in *Reference re Manitoba Language Rights*, 1985. This dealt with legislation that had not been enacted in both official languages. As well, it is in line with the spirit of subsequent Supreme Court decisions on the publication of regulations. I wanted this to go on the record, since this is an important bill and follows up on two constitutional judgments by the Supreme Court of Canada. I agree with the amendment as proposed.

[*English*]

Motion in amendment agreed to.

The Hon. the Speaker: Is the house ready for the question on third reading of the bill?

Senator Prud'homme: I grant my permission.

The Hon. the Speaker: It was moved by the Honourable Senator Joyal, seconded by the Honourable Senator Callbeck, that the bill be read the third time now, as amended.

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

Motion agreed to and bill, as amended, read third time and passed.

BILL TO AMEND CERTAIN ACTS AND INSTRUMENTS AND TO REPEAL THE FISHERIES PRICES SUPPORT ACT

THIRD READING

Hon. Joseph A. Day moved the third reading of Bill C-43, to amend certain Acts and instruments and to repeal the Fisheries Prices Support Act.

He said: Honourable senators, this bill could perhaps also be called a technical amendment bill. Honourable senators will recall that during second reading of this bill I led a discussion in relation to the Miscellaneous Statute Law Amendment Act, which provides an expedited way to deal with miscellaneous amendments. In the event that there is any question raised with respect to any of the items under the Miscellaneous Statute Law Amendment Act, those items are taken from that act.

That is what occurred with respect to Bill C-40, which was before this chamber in the fall of last year. A number of the items that were removed from that particular expedited Miscellaneous Statute Law Amendment Act have now been put into this technical amendment act for the purpose of providing more clarification by following the regular process with respect to bills. It was referred to committee and has been considered at committee. We are now back from committee for third reading of the bill.

[*Translation*]

Honourable senators, I am pleased to be able to speak today at third reading stage of Bill C-43, which makes material changes and various corrections to certain legislative texts.

For example, Bill C-43 repeals the Fisheries Prices Support Act, since the last tangible activities of the Fisheries Prices Support Board date back to 1982. It was integrated at the time government agencies were streamlined in 1994 and then ceased to operate completely in 1995.

The bill also remedies certain inconsistencies between the English and French versions of legislative texts, as well as errors in reference, and updates the administrative mechanisms to bring it in line with the most recent approaches and guidelines.

[*English*]

The bill was reviewed in some detail by the Standing Senate Committee on Legal and Constitutional Affairs, including a session with the government leader from the other place, the Honourable Don Boudria. Notwithstanding that the allocated time for the minister to be present expired, he stayed beyond his designated time to ensure committee members all had an opportunity to pose their questions and be satisfied with the effect of the proposed amendments.

As sponsor of the bill in this chamber, I should like to thank the minister for his consideration at our committee and to thank the members of the committee for their thorough review of the subject matter of this bill. The committee had an excellent discussion on this bill and reported the same without substantial concerns with its provisions and without amendments. As a result, my remarks today will be brief so as not to take up unnecessarily the time of this chamber.

In committee, honourable senators had a number of questions and comments. For example, Senator Buchanan commented on how the amendments to Bill C-43 will improve the administrative efficiencies of the Atlantic Canada Opportunities Agency. I should like to echo Senator Buchanan's remarks that this bill will reduce administrative duplication by ACOA and Enterprise Cape Breton and enable these agencies to serve Atlantic Canadians more effectively and efficiently.

We confirmed in committee that Bill C-43 clarifies administrative arrangements under the Nuclear Safety and Control Act and the National Film Act. In fact, 15 different statutes were dealt with in this legislation.

The particular amendments with respect to the Nuclear Safety and Control Act and the National Film Act will be done without changing any of the comprehensive accountability measures in the

Nuclear Safety and Control Board and the National Film Board, which are subject to Treasury Board guidelines and additional scrutiny by an internal auditor, and in the case of the National Film Board, scrutiny by the Auditor General.

• (1520)

We also scrutinized in committee the bill's provisions for pension arrangements for lieutenant governors. Bill C-43 updates pension provisions for lieutenant governors, such that one can collect his or her pension at age 60, instead of at age 65 as the current legislation provides, in line with other public sector pension arrangements. However, I would point out, honourable senators, that only earned pensions can be collected at age 60. The bill does not increase the amount of the pension but, rather, allows for the drawing of that pension at an earlier age.

[*Translation*]

In committee, senators wanted to know the connection between Bill C-43 and the statute law amendment process.

Bill C-40, which is the most recent amendment act, was reviewed last fall by the Standing Senate Committee on Legal and Constitutional Affairs. In the committee report on Bill C-40, some senators expressed reservations about certain provisions, because they felt that the proposals went beyond the very strict criteria of the miscellaneous statute law amendment program.

Under the statute law amendment program, any provision that is a concern to the Senate committee is automatically removed from the bill by the government, as was the case with Bill C-40.

The government decided to include in a standard bill, namely, the one before us, some of the most urgent provisions about which concerns had been voiced during the statute law amendment process.

Therefore, Bill C-40 complies with the statute law amendment process. A number of changes that the government looked at after the introduction of the draft version of Bill C-40 were also included in Bill C-43. This is a standard bill that must go through all the normal stages of the legislative review in both Houses.

Honourable senators, after carefully considering the provisions of this bill, the committee is of the opinion that they are reasonable and appropriate. Bill C-43 is designed to correct a number of administrative provisions in various acts. It will ensure that our legislation is up to date and that it reflects the current situation.

Therefore, I would ask honourable senators to support the third reading of this bill and its passage.

[*English*]

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

Motion agreed to and bill read third time and passed.

NUCLEAR FUEL WASTE BILL

THIRD READING—DEBATE ADJOURNED

Hon. Jean-Robert Gauthier moved the third reading of Bill C-27, respecting the long-term management of nuclear fuel waste.

He said: I am pleased to discuss Bill C-27, a timely bill of importance to all Canadians on the long-term management of nuclear fuel waste. Canada is blessed with a good mix of energy sources. One of these sources is nuclear energy, which has provided Canadians, particularly the residents of my province of Ontario, with reliable, clean production of electricity since the mid-1970s.

Along with the benefits of the nuclear energy option comes the responsibility of properly managing the nuclear fuel waste. Existing waste is currently stored safely at the reactor site but, as designed, this is only an interim solution. Bill C-27 provides the legislative base for a process by which government decisions for the implementation of a long-term solution are proposed. It is the culmination of more than 25 years of research, environmental assessment and extensive consultation with stakeholders, including waste owners, the provinces, the public and Aboriginal peoples.

This legislation is derived from and is consistent with the Government of Canada's 1996 policy framework for radioactive waste. That policy framework made clear that the government should pursue the objectives of ensuring that radioactive waste disposal is carried out in a safe, environmentally sound, comprehensive, cost-effective and integrated manner. It further states that the federal government has the responsibility to provide effective oversight and that the waste owners are responsible for organizing, funding, managing and carrying out waste operations.

With respect to government responsibility, let me be clear: Oversight on health, safety, environment and security aspects of the management of nuclear fuel waste has long been provided through the 1945 Atomic Energy Control Act, which was recently replaced by the Nuclear Safety and Control Act. Bill C-27, the proposed Nuclear Fuel Waste Act, is needed to implement fully the policy framework and to ensure that long-term waste management is carried out in a comprehensive, cost-effective and integrated manner, focusing on financial, social, ethical, socio-economic and other considerations. It will require that waste owners set aside funds and set up a waste management organization to implement the government-approved approach for the long-term management of nuclear fuel waste.

[*Translation*]

Bill C-27 clearly indicates that the owners of nuclear fuel waste have primary responsibility for planning, implementing and financing waste management activities under federal oversight. The government's role is strictly one of oversight and does not include managing the industry's affairs. This approach is an effective one. It makes a clear distinction between those who exercise the activities and those who regulate them, thus increasing efficiencies and avoiding conflict of interest. It ensures that Canadian taxpayers will not have to shoulder the financial burden of the long-term management of nuclear waste.

It is not the mandate of the Government of Canada to deal with the commercial operations of the nuclear industry. The federal government is not running the industry's nuclear reactors, uranium refineries or uranium mines. The owners and not the government, therefore, have primary responsibility for nuclear waste management facilities. The government is there to ensure the appropriate oversight of the entire nuclear fuel cycle.

During consideration by the standing Senate committee, I was encouraged to see that, on the whole, witnesses supported the need for legislation in this area.

• (1530)

The main concern that was raised was that private industry would be solely responsible for the next steps in the long-term management of nuclear fuel waste. The fear expressed was that the waste management organization would do as it pleases and would not be accountable to anyone. This is not the case. Just as industry cannot do as it pleases when operating a nuclear reactor because of close governmental monitoring, the waste management organization will be required to comply with the Nuclear Safety and Control Act and the Nuclear Fuel Waste Act.

I would now like to talk about the management organization's advisory council. Some people indicated that, because advisory council members are appointed by the board of the management organization, the council would report to the organization and the advisory council might not provide independent advice, and that its advice would probably be biased by only taking into account the technical aspects of the issue. One thing should be clear: The Government of Canada wants to maximize the effectiveness of the advisory council, and that is why it included in the bill requirements to ensure the transparency of the members' professional expertise and affiliation as well as their comments and their feedback on the reports submitted by the management organization to the minister, who will table them in Parliament. The advisory council must reflect a broad spectrum of expertise not only in scientific and technical areas, but also in the social sciences. This is important. The makeup of the council must reflect a good balance of technical and social expertise in order to fulfil its legal mandate.

[*English*]

Some have questioned the lack of openness of processes related to the long-term management of nuclear fuel waste. Much to the contrary, I will expand specifically on the multiple openness and transparency processes incorporated into Bill C-27 and on other mandatory processes.

Bill C-27 requires that the proposed waste management organization, WMO, consult on alternative approaches with the public, notably with municipal communities and Aboriginal populations. Bill C-27 requires that the WMO consult on the ongoing implementation of a government-approved approach with the public, including municipalities and Aboriginal peoples. Bill C-27 requires further that advice provided by the advisory council to the WMO be made public.

Bill C-27 requires that the public shall have easy and immediate access to the study, including the WMO proposals and all subsequent annual and triennial reports submitted by the WMO to the minister. Bill C-27 indicates that the minister, if not satisfied with consultations carried out by the WMO, may carry out his or her own consultations.

Bill C-27 provides for auditing measures consistent with present-day standards. The minister may require, at any time, that an audit be done. Any information obtained by the minister would fall under the Access to Information Act. Through the administration of oversight responsibilities, the government must ensure that the waste management organization is complying with all of its public consultation obligations under the proposed Nuclear Fuel Waste Act.

A unit within Natural Resources Canada will be responsible for administering the proposed legislation. This unit will be clearly identified and serve as a focal point for interacting with all stakeholders and other interested parties. It will have a significant role in developing and maintaining public confidence in government oversight and industry operations.

In view of its fiduciary duty, the government must carry out its own consultations with Aboriginal groups. This was initiated after the 1998 Government of Canada response to the Seaborn panel report.

Once the government has approved the general waste management approach, and after several years of more site-specific work, the WMO will be required to apply for a licence to the Canadian Nuclear Safety Commission. This will lead to mandatory public consultation processes under the Nuclear Safety and Control Act and the Canadian Environmental Assessment Act. Thus, ample opportunity exists for the public to participate in decision making through multiple government oversight processes. These processes will provide many checks and balances and accountability measures.

[*Translation*]

Honourable senators, what would be the immediate impact after entry into force of Bill C-27? The most visible effect would be that the trust fund would be started up by the owners of nuclear waste. The bill calls for considerable annual contributions to start-up funds by nuclear energy companies.

The waste management organization would begin preparing its study. This report must be submitted to the government within three years. The waste management organization must examine the three options explicitly outlined in Bill C-27 but would not be limited to those options and may propose others. The description of each option must include a comparison of risks and benefits, as well as timeframes. It is important to understand that this is not necessarily connected with a specific site. In fact, specific site visits will take place only after the governor in council has determined a general approach to the long-term management of nuclear fuel waste.

Several stakeholders doubted whether three years would be enough time for the waste management organization to carry out the required work for the study. Since activities at specific sites are not part of this undertaking and the bulk of the technical information is already available in Canada or elsewhere, since the Seaborn Panel has suggested that two to three years would be sufficient, and since the nuclear stations have already initiated a related program, three years is totally appropriate.

It should be pointed out that there has been a lot of talk about the possibility that Canada might become a dumping ground for the nuclear fuel waste of the rest of the world. The government's intention is to deal with the waste produced in Canada. While health, the environment and safety underlie the concerns that were voiced, Canadians should note that any proposal to import or export such waste would be strictly controlled through various federal monitoring processes, primarily by the Canadian Nuclear Safety Commission, under the Nuclear Safety and Control Act. There is no foreseeable plan under which Canada would export or import nuclear fuel waste produced by commercial ventures. Should such a plan exist, it could not be implemented without meeting the requirements of the Nuclear Safety and Control Act, the Canadian Environmental Assessment Act, the Transportation of Dangerous Goods Act and the Export and Import Permits Act. There are numerous possibilities not only to keep the public informed of such a proposal, but also to have it play an active role in the decision-making process.

[*English*]

This important piece of proposed legislation, honourable senators, is needed now to move effectively toward the implementation of a solution for the long-term management of nuclear fuel waste. Existing storage activities are safe but were not designed to be a permanent solution. There is international scientific consensus that technology already exists to manage nuclear fuel waste properly over the long term.

The nuclear industry has indicated to us that it recognizes financial responsibilities for long-term management of nuclear fuel waste. Local communities near existing reactor sites want to know what will be the fate of the nuclear fuel waste currently located within their boundaries. Public attitudes are changing at the international level where some communities and governments are working together on waste facilities within their boundaries.

• (1540)

Honourable senators, considering the long lead time envisaged before a solution can be implemented, establishing a legislative process now is the only responsible route for pursuing a careful and thoughtful solution for the long-term management of nuclear fuel waste. This proposed legislation, the culmination of many decades of work, was not established in a contextual vacuum. Policy development was guided by extensive consultations with all stakeholders, by experience gained in other countries, by modern regulatory practices and by social justice concepts.

Honourable senators, it took me one weekend to read the report, but Mr. Blair Seaborn chaired this review for ten years and, in doing so, made a strong and valuable contribution to Canadian society. I thank him for that.

Hon. Douglas Roche: Would Senator Gauthier accept a question?

Senator Gauthier: I would be pleased to do so.

Senator Roche: I wish to express my appreciation to Senator Gauthier for his presentation of Bill C-27 at third reading, and to thank him for the work that he has done.

My question arises out of his commendation of the Seaborn panel, which he mentioned two or three times. At the heart of the Seaborn panel's recommendations were the quality of the participation in the waste management organization and the quality of the personnel in the advisory council. When the bill came to us, it specified that the membership in the waste management organization would be confined to members or shareholders of Atomic Energy of Canada Limited, AECL, and other owners of nuclear fuel waste produced in Canada. That is to say, only the industry itself would be able to participate in the waste management organization.

Further, Bill C-27 specifies that the above body would determine the personnel on the advisory council and that the work of the waste management organization and of the advisory council would be in-house. Seaborn recommended a much wider participation, particularly in respect of representatives of the social sciences. They are mentioned in the bill, but only in a weak manner, as needed.

All of these facts became the meat of the debate. Were any amendments put at committee that would widen the representation eligible for membership in the waste management organization and the advisory council? What was the fate of those amendments? If they went down, could the honourable senator give us the reason for that?

Senator Gauthier: I thank the honourable senator for his questions, which are important. Indeed, there are two principles: first, the user pays or the polluter pays. Nuclear fuel waste is owned by the people who produce the waste. The WMO will be charged with offering certain solutions to the disposal of these wastes. It is up to the government to determine how that is done. At the end of the process, they will have to choose the method for disposal.

The advisory committee will be constituted by the stakeholders. It is true, they do have WMO, but they also represent a wide variety of people in all social strata — representatives of the population. Involved in the process will be people from the local community who are concerned about the waste in their area; people who produce the waste; and people, possibly, to advise. In my view, it would be folly on the part of the WMO to be seen as inward-looking and scientifically heavy but not socially conscious. That is the challenge that will be met by Bill C-27. The committee discussed this aspect but there was no proposal, to my knowledge, to amend the bill in order to improve on something that was already quite good.

On motion of Senator Spivak, debate adjourned.

[*Translation*]

A GUIDE FOR MINISTERS AND SECRETARIES OF STATE GUIDELINES ON THE MINISTRY AND CROWN CORPORATIONS

TABLED

Leave having been given to revert to Tabling of Documents:

Hon. Fernand Robichaud (Deputy Leader of the Government): I thank honourable senators for granting leave. I have the honour of tabling two documents. The first one is entitled, "A Guide for Ministers and Secretaries of State," while the second one is entitled, "Guidelines on the Ministry and Crown Corporations."

[*English*]

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, could Senator Robichaud advise the house whether he intends to launch a debate on the guidelines that he has just tabled? If that is the honourable senator's intention, this side would be prepared to give leave that the debate commence tomorrow.

[*Translation*]

Senator Robichaud: Honourable senators, I am not prepared to begin the debate now, but we will definitely be ready in the near future to hear your comments on these documents.

[*English*]

EXCISE BILL, 2001

THIRD READING—DEBATE ADJOURNED

Hon. Richard H. Kroft moved the third reading of Bill C-47, respecting the taxation of spirits, wine and tobacco and the treatment of ships' stores.

He said: Honourable senators, before making my few remarks on this bill, I wish to begin by thanking the members of the Standing Senate Committee on Banking, Trade and Commerce for their usual thorough and energetic study of this bill. I also wish to thank the witnesses who appeared before us. Departmental officials did an outstanding job of helping to bring clarity to a complex subject. Other witnesses provided us with a full range of opinions that made for an interesting debate on this matter.

• (1550)

It is my privilege today to move third reading of Bill C-47. This bill fulfils a long-standing need of both government and industry by introducing a modern legislative and administrative framework for the taxation of spirits, wine and tobacco under a proposed new Excise Act.

As honourable senators are aware, the existing Excise Act is the foundation of the federal commodity taxation system for alcohol and tobacco products. It imposes excise duties on spirits, beer and tobacco manufactured in Canada and includes extensive controls over their production and distribution.

With parts of the current statute pre-dating Confederation, the Excise Act has been periodically amended, but it has never been thoroughly reviewed and revised until now. The time has come for a complete overhaul. Industry and government have had to function in today's world under yesterday's archaic rules.

Under the current Excise Act, for example, there is a rule that requires companies to make changes to their records in ink only. Under another rule, licensed producers are prohibited from operating at night unless the Canada Customs and Revenue Agency, CCRA, gives prior authorization and has an excise officer present at the producer's expense. These are but two examples of the kind of archaic rules still on the books.

Quite simply, the time has come to bring the Excise Act into the 21st century. In the first place, the pervasive controls imposed by the Excise Act have resulted in high compliance costs for industry. These controls impair the competitiveness of Canadian alcohol producers, who face increased competition at home. A second problem is industry implementing new technology and adopting modern business practices that cannot be accommodated under the existing act. Third, the current act impedes the ability of the CCRA to adopt fully modern administrative practices. Additional issues such as the taxation of tobacco manufactured in Canada under two statutes and the problem posed by contraband wine also need to be addressed.

In response to these concerns, the Department of Finance and the CCRA released a discussion paper on the Excise Act review in 1997. Draft regulations and legislation were subsequently made public in 1999. The end result of this process is the proposed new Excise Act, which we are debating today. Because extensive public consultations were an integral part of the review, this bill has broad support among the spirits, wine and tobacco sectors, the provincial liquor boards and law enforcement agencies.

Before discussing the main components of the proposed new framework, I want to point out that substantive tax base and rate issues for alcohol and tobacco products were not part of the review. Furthermore, this bill does not address beer, which, with the concurrence of the brewing industry, will remain under the existing act for now.

Honourable senators, Bill C-47 incorporates the key elements of the proposed framework outlined in the 1997 discussion paper. For example, the bill extends the current production levy on spirits to wine; it removes the outdated and onerous controls on premises and equipment and replaces them with controls over the production, possession, importation and use of non-duty paid alcohol; and it defers duty on both packaged spirits and wine to the wholesale level. In addition, the bill extends current comprehensive controls on the non-beverage uses of spirits to wine, eliminates the nominal rates of duty for certain non-beverage uses of spirits and substantially increases fines for alcohol-related offences.

Bill C-47 also provides a more streamlined framework for the taxation of tobacco by replacing the current excise duty and excise tax on tobacco products other than cigars with a single production levy. It also incorporates the revised tobacco tax structure that became law last year. That structure includes an excise levy on manufactured tobacco sold in duty-free shops, a customs duty on manufactured tobacco imported by returning residents under traveller's allowance, and a revised excise tax and duty structure for exported domestic and manufactured tobacco.

I want to assure honourable senators that the fundamental controls over tobacco in the existing excise framework will be maintained under the proposed new act. As well, the current offence provisions relating to the illegal production, possession or sale of contraband tobacco will remain. At the same time, proposed new administrative measures will enable the CCRA to improve its level of service to clients and its overall administration of the excise framework for alcohol and tobacco products. A range of modern collection enforcement tools will help to ensure compliance with the proposed legislation.

Before closing, I want to mention three additional excise measures that are included in Bill C-47.

The first provides the proper legislative authority for ships' stores regulations, which the Federal Court of Appeal recently ruled went beyond the scope of their enabling legislation. Another measure provides affected operators on the Great Lakes and lower St. Lawrence River with a temporary fuel tax rebate program to help make the transition to the new ships' stores rules. This rebate will be available to those operators of tugs, ferries and passengers ships on the Great Lakes and lower St. Lawrence River whose entitlements to ships' stores relief are being discontinued. The third measure re-establishes a uniform federal tax rate for cigarettes across the country, as announced last fall. These federal tax increases are part of the government's comprehensive tobacco strategy to reduce tobacco consumption by Canadians.

Honourable senators, throughout the review of the Excise Act, the government was guided by three main objectives. The first was to provide a modern legislative framework for a simpler and more certain administrative system that recognizes current industry practices. The second was to facilitate greater efficiency and fairness for all parties, leading to improved administration and reduced compliance costs. The third was to ensure the continued protection of federal excise revenues.

The measures in Bill C-47 meet all three objectives. Bill C-47 brings Canada's Excise Act into the 21st century, thereby meeting the needs of both industry and government to function and compete in today's world.

I would urge honourable senators to join with me today in ensuring speedy passage of this bill.

On motion of Senator Stratton, debate adjourned.

[*Translation*]

CRIMINAL CODE
FIREARMS ACT

BILL TO AMEND—SECOND READING—
SPEAKER'S RULING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Fraser, seconded by the Honourable Senator Hubley, for the second reading of Bill C-15B, An Act to amend the Criminal Code (cruelty to animals and firearms) and the Firearms Act.

The Hon. the Speaker: Honourable senators, on Wednesday, June 5, 2002, Senator St. Germain raised a question of privilege with respect to Bill C-15B, amending the Criminal Code with respect to cruelty to animals. The senator's complaint revolves around a press release issued by Murray Calder, M.P. This document urged members of the Liberal rural caucus "to support the government's cruelty to animals legislation on the understanding that the bill can be amended in the Senate." As it happened, the bill passed the House of Commons on June 4 and it is now before the Senate.

[*English*]

According to Senator St. Germain, the press release is offensive because it suggests, in his view, that the Senate is being used to secure the support of some backbench MPs who had been prepared to vote against the bill. The senator cited this passage of the press release in making this point:

> Previously Calder had indicated that he and others would vote against the bill unless it could be amended.
>
> The breakthrough came when Justice Minister Martin Cauchon agreed that he would look favourably on a rural-caucus-initiated amendment in the Senate that would offer limited assurances to responsible animal owners.

It is Senator St. Germain's contention that this kind of political strategy or manipulation diminishes the role and the independence of the Senate. It suggests that, from the public's perspective, it is the Minister of Justice, not the Senate, who will determine the outcome of amendments proposed in the Senate.

[*Translation*]

Citing previous rulings by a Speaker of the House of Commons, Senator St. Germain asked the Speaker of the Senate to find a prima facie question of privilege asserting that, if the Senate is to function with authority and dignity, it must be respected, especially by members of the House of Commons and the executive.

[*English*]

There were interventions by several senators supporting the position of Senator St. Germain. The Leader of the Opposition, Senator Lynch-Staunton, as well as the Deputy Leader of the Opposition, Senator Kinsella, spoke in support of the question of privilege. As Senator Lynch-Staunton put it:

> ...we are being practically instructed, once we get this bill, to look with favour on an amendment that we have not even seen...If that is not an attack on our privilege, I do not know what is.

• (1600)

To buttress his case, Senator Lynch-Staunton cited the twenty-first edition of *Parliamentary Practice* by British parliamentary authority Erskine May, dealing with the broad definition of contempt, which says that any act or omission that obstructs or impedes either House in the performance of its functions may be treated as a contempt even though there is no precedent of the offence.

Senator Kinsella raised at least two interrelated points when arguing on behalf of the question of privilege. The senator suggested, first, that the promise of the Minister of Justice, as he put it, to amend the bill in the Senate goes to the essence of the matter of a breach of privilege.

This is evident, according to Senator Kinsella, who cited the Sixth Edition of Beauchesne, where it states that "It is generally accepted that any threat, or attempt to influence the vote of, or actions of a Member, is breach of privilege."

The senator's second point has to do with an element of the argument that was made by Senator St. Germain as well. This has to do with the public perception of the Senate. In his opinion, the Senate will be viewed as a "laughing stock," irrelevant to the proper functioning of Parliament because its reputation is being undermined.

[*Translation*]

For his part, Senator Corbin seemed more offended by the actions of the House of Commons in passing a bill that he described as incomplete or defective. While sympathetic to Senator St. Germain, Senator Corbin explained that if he were a member of the other place, he would raise the question of privilege there.

[*English*]

Several other senators argued against the alleged question of privilege. The Deputy Leader of the Government, Senator Robichaud, found the statements of the press release to be basically neutral. According to the honourable senator, it did not assert, one way or the other, that amendments would be made in the Senate. To prove his point, the senator cited an answer of the Minister of Justice during Question Period when he said, "We must be careful and respect the Senate's process. There are different stages... The Senate will have to look at the bill. We will see what takes place at the time."

Though also opposed to the question of privilege, Senator Taylor had a different view of the press release. He claimed that it flattered the Senate because it suggests that the minister is willing to accept an amendment proposed by the Senate if it wishes to make the change. Senator Fraser, on the other hand, questioned whether any alleged arrangement between the Liberal rural caucus and the Minister of Justice actually pre-empts the Senate's freedom to conducts its business. As the senator noted, it does sometimes happen that when an amendment fails to get through in the other place, it is frequently proposed in the Senate in another attempt to get it through. It is important, however, as the senator explained, to separate the question of what a Senate committee does from the question of whether the press release was in some way reprehensible.

[*Translation*]

Senator Fraser's position was subsequently echoed by Senator Milne, the Chair of the Legal and Constitutional Affairs Committee. The senator noted that the committee rarely takes marching orders from anyone, nor, as the senator put it, does the committee make amendments lightly. Amendments are not made, she explained, unless evidence has been presented before the committee that supports those amendments.

[*English*]

I wish to thank all honourable senators who participated in the debate on this question of privilege. As rule 43 explains:

> The preservation of the privileges of the Senate is the duty of every Senator. A violation of the privileges of any Senator affects those of all Senators and the ability of the Senate to carry out its functions...

It is the responsibility of the Speaker to assist the Senate in this task by assessing all claims to a prima facie breach of privilege or contempt against the rights and interests of the Senate.

[*Translation*]

In this particular case, it is alleged that the apparent understanding, as presented in the press release, between the Minister of Justice and some members of the other place with respect to amendments that might be proposed in the Senate actually infringes the rights of the Senate. It is viewed as calling into question the independence of the Senate and its autonomous authority to examine legislation. There are several aspects to this question that need to be assessed in order to determine its prima facie merits.

[*English*]

One argument that was made by Senator Kinsella in support of the breach of privilege suggested that the content of the press release somehow involved a threat or an attempt to influence the vote of a member. This is a very serious charge. Any clear threat would obviously constitute a breach of privilege; so, too, would any attempt to influence the vote of a member, either through a bribe or some other means. No evidence was presented in the exchanges heard Wednesday that this is, in fact, the case. No senator alleged that the content of the press release implied, directly or indirectly, any improper action on the part of the minister or anyone else that would constitute a threat against a senator or an attempt to influence the vote of a senator through a bribe or any other illegitimate means. In my judgment, there is no substance to any claim of a prima facie breach of privilege based on these grounds.

Other senators maintained that the press release amounted to a contempt against the Senate. Though it is admitted that contempt, unlike privilege, has no precise definition, the notion of contempt is reasonably well understood. Both Senator St. Germain and Senator Lynch-Staunton relied on this understanding in making their case. A contempt, as they explained, must involve some action or omission that has the effect of obstructing or impeding the Senate from properly fulfilling its duties or functions, even though there is no precedent for the offence. The arrangement alleged to have existed with the Minister of Justice based on the press release of Mr. Calder, they charged, is a contempt because it assumes or presumes that amendments will be made by the Senate. However, is this really a contempt?

Referring to Erskine May on the subject of contempt and, in particular, on constructive contempts, none of the examples cited in this British parliamentary authority resemble anything even broadly equivalent to what is alleged in this case. Among the constructive contempts reviewed are harsh reflections on the House, the publication of false or perverted reports of debates, and the premature publication of committee proceedings or reports. Erskine May also lists another category of offence that includes "other indignities offered to either House," but none of these examples, which involve disorderly conduct or insolent language, either spoken or written, corresponds to the Calder press release. Without the benefit of further evidence, it is difficult for me as Speaker to rule that a prima facie case has been made that a contempt has been committed against the Senate.

Finally, it has also been argued that Bill C-15B is, in one way or another, defective or incomplete. The standard parliamentary authorities prohibit the introduction of bills that are blank or imperfect. When such a bill is identified, a point of order can be raised either to correct the bill or to discharge it. In this case, the bill is alleged to be defective. It has been asserted that the House of Commons may have passed Bill C-15B in anticipation of possible amendments in the Senate. Does this, however, properly constitute a question of privilege or a contempt?

Any bill that comes to the Senate from the House of Commons is subject to amendment. It is the fundamental task of the Senate to review, revise and possibly reject legislation received from the other place. That the Senate can amend bills does not necessarily mean that the bill received from the House of Commons is defective. No suggestion has been made that Bill C-15B, as it is written now, is a defective piece of legislation from a procedural point of view. As Speaker, I have no basis on which to inquire into the bill, and I have no authority to question the decision of the House of Commons that has passed this bill. I can see no question of privilege or contempt of the Senate based on the status of the bill itself.

Despite the fact that I have ruled that there is no basis for a prima facie question of privilege or contempt, I do share some sympathy with the concern expressed by some senators about the press release. Any suggestion, however inadvertent, that any House of Parliament can be improperly influenced or manipulated should be avoided. Both Houses — the Senate and the House of Commons — are wholly independent and autonomous. We can acknowledge and admit that political and partisan interests play a part in our deliberations. This is a fact, but this does not mean that one or another House is actually subject to manipulation by a minister. While I do not believe that the Minister of Justice is impeding the Senate's review of Bill C-15B, I recognize that the public may have a different perception based on the press release. Greater care should be taken in future to avoid creating this false perception.

Accordingly, honourable senators, we will resume debate on Bill C-15B.

On motion of Senator Nolin, debate adjourned.

• (1610)

[*Translation*]

THE ESTIMATES 2002-03

SECOND INTERIM REPORT OF NATIONAL FINANCE COMMITTEE ADOPTED

The Senate proceeded to consideration of the sixteenth report of the Standing Senate Committee on National Finance (*Estimates 2002-2003—Second Interim Report*) presented in the Senate on June 6, 2002.

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I move adoption of the report of the Standing Senate Committee on National Finance.

[*English*]

Hon. Lowell Murray: Honourable senators, there is a practice that the National Finance Committee tables at least one report on the Estimates before the Senate debates and adopts an interim supply bill. I would not put it any more strongly than that. It is a practice. I believe it is a healthy practice, and I subscribe to it. I do not think there is any obligation on us under the rules to that effect.

However, I should note, for the benefit of honourable senators, since we have a supply bill coming for second reading tomorrow, that the committee has had before it the Main Estimates since the month of March. We have held several meetings on these, the first on March 12, with officials of the Treasury Board. We reported on that matter on March 19. The second meeting was on May 29, when we had a lengthy discussion with the President of the Treasury Board herself, the Honourable Lucienne Robillard.

I might parenthetically add that having the Main Estimates before us provides the committee with the latitude to consider just about anything that comes within the ambit of the federal government. Thus, without any further reference from the Senate, and on our own initiative, we have considered such matters as Treasury Board Vote 5, the contingency vote, and the uses or abuses of that vote. That is the subject matter of a separate report that is now before the Senate. We have in train a study of the financing and accountability of arm's-length foundations created by the government to pursue various public policy objectives. This morning we began consideration of activities of the National Capital Commission when we had the chairman, Mr. Marcel Beaudry, before us. Honourable senators can rest assured that the committee is doing its work, both in analyzing the expenditures of the government and in pursuing larger questions that arise from the Estimates and from the public accounts.

Honourable senators, you will see in the report that we are discussing now a narrative indicating what we heard from the officials, and later from the President of the Treasury Board. There are references, for example, to the question of whistle-blowing. Our friend Senator Kinsella still has a bill on that matter before the Senate — indeed, it is back before our committee — Bill S-6. Meanwhile, the bill has been overtaken by events to some extent. The Treasury Board, as the minister told us, has hired Dr. Edward Keyserlingk as an integrity officer. Although his office has only been in operation for less than two months, it has already received between 30 and 40 demands for investigation and action on his part.

Inevitably, the committee canvassed with the minister and the officials the question of a large number of contracts that are administered by the Department of Public Works and Government Services. Honourable senators may be happy to hear that we did not try to duplicate the forensic work that is taking place in the House of Commons on that subject. However, we were concerned to know about the policy and safeguards that are in place with regard to contracts. While a number of the more notorious examples have come to light recently, the fact is that Public Works and Government Services administers as many as 60,000 contracts on an annual basis. The officials at Public Works assure us that, in general, the department does an excellent job in this respect and is recognized everywhere as having done so.

There is one other matter that relates to the public service reform initiative, which is under the aegis of the President of the Treasury Board, Madam Robillard. She plans to bring in legislation in the fall. The chairman of the committee tried gently to persuade her that it would be more in the public interest if she were to bring in a white paper in the fall, in order to encourage more wide-ranging and somewhat freer debate on matters. She would have none of it, however. She thinks that there has been enough discussion and she intends to move this legislation in the fall. Whether she does or does not — any proposed legislation is still, as they say, in the system and has not been approved by cabinet yet — the Standing Senate Committee on National Finance will have something to say about this.

I have expressed, both at the committee hearings and in this chamber, as have other honourable senators, a considerable concern about the merit principle and the need to safeguard it. To me, that safeguarding, the protection of that principle, is intimately related to the role of Parliament in protecting the public service. The Public Service Commission is supposed to be the creature of Parliament. Unfortunately, in recent and not so recent years — in fact, for some time now — the Public Service Commission has been treated as if it were just another central agency of the government. Chairman and commissioners are appointed, supposedly, for 10-year terms, but there has been a revolving door over there as chairman and commissioners come and go into and out of the commission and back to other jobs in the public service. That is not the way in which the system is supposed to work. We have expressed some concern about that.

We have a great deal on our plate in the Standing Senate Committee on National Finance. We intend to pursue the issues that I have noted and a number of others. Meanwhile, I commend this report to your favourable attention.

[*Translation*]

Hon. Roch Bolduc: Honourable senators, I would like to add a word to the wise comments made by Senator Murray, who is the Chair of the Standing Senate Committee on National Finance. I would like to underscore that when we met with Ms Robillard, the President of the Treasury Board, she told us that she was planning on introducing a bill or making a decision. I expect that her decision will deal with structural changes to the personnel management system.

• (1620)

As Senator Murray was just saying, we insisted on the fact that if public servants are competent, they will provide the government with reasonable service. Obviously, there are different ways of providing service. There are not only public servants in the departments, but also in administrative boards, government corporations, special agencies that have been created recently — they have been exempted from the general public service regulations and even some financial management rules — as well as foundations.

In theory, I have no objection to a variety of instruments of distribution. The most efficient one will be used. Accountability must be respected, even in the case of organizations that are not part of a department, a special agency or a foundation. It must be upheld. The basic principles of public administration absolutely must be maintained. One of these principles is the competence of the public service. In the end, this is usually best established through competition.

There is always a relative value to the qualifications of people. The best way to find out who is the most competent person is to put people in a situation of competition. This then allows the examiners to determine who is the best candidate. This goes for both recruiting and promoting people.

We must maintain the principles of competence and impartiality in the public service. Otherwise, if anybody can appoint anyone at any time, we will find ourselves with the same patronage system that was in place until 1917, and even 1935. Human nature has not changed; it is still the same. Therefore, we must establish institutional safeguards to ensure that the public good will be respected. One way to respect the public good in the management of public affairs is to rely on people's competence.

We must also maintain the principles of accountability. This accountability can take various forms. It goes without saying that there are two types of accountability, that of a department headed by a minister and that of a Crown corporation headed by a committee that reports to a minister. There are several formulas, but there are also basic principles that must be maintained regarding accountability and ethics. It is not because we are not part of a foundation that we can violate the code of ethics when managing public funds.

We have not only established policy safeguards, but also safeguards for performance and accountability. As a result, the Auditor General plays an important role. The audit he carries out is far more extensive than what would be carried out by a private sector auditor. It involves such aspects as optimization, which is not addressed by the private sector.

In other words, we are open to a variety of service delivery methods, but we are convinced that certain basic principles must be maintained, ones which are specifically applicable to public administration, particularly in areas of personnel management, financial administration and accountability.

[*English*]

Hon. Jack Austin: Honourable senators, I wish to ask Senator Murray a question or two.

The Hon. the Speaker: Before you do that, you require leave. Senator Bolduc was making his own intervention, and we have bypassed Senator Murray.

Senator Kinsella: Read the rules, Chair.

Senator Austin: If you do not want the questions, you do not have to hear the answers.

The Hon. the Speaker: Senator Murray, do you have any objection?

Senator Murray: I never have any objection to answering questions from Senator Austin.

The Hon. the Speaker: Are you asking for leave?

Senator Murray: No. Someone else has to ask for leave.

The Hon. the Speaker: It was moved by the Honourable Senator Robichaud, seconded by the Honourable Senator Hervieux-Payette, that this report be adopted now. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted.

THIRD INTERIM REPORT OF NATIONAL FINANCE COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the seventeenth report of the Standing Senate Committee on National Finance (Estimates 2002-03 (Treasury Board Vote 5)—Third Interim Report) presented in the Senate on June 6, 2002.

Hon. Lowell Murray moved the adoption of the report.

He said: Honourable senators, I will not detain you long. I have a few comments to make. First, the interest and concern of the National Finance Committee about the uses and abuses of Treasury Board Vote 5, the contingency vote, are nothing new for us. In my time, certainly as far back as December 1986, a committee report on Supplementary Estimates (A) for 1986-87 discussed this matter. Again, in 1989, on Supplementary Estimates (B), the committee had some comments and recommendations to make about it. Almost exactly a year ago, on June 12, 2001, we expressed concern about the creation of alternative delivery systems for government programs relying on the creation of Vote 5 for their funding.

First, I wish to insist that our concern about the uses and, in some cases, the abuses of this vote is not focused on the substance of a particular grant or a particular expenditure. It is, rather, focused on the process of going around parliamentary approval when it is not strictly necessary to do so. This vote is supposed to be used for miscellaneous, minor and unforeseen expenses. We are of the view that, in some of the cases we examined, some generous construction has been placed upon that rule.

We came to it as a committee. We have had three meetings on this issue. We heard from the officials of Treasury Board, and we also heard from the Auditor General, who has made a report on this matter. We likewise canvassed the matter with the most senior officials of Treasury Board: the deputy minister, the secretary of the Treasury Board and the comptroller general. We also took the occasion, when we had it, to discuss the matter in the presence of the minister.

The report speaks for itself. You will see somewhere in there that the minister and the senior Treasury Board officials told us that the guidelines governing the use of this vote by various departments, with the approval of Treasury Board, are now being reviewed by the Treasury Board. I should say that there are eight guidelines. Four of them have the formal, official approbation of the Treasury Board ministers, and the other four are guidelines that the secretariat of the Treasury Board has drawn up. They are all under review as we speak.

• (1630)

The question before us, therefore, was whether our report could have some impact on the process now taking place at the Treasury Board. The minister assured the committee that if we tabled a report in good time, it would be very helpful, and that our recommendations would be taken into consideration in this process. Therefore, we have tabled this report, and I am asking the Senate to adopt it.

The report contains nine recommendations, many of which touch upon the changes in the Treasury Board guidelines that we believe would clarify Treasury Board Vote 5 by placing proper limitations on it to safeguard against abuses in the future.

I hope it is obvious to all honourable senators — because it was a matter of discussion in the committee — that this report on Treasury Board Vote 5, the contingency vote, ought to be considered as an interim report. We have every intention of returning to the issue in the fall after we have seen the revised guidelines put out by Treasury Board.

In the meantime, honourable senators, I would respectfully ask that you adopt this report and the recommendations we have put forward.

On motion of Senator Cools, debate adjourned.

[*Translation*]

CODE OF CANADIAN CITIZENSHIP BILL

SECOND READING—ORDER STANDS

On the Order:

> Resuming debate on the motion of the Honourable Senator Kinsella, seconded by the Honourable Senator Bolduc, for the second reading of Bill S-36, respecting Canadian citizenship.—(*Subject matter referred to the Standing Senate Committee on Social Affairs, Science and Technology on April 16, 2002*).

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, Bill S-36, respecting Canadian Citizenship, was introduced in the Senate on April 12, 2002. On April 16, 2002, the subject matter was referred to the Standing Senate Committee on Social Affairs, Science and Technology.

I am informed that the committee is still examining this important matter. Unless another senator wishes to speak on this bill today, I would suggest that the order stand until a subsequent sitting.

Order stands.

[*English*]

NATIONAL CAPITAL ACT

BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED

Hon. Nöel A. Kinsella (Deputy Leader of the Opposition) moved the second reading of Bill S-44, to amend the National Capital Act.

He said: Honourable senators, I should like to move the adjournment of the debate.

On motion of Senator Kinsella, debate adjourned.

STUDY ON EFFECTIVENESS OF PRESENT EQUALIZATION POLICY

REPORT OF NATIONAL
FINANCE COMMITTEE ADOPTED

On the Order:

> Resuming debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Keon, for the adoption of the fourteenth report of the Standing Senate Committee on National Finance entitled: *The Effectiveness of and Possible Improvements to the Present Equalization Policy*, tabled in the Senate on March 21, 2002.—(*Honourable Senator Stratton*).

Hon. Terry Stratton: Honourable senators, I rise to join in debate on the adoption of the fourteenth report of the Standing Senate Commission on National Finance, entitled: "The Effectiveness of and Possible Improvements to the Present Equalization Policy," which was tabled in the Senate on March 21.

Through its $10 billion equalization program, the federal government meets a constitutional obligation to financially assist less wealthy provinces. In practice, we are now in the unfortunate situation where all but two provinces — Ontario and Alberta — are considered to be "have not," British Columbia having only recently qualified.

My own province of Manitoba will receive $1.2 billion in equalization this year. For the Manitoba government, this represents more than one revenue dollar in six. There is no question that without it we would face even higher taxes than our neighbours in Ontario, or significantly reduced services.

Two of the recommendations put forward by the Manitoba government are also recommendations of the committee — these being an end to the payment ceiling and a move to a 10-province standard for measuring what is to be equalized. The committee did not agree with the Manitoba government's other recommendation, that the floor be removed.

The ceiling provision restricts the growth of federal expenditures under this program. The federal government argues that this ensures that the program is affordable over the long run. The provinces, in turn, point out that restraining payment growth during a time of strong economic growth makes it harder for the recipient provinces to provide the same level of services that are available in other provinces.

It seems that everyone wants to spend the current federal surplus, and provincial finance ministers are no exception. Indeed, in his testimony on November 7, Manitoba Finance Minister Gregory Selinger told us:

> I am suggesting that the artificial ceiling imposed by the federal government since 1982 is not necessary. It is not necessary now at a time when the federal government is in balance and their revenues are quite healthy.

He went on:

> Thus, we argue that the balance between equity and affordability can now be shifted back, the cap can be lifted off, and the federal government can carry that responsibility without any risk to its ability to balance the budget. If that risk did become apparent, we could meet, as a federation, and address that in a way so as not to penalize those provinces in greatest need of the transfer.

Honourable senators, the problem is that nobody knows how much it would cost to lift the ceiling, because your crystal ball would have to tell you how fast 33 different sources of revenue will rise or fall in each of the ten provinces in each of the next several years. However, we do know that since 1982 the ceiling has reduced transfers by a cumulative total of some $3.2 billion.

Honourable senators, back in September 2000, the ceiling was lifted for the 1999-2000 fiscal year, effectively neutering it as an election issue. The government promised to discuss a more permanent solution with the provinces, along with possible changes to the clawback of offshore resource revenue. However, as happens so often with this government, the promise was forgotten as soon as the election was over.

Honourable senators, just as the ceiling provision is there to protect the federal government, the floor is there to protect the provinces. The floor ensures that a province does not experience a large cut in its annual payment, either because its economy is doing better than others in a given year, or because of an adverse effect resulting from changes in the way Statistics Canada calculates some of the many variables that go into the equalization formula, or because a province has been lucky enough to suddenly strike oil. Mr. Selinger told the committee:

> Our argument is, if you have a cap and a floor, they should at least be equitable and symmetrical. Neither of them is truly necessary. There are better instruments for fiscal stabilization.

The Finance Committee took a different tack, arguing that removal of the ceiling should not be linked to removal of the floor. The committee noted that the savings from removing the floor are relatively small compared to the cost of lifting the ceiling and said:

• (1640)

> It is the provinces, not the federal government, that run a fiscal risk if the floor is removed. A dramatic decrease in equalization payments could have serious implications for the level and quality of provincial services in the affected provinces.
>
> Because the equalization program is designed to assist provinces to provide necessary services to their citizens, it makes sense to retain the floor in order to ensure that the level and quality of services are not unduly affected by volatility in the system.

Honourable senators, finally, there is the matter of the five-province standard versus the 10-province standard for measuring the ability of individual provinces to raise revenue. Currently, on the basis that it prevents wild year-to-year swings in the cost of the program, the formula for determining what is to be equalized only looks at five representative provinces. Alberta, with its vast resource income, is not one of these provinces.

The recipient provinces, including Manitoba, argue that this is unfair because this means that the formula does not properly compare fiscal capacity among all of the provinces. For example, Mr. Selinger told us:

> There is no reason why we could not return to the 10-province standard in the formula. The 10-province standard would diminish the effect of resource revenues, because they would be spread out over a wider base. The volatility of resource revenues would not be as great an issue as they are, for instance, if you only include Alberta or exclude Alberta.

Honourable senators, here again we have to go to the issue of cost. From Ottawa's perspective, the five-province formula has saved $31 billion over the past two decades, while from the perspective of the provinces and from the committee's perspective as well, this is a burden that has translated into reduced services for some Canadians.

Honourable senators, while I am a member of the Finance Committee that made those recommendations, I have some discomfort with their cost. It is one thing to suggest that we lift the ceiling and move to a 10-province standard. It is another matter entirely to say where the money will come from. If you do not have it, you do not spend it.

I am uncomfortable with the notion that, since the federal government now has a surplus, it should rush out and spend that surplus. Most honourable senators have either been around long enough or have followed federal politics long enough to remember how the spending excesses of the late 1970s and early 1980s led to the fiscal crunch of the late 1980s and early 1990s.

Any increase in spending on any program — it does not matter whether it is for equalization, the CBC, the gun registry, employment insurance or, for that matter, a new Parliament building in Ottawa — can only come at a cost of either tax reduction or debt reduction, or through cuts to other programs. I am not saying that the government should not improve or expand the program to better reflect its underlying principles, but it is essential that we know how we will pay for any changes.

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

Motion agreed to and report adopted.

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

TWELFTH REPORT OF COMMITTEE ADOPTED

On the Order:

> Resuming debate on the motion of the Honourable Senator Austin, P.C., seconded by the Honourable Senator Joyal, P.C., for the adoption of the twelfth report of the Standing Committee on Rules, Procedures and the Rights of Parliament (amendments to the Rules—official third party recognition), presented in the Senate on March 26, 2002.—(*Honourable Senator St. Germain, P.C.*).

Motion agreed to and report adopted.

RECOGNITION AND COMMEMORATION OF ARMENIAN GENOCIDE

MOTION—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Maheu, seconded by the Honourable Senator Setlakwe:

That this House:

> (*a*) Calls upon the Government of Canada to recognize the genocide of the Armenians and to condemn any attempt to deny or distort a historical truth as being anything less than genocide, a crime against humanity.
>
> (*b*) Designates April 24th of every year hereafter throughout Canada as a day of remembrance of the 1.5 million Armenians who fell victim to the first genocide of the twentieth century.—(*Honourable Senator Jaffer*).

Hon. Mobina S. B. Jaffer: Honourable senators, I rise today to speak to the motion that was moved by the Honourable Senator Maheu and seconded by the Honourable Senator Setlakwe on March 29, 2001, dealing with events that took place toward the end of the First World War in what was at the time known as the Ottoman Empire.

A number of senators have already spoken to this motion at its introduction, including Senator Di Nino, Senator Joyal, Senator Finnerty, Senator Cools and, most recently, Senator Taylor. I have followed the progress of the debate with a great deal of interest. It is my hope that all honourable senators will look at what has been said thus far in the debate, as the issue involved is one of tremendous complexity.

We in the Senate have the absolute privilege of working on issues that affect people all over the world. The in-depth study that we are able to do gives us a greater opportunity to reflect on issues, to address the issues and work to further issues. When Senator Cools spoke briefly on this motion, she noted it was a matter to be undertaken with a degree of seriousness. This is a point on which I believe all of us can agree.

Once again, I should like to reiterate that we are very fortunate to have the privilege to look at many issues and work on them extensively.

Hon. Shirley Maheu: Would Senator Jaffer respond to a question?

Senator Jaffer: Yes.

[*Translation*]

Senator Maheu: Some people think that these events took place too long ago to discuss all over again. These people may also think that all immigrants suffering from what they went through should leave these massacres behind them before coming here.

Let us take a moment to think about such statements. Let us analyze, extrapolate, imagine this philosophy. Let us imagine that we are a young Canadian family wishing to adopt a child. The child offered is so lovely that we immediately fall in love with it, but there is a problem. It was abandoned; both its parents were shot right before its very eyes.

The child is now 10 and cries because it saw and felt this violence which led to the death of its parents. What can we say to this child? We can say: "Don't cry. I know that you are sad. I understand and I love you." We can also say: "I do not want to hear you crying. When I adopted you, I wanted you to leave all your emotional problems behind."

Is this really what we are asking our new Canadians, our immigrants and our fellow citizens to do? I would like to know what honourable senators think we should say to the Armenian communities who have been hurt and who are suffering from the terrible aftermath of this genocide.

• (1650)

[*English*]

Senator Jaffer: The honourable senator has asked a profound question. I would suggest that the strength of Canadians lies in the fact that we value people's roots. This is something that I, as a new Canadian, have learned from Canadians. We always must ensure that we honour people's roots.

The Hon. the Speaker: Honourable senators, is there another question?

Senator Maheu: I should like to move the motion standing in my name.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I move adjournment of the debate.

The Hon. the Speaker: Our normal practice is that we respect a senator's wish to speak.

It was moved by the Honourable Senator Lynch-Staunton, seconded by the Honourable Senator Kinsella, that further debate be adjourned to the next sitting of the Senate.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators opposed to the motion please say "nay"?

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker: Is there agreement between the whips as to the ringing of the bells?

An Hon. Senator: One hour.

The Hon. the Speaker: The bells will ring for one hour. Call in the senators.

• (1750)

Motion agreed to on the following division:

YEAS
THE HONOURABLE SENATORS

Adams	Kelleher
Andreychuk	Kinsella
Austin	Kroft
Bolduc	Léger
Callbeck	Lynch-Staunton
Carstairs	Milne
Chalifoux	Moore
Christensen	Murray
Cook	Oliver
Cools	Pearson
Corbin	Phalen
Di Nino	Poulin
Fairbairn	Robertson
Fitzpatrick	Robichaud
Forrestall	Roche
Fraser	Sibbeston
Gauthier	Sparrow
Grafstein	Spivak
Gustafson	Stratton—39
Joyal	

NAYS
THE HONOURABLE SENATORS

Baker	Kolber
Banks	Lapointe
Biron	Maheu
Day	Mahovlich
Ferretti Barth	Morin
Finnerty	Nolin
Furey	Pépin
Gill	Setlakwe
Hervieux-Payette	Stollery
Jaffer	Tunney—20

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

The Hon. the Speaker: Accordingly, debate on this item is adjourned to the next sitting of the Senate.

Senator Maheu: Honourable senators, I wish to ask the Honourable Leader of the Opposition if this is a delay tactic or does he truly wish to speak to the motion after 15 months? I pray that he does.

The Hon. the Speaker: I will look to Senator Lynch-Staunton. If he wishes to answer the question, it is entirely up to him.

CRIME AND VIOLENCE

MOTION TO STRIKE SPECIAL COMMITTEE— DEBATE ADJOURNED

Hon. Anne C. Cools, pursuant to notice of April 16, 2002, moved:

> That a Special Committee of the Senate be appointed to examine the questions of crime and violence in Canada, and their prevention, including the processes of criminal charges, plea agreements, sentencing, imprisonment and parole, with special emphasis on the societal and behavioural causes and origins of crime, and on the current developments, pathologies, patterns and trends of crime, and on the consequences of crime and violence for society, for Canadians, their families, and for peace and justice itself;

That the Special Committee have the power to consult broadly, to examine the relevant research studies, the case law and the literature;

That the Special Committee shall be composed of five senators, three of whom shall constitute a quorum;

That the Special Committee have the power to report from time to time, to send for persons, papers and records, and to print such papers and evidence as may be ordered by the Committee;

That the Special Committee have the power to sit during the adjournment of the Senate;

That the Special Committee have the power to retain the services of professional, technical and clerical staff, including legal counsel;

That the Special Committee have the power to adjourn from place to place within Canada;

That the Special Committee have the power to authorize television and radio broadcasting of any or all of its proceedings; and

That the Special Committee shall make its final report no later than two years from the date of the committee's organization meeting.

She said: Honourable senators, it being almost 6 o'clock, I rise to speak only a few words to the motion, which I wish to set in progress in respect of the important issues that it covers.

I will be asking the Senate to consider the constitution of a special committee to examine the important questions of crime and violence in Canada, with a special emphasis on their causes and prevention.

I am certain that many honourable senators are well aware of the work that I have done for successive generations in respect of this important matter and that they will give this issue the consideration and the attention it deserves. I cannot now give it the attention it deserves; therefore, I propose to adjourn the debate and to continue at, perhaps, the next sitting of the Senate, when I will have more time at my disposal.

On motion of Senator Cools, debate adjourned.

AGRICULTURE AND FORESTRY

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF INTERNATIONAL STATE AND NATIONAL STATE OF AGRICULTURE AND AGRI-FOOD INDUSTRY

Hon. Leonard J. Gustafson, pursuant to notice of May 30, 2002, moved:

That the date of presentation by the Standing Senate Committee on Agriculture and Forestry of the final report on its study into international trade in agricultural and agri-food products, and short-term and long-term measures for the health of the agricultural and the agri-food industry in all regions of Canada, which was authorized by the Senate on March 20, 2001, be extended from June 30, 2002 to March 30, 2003.

Motion agreed to.

The Senate adjourned until Wednesday, June 12, 2002, at 1:30 p.m.

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