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(HANSARD)

Wednesday, November 20, 2002

THE HONOURABLE ROSE-MARIE LOSIER-COOL
ACTING SPEAKER

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THE SENATE

Wednesday, November 20, 2002

The Senate met at 1:30 p.m., the Hon. Rose-Marie Losier-Cool (The Hon. the Acting Speaker) in the Chair.

Prayers.

SENATORS' STATEMENTS

THE RIGHT HONOURABLE SIR WILFRID LAURIER

Hon. Lowell Murray: Honourable senators, Senator Lynch-Staunton, who sponsored the Macdonald-Laurier bill, enacted in the first session, has asked me to speak in his absence on Laurier's birthday, which is today. I am honoured to do so.

[*Translation*]

Parliament did the right thing in honouring both of these titans in a single piece of legislation. Macdonald and Laurier dominated the public life of early Canada during a total of almost 50 years.

Both extended and consolidated Confederation. They instilled into their fellow citizens a sense of Canada's destiny. Abroad, where they defended our interests, they personified Canada.

[*English*]

It was said of Laurier that he loved literature more than law or politics and that, during his years here, anyone in search of the best new books from the Parliamentary Library would find that Laurier got there first.

[*Translation*]

At any rate, Laurier, as a political figure, was more successful than anyone else. He sat as a member of Parliament for 45 years, of which 32 years were as the Liberal leader and 15 years as the Prime Minister.

[*English*]

Mr. Laurier lost his first general election as Liberal leader in 1891. It was Macdonald's last victory, and his last election as Tory leader. Laurier and his Liberals won the next four — an electoral feat not equalled by any prime minister since.

The magnificent eulogy that Laurier delivered in the Commons on the death of Macdonald has often been quoted. Thirty-eight years later, when Laurier himself passed away, that day's political leaders expressed their admiration in words that echoed his own for Macdonald.

Laurier had spoken of Macdonald's "far reaching vision beyond the event of the day," and his "broad patriotism." Sir Robert Borden said of Laurier that "his vision ... was wide and comprehensive; and his sympathies as well." Arthur Meighen took his nine-year-old daughter to Laurier's house to pay his respects, telling her: "You're too young to understand but I want you to be able to say that you saw one of the finest men I have ever known."

[*Translation*]

We know that Laurier had the distinction of having been the first French-Canadian Prime Minister of Canada. Let us recall, however, that we owe him the creation of the Provinces of Saskatchewan and Alberta, whose 100th birthday will be celebrated in 2005, as well as the policy on immigration and the building of new railways that supported it. He was a man for all of Canada and forever, one who initially was staunchly opposed to Confederation.

[*English*]

He gave a moral tone and moral leadership to our politics, and had a moral standing as prime minister that has never been surpassed.

On this, his birthday, we acknowledge with gratitude his incomparable place in our history and his enduring place in the affections of Canadians.

[*Later*]

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I wish to join with my colleague the Honourable Senator Murray in his congratulatory remarks on Sir Wilfrid Laurier's birthday.

Sir Wilfrid Laurier was a special prime minister in our country. He had particular significance to our party. While there were Liberal leaders before Sir Wilfrid Laurier, it is fair to say that he put an imprint on the Liberal Party. When he said that the 20th century belonged to Canada, perhaps he also meant that the 20th century belonged primarily to a Liberal Canada.

Anyone who wishes to cross the hall to my office will see a portrait of Sir Wilfrid Laurier. That portrait hung previously in my father's office, when he was on Parliament Hill, for 25 years. It has had an interesting history.

However, those of us in the province of Manitoba who have long revered the memory of Sir Wilfrid Laurier look with some concern on the Laurier-Greenway compromise. Although I do not think it was ever intended, the Laurier-Greenway compromise literally prevented the education of young people in the French language in my province. Many of us readily recall our previous Speaker, the Honourable Senator Gildas Molgat, who spoke openly about his experiences in the province of Manitoba. He related that, when the school inspector would arrive at the train station, someone would call the school or run ahead of the inspector to assure that all of the French books were hidden. Hence, when the inspector came into a class, only English texts were in use.

That blight has been changed in Manitoba. There are a great number of children who are educated not only in French schools but in schools that teach French immersion both at early-entry level and later-entry level. We have finally recognized the dream of Sir Wilfrid Laurier in extending French-language services to Canadians outside the provinces of Quebec, New Brunswick and Nova Scotia, the provinces in which French-language services were primarily in existence at that particular time.

Honourable senators, Sir Wilfrid Laurier is held in great respect by our present Prime Minister. Indeed, he collects Sir Wilfrid Laurier memorabilia. The small stick pin that the Prime Minister wears at ceremonies, such as the opening of Parliament, was once owned by Sir Wilfrid Laurier. He also has a walking stick that was owned by Sir Wilfrid Laurier.

However, honourable senators, I have one-upped the Prime Minister in one respect. In my search for a wedding present for my daughter, I discovered and purchased, in an antique store in North Gower, Ontario, six pressback oak chairs. In the centre of each is a medallion that says, "Sir Wilfrid Laurier, Premier of Canada."

PARLIAMENTARY POET LAUREATE

CONGRATULATIONS TO GEORGE BOWERING ON APPOINTMENT

Hon. Ross Fitzpatrick: Honourable senators, it is my pleasure to rise today to congratulate Canada's first poet laureate, Mr. George Bowering. I commend my seatmate, Senator Grafstein, for introducing Bill S-10, creating the Parliamentary Poet Laureate.

Honourable senators, I grew up with Mr. Bowering in Oliver, British Columbia, a small orchard town that has provided me with what could be described by some as "poetic" inspiration throughout my life.

George and I went to school together. I cannot think of a better person to fill this historical position and act as the Canadian literary representative of our history from its sorrows, triumphs and joys to its growth as a nation in the 21st century, and I might add, perhaps delivering to us the irreverence that we may deserve from time to time.

Honourable senators, I am confident that George Bowering will serve Canada well, with his love for the written word. He has stated that after 1964, his literary imagination was more and more taken up with Canadian history and geography. I believe Mr. Bowering's work as the first Parliamentary Poet Laureate will most certainly promote a better understanding of our nation.

In his book, *Bowering's B.C.: A Swashbuckling History*, my friend George describes the desert in the Okanagan-Similkameen as follows:

> The soil is beaten by the sun until it falls in dry slides whenever a passing animal disturbs it. Rattlesnakes doze in that sun or slither past some low-lying cactus and spear grass looking for the shade of some crumbling shale. Small owls burrow in the dust and once in a while a scorpion can be seen walking on his shadow across a lump of basalt. If a breeze comes up it blows through crisp sagebrush and greasewood, scenting the air with a kind of spice. Turtles look in vain for mud. Coyotes scamper.

George Bowering asks, "Is that the type of image people in Eastern Canada have of British Columbia?"

To answer my friend's question, honourable senators, I should like to say that I am confident George Bowering's poetry will create a greater understanding of the Okanagan-Similkameen and my home province of British Columbia. I also know that our poet laureate will capture the splendour and spirit that this great country offers from coast to coast to coast.

• (1340)

NATIONAL CHILD DAY

Hon. Ethel Cochrane: Honourable senators, I rise today in recognition of National Child Day. On this day, we celebrate children and the entrenchment of their rights. This year's theme is "A World Fit For Children." Honourable senators, I am sure you will agree that we have fallen horribly short of creating a world fit for children.

We remember, of course, that it has been 13 years since the federal government unanimously agreed to eliminate child poverty in Canada by the year 2000. At that time, we felt compelled to act, in light of data showing that one child in seven experienced poverty. We believed then that 850,000 Canadian children living in poverty was simply unacceptable.

Today, the statistics are even more harrowing. About 1.2 million children, close to one child in five, are living in poverty. We have seen the income gap increase. We have seen no improvement in the depth of poverty. That indicator refers to the number of dollars by which families are living below the poverty line and rests at about $8,500. According to the latest Statistics Canada data, this has increased in the last year.

One reality of living in poverty is that children do not have adequate food to eat. Tens of thousands of Canadian children report going hungry, and more and more families are turning to food banks for help. Sadly, the number of Canadians using food banks has increased in the last decade by an incredible 98 per cent. Not surprisingly, of the 750,000 using food banks every month, half of that number are children.

Honourable senators, we are not doing enough to help our children. We were reminded again in the Speech from the Throne that child poverty is a national tragedy and an issue that must be addressed.

On National Child Day, today, I encourage Canadians to celebrate the contribution children make to our society and to look at how we can contribute to their lives. We must pledge ourselves to do a better job at giving children the best start in life and guaranteeing the welfare of every single child.

NATIONAL DIABETES AWARENESS MONTH

Hon. Yves Morin: Honourable senators, November is National Diabetes Awareness Month. Eighty years ago, the discovery of insulin in Toronto forever altered the lives of people with diabetes. However, insulin is a control; it is not a cure.

Today, Dr. Ray Rajotte and his team at the University of Alberta, with the support of the Canadian Institutes of Health Research, are taking us closer to a cure. The islet cell transfer procedure developed by this team, known worldwide as the Edmonton Protocol, is letting people with diabetes live without insulin injection.

[*Translation*]

Stem cell research could also help make up for the lack of pancreas donations, without which this treatment cannot be extended to more people. The Canadian Institutes of Health Research are working together with the Canadian Diabetes Association and the Juvenile Diabetes Foundation of Canada to improve the quality of life of persons with diabetes and, one day, find a cure for this condition.

[*English*]

Last month, the Juvenile Diabetes Research Foundation announced the launch of a research centre in Montreal, one of 30 research centres it has established throughout the world. This centre, under the leadership of Dr. Lawrence Rosenberg from McGill University, is focusing on ways to increase the beta cells that secrete insulin in the pancreas.

Dr. Rosenberg and McGill collaborators have discovered and cloned a unique gene, called the INGAP gene. This gene produces a protein that is responsible for the formation of new insulin-producing beta cells. By injecting this protein, Dr. Rosenberg was able to reverse the disease in diabetic animals. This is extremely promising research.

Honourable senators, Diabetes Awareness Month is a time to applaud Canadians living with diabetes and the contribution Canadian researchers are making to preventing, managing and curing this debilitating disease.

EFFECT OF RISING COST OF AUTOMOBILE INSURANCE ON SENIORS ON FIXED INCOMES

Hon. Donald H. Oliver: Honourable senators, I wish to draw your attention to a new hardship facing Canadian seniors on fixed incomes — the rising cost of automobile insurance in Canada. Many people believe that the drive for profits by the insurance companies are to blame for the premium increases of recent years. Others claim that seniors have been targeted with higher rates due to the perceived higher risk of ensuring older drivers.

Many seniors are seasoned drivers, with as much as 40 years of driving experience without even a comprehensive claim on their insurance files. They are now being discriminated against because of their age. They are being asked to accept premium increases of between $5 and $1,500 a year. These increases are not fair.

The Insurance Bureau of Canada indicates that the frequency of collisions in all provinces has gone down. What has increased is the number of personal injury claims after collisions have occurred.

Investments with lower values due to the current market slump have also caused an increase in premiums. Insurance companies, previously, relied upon investments to offset the rising costs during recent years.

• (1350)

Insurance fraud is also a growing problem. High-speed driver inattention and uninsured drivers are the real culprits behind the premium increases. In Ontario alone, costs have increased by approximately 50 per cent. Alberta has experienced a smaller increase of 15 per cent from the beginning of this year. These increases make the biggest impact on Canada's seniors, especially those on fixed incomes.

Seniors who cannot afford the premium increase are forced to give up driving altogether. Without proper coverage, they cannot drive, and this has a personal cost. Depression, isolation and dependency can result from this loss of freedom. Many seniors are volunteers in their communities, delivering services for the numerous social agencies that rely on their driving expertise. Excessive increases in the premiums seniors pay affect not only them on a personal level but also the community as a whole. To place seniors with excellent driving records in the same category as high-risk drivers because of their age is discriminatory.

Government regulation has been employed in four provinces to limit the amount of personal injury claims that can go to court. Despite some success, government regulation may not be the answer to the problem.

As senators, we have the responsibility to highlight this age discrimination against seniors who drive. Discrimination has social and economic costs, and we must encourage the insurance industry and the provincial governments to work with seniors' advocate groups to curb these increases. Understanding, dialogue and resistance to discrimination will help provide relief for seniors facing higher automobile insurance premiums.

[*Translation*]

MR. RAYMOND DEVOS

Hon. Jean Lapointe: Honourable senators, it is a great pleasure for me to point out that Raymond Devos, the greatest Francophone comic of all time — I repeat, the greatest Francophone comic of all time — celebrated his 80th birthday in Paris on November 9. He performs only his own material, and is particularly well known for having invented the imaginary world of the fourth dimension, among other things.

I have known Mr. Devos for a long time, and he has always loved Canada, and his many visits to our land prove it. I hardly need mention that his performances were always sold out.

He has, on a number of occasions, performed on behalf of local charities. Twice he performed in Quebec City's Salle Albert-Rousseau to raise funds for the Félix Leclerc interpretive centre, which is now in operation on the Île d'Orléans. On two occasions, he lent his prestige to Yvon Deschamps' and Judi Richards' centre, le Chaînon, which serves battered and troubled women.

He has travelled from France to take part in the Jean Lapointe nine-hour telethon in aid of alcohol and drug rehabilitation. His long-time companion, Françoise Maucq, has always dreamed of having a little spot in Canada to call her own.

Let us hope that dream will come true in the not-too-distant future, so that we will be able to enjoy the presence of the world's greatest funnyman among us.

Our Prime Minister has signed a special certificate, which will be presented to Mr. Devos, in Paris, within the next few days.

VISITORS IN THE GALLERY

The Hon. the Acting Speaker: Honourable senators, I wish to draw to your attention the presence in the gallery of the recipients of the Queen's Golden Jubilee Medal. They are the guests of the Honourable Senator Lapointe.

On behalf of all senators, I welcome you to the Senate of Canada.

ROUTINE PROCEEDINGS

INDUSTRY

PARTNERSHIP TECHNOLOGY REPORT TABLED

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour of tabling, in both official languages, two copies of a report from Technology Partnerships Canada, an Industry Canada agency. This report is entitled "Investing in Innovation, 2001-02 Year In Review."

OFFICIAL LANGUAGES

REPORT OF JOINT COMMITTEE PURSUANT TO RULE 104 TABLED

Hon. Shirley Maheu: Honourable senators, pursuant to rule 104 of the Senate of Canada, I have the honour of tabling a report on the expenditures of the former Standing Joint Committee on Official Languages during the First session of the Thirty-seventh Parliament.

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

[*English*]

STUDY ON NEED FOR NATIONAL SECURITY POLICY

INTERIM REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE TABLED

Hon. Colin Kenny: Honourable senators, pursuant to order of the Senate adopted October 30, 2002, I have the pleasure to inform the Senate that on Tuesday, November 12, 2002, the second report of the Standing Senate Committee on National Security and Defence was deposited with the Clerk of the Senate. The report is an interim report on the study of the need for a national security policy for Canada entitled "For an Extra $130 Bucks... Update on Canada's Military Financial Crisis, A View From the Bottom Up."

Honourable senators, pursuant to rule 97(3), I move that the report be placed on the Orders of the Day for consideration at the next sitting of the Senate.

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

Motion agreed to.

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

THIRD REPORT OF COMMITTEE PRESENTED

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

Wednesday, November 20, 2002

The Standing Committee on Rules, Procedures and the Rights of Parliament has the honour to present its

THIRD REPORT

On Wednesday, November 6, 2002, Senator Joseph A. Day moved, seconded by the Honourable Senator Baker, the following motion:

> That the Standing Senate Committee on National Security and Defence be authorized to adjourn from place to place within and outside Canada for the purpose of pursuing its study.

Debate on this motion was adjourned. The following day, Thursday, November 17, an amendment was moved by Senator Sharon Carstairs, P.C., seconded by the Honourable Senator Robichaud, P.C., that the question be referred to the Standing Committee on Rules, Procedures and the Rights of Parliament. Subsequently, Senator Noël A. Kinsella moved, seconded by the Honourable Senator Stratton, that the motion in amendment be amended by adding the words: "That the Committee report back to the Senate on this matter no later than November 21, 2002." The motion in amendment, as amended, was adopted by the Senate:

> That the question be referred to the Standing Committee on Rules, Procedure and the Rights of Parliament; and
>
> That the committee report to the Senate no later than November 21.

Your Committee has been advised that the specific proposed trip that gave rise to the original motion has been postponed. As this order of reference raises a number of important issues, partly covered by the Procedural Guidelines adopted by the Senate on March 26, 2002 (now contained in Appendix II to the Rules of the Senate), which must be considered by your Committee, and given its current workload, your Committee recommends that the deadline for reporting back to the Senate on this order of reference be deleted.

Respectfully submitted

LORNA MILNE
Chair

The Hon. the Acting Speaker: Honourable senators, when shall this report be taken into consideration?

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

FOREIGN AFFAIRS

NOTICE OF MOTION TO REFER 2002 BERLIN RESOLUTION OF ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE PARLIAMENTARY ASSEMBLY TO COMMITTEE

Hon. Jerahmiel S. Grafstein: Honourable senators, I give notice that tomorrow, Thursday, November 21, I will move:

> That the following resolution, encapsulating the 2002 Berlin OSCE (PA) Resolution, be referred to the Standing Senate Committee on Foreign Affairs for consideration and report before June 30, 2003.

Honourable senators, the detailed resolution of four pages is contained in my written notice in English and in French and concerns anti-Semitic violence in the OSCE region, including Canada.

[*Translation*]

NATIONAL SECURITY AND DEFENCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY PROPOSAL OF VALIANTS GROUP

Hon. Michael Meighen: Honourable senators, I give notice that on Thursday, November 21, 2002, I will move:

> That the Standing Senate Committee on National Security and Defence be authorized to examine and report on the proposal of the Valiants Group for the erection of statues in downtown Ottawa to salute the heroic wartime sacrifice of certain valiant men and women who fought victoriously for the independence of Canada during the 17th, 18th, 19th and 20th centuries, and helped mightily to establish Canada's nationhood;
>
> That the Committee report no later than January 31, 2003.

• (1400)

OFFICIAL LANGUAGES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY ANNUAL REPORTS RELATING TO OFFICE OF COMMISSIONER

Hon. Jean-Robert Gauthier: Honourable senators, pursuant to rule 58(1), I hereby give notice, on behalf of Senator Losier-Cool, that tomorrow she will move:

> That the Standing Senate Committee on Official Languages be authorized to study and report upon the budget estimates and annual report of the Office of the Commissioner of Official Languages, as well as on the annual reports of the Treasury Board and of Canadian Heritage as to their obligations under the Official Languages Act;
>
> That the Committee table its final report no later than March 31, 2003.

[*English*]

NATIONAL FINANCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO PERMIT ELECTRONIC COVERAGE

Hon. Lowell Murray: Honourable senators, I give notice that on Thursday, November 21, 2002, I will move:

> That the Standing Senate Committee on National Finance be empowered to permit coverage by electronic media of its public proceedings with the least possible disruption of its hearings.

FOREIGN AFFAIRS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY TRADE RELATIONSHIPS WITH UNITED STATES AND MEXICO

Hon. Peter A. Stollery: Honourable senators, I give notice that at the next sitting of the Senate, I will move:

> That the Standing Senate Committee on Foreign Affairs be authorized to examine and report on the Canada-United States of America trade relationship and on the Canada-Mexico trade relationship with special attention to: a) the Free Trade Agreement of 1988; b) the North American Free Trade Agreement of 1992; c) secure access for Canadian goods and services to the United States and to Mexico; and d) the development of effective dispute-settlement mechanisms, all in the context of Canada's economic links with the countries of the Americas and the Doha round of World Trade Organization trade negotiations;
>
> That the committee have power to engage such counsel and technical, clerical and other personnel as may be necessary for the performance of this order of reference;
>
> That the committee have power to adjourn from place to place, inside and outside Canada, for the purpose of this reference; and
>
> That the committee shall present its final report no later than December 19, 2003, and that the committee shall retain all powers necessary to publicize the findings of the committee as set forth in its final report until January 31, 2004.

[*Translation*]

HUMAN RIGHTS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY POSSIBLE ADHERENCE TO AMERICAN CONVENTION ON HUMAN RIGHTS

Hon. Shirley Maheu: Honourable senators, I give notice that tomorrow, Thursday, November 21, 2002, I will move:

That the Standing Senate Committee on Human Rights be authorised to examine and report upon Canada's possible adherence to the American Convention on Human Rights;

That the documents and evidence received by the Committee during its consideration of these same matters in the First Session of the Thirty-seventh Parliament be referred to the Committee; and

That the Committee table its final report no later than June 27, 2003.

[*English*]

QUESTION PERIOD

THE HONOURABLE MARCEL PRUD'HOMME

PROPOSAL TO NAME "DIRECTOR *EMERITUS*" OF SECURITY

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, my question is for the Leader of the Government in the Senate. Would the honourable leader agree, in light of the security lapse yesterday in the Hall of Honour during the historic unveiling of the portrait of the eighteenth Prime Minister of Canada, that our colleague, the Honourable Senator Prud'homme, be named "Director *Emeritus*" of security?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I thank the honourable senator for his question. I was unable to attend the ceremony yesterday, but, on television last night, I saw the quick action of the Honourable Senator Prud'homme. I also heard the comments of the Right Honourable Brian Mulroney when he indicated that the individual who skipped onto the stage with an American flag was a supporter of his.

Once again, it was an example of the kind of quick repartee that the former Prime Minister exhibited for many years in the House and in other places as well.

I certainly concur that we could make the Honourable Senator Prud'homme an honorary security guard, in light of his contribution.

[*Translation*]

TREASURY BOARD

PROPOSAL TO RESTRUCTURE PUBLIC SERVICE

Hon. Jean-Robert Gauthier: Honourable senators, my question is for the Leader of the Government in the Senate.

On November 13, the President of the Treasury Board announced that as a result of fundamental changes to, and the modernization of, Canada's public service, there would be significant changes made to the Public Service Employment Act and the Public Service Staff Relations Act. Canadians have been waiting for these important changes for more than two years now.

Furthermore, I raised this question over a year ago in the Senate. There was never any review of the Public Service Employment Act. The last review of the Public Service Staff Relations Act was done in 1976 or 1977. The President of the Treasury Board also tabled her 2001-02 report on the restructuring proposal.

If we were to believe the media, the bill has been put off because of opposition among deputy ministers, who would be given the responsibility to manage their department's human resources, and the need to amend the Public Service Employment Act and the Public Service Staff Relations Act.

Can the minister tell us, given the importance of these two acts, if the government is planning on introducing a draft bill for study and consideration?

Can she assure this chamber that parliamentarians will be consulted before the final versions of these two new bills are introduced?

[*English*]

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, it is my understanding that the minister responsible, the Honourable Lucienne Robillard, will present the proposed legislation in the New Year. There has been no indication that it would come in draft form. However, I could certainly make a representation to the minister that the Honourable Senator Gauthier would like to see the draft version before it arrives in its final form.

NATIONAL DEFENCE

NEGOTIATIONS TO BORROW EQUIPMENT FROM UNITED STATES AIR FORCE FOR CF-18 AIRCRAFT

Hon. J. Michael Forrestall: Honourable senators, my question is for the Leader of the Government in the Senate but, first, I would like to mention the latest round of banter I heard about the Sea King helicopters, a ditty entitled: "Sea Kings in the Sun."

Could the honourable leader confirm that discussions have taken place between the Canadian Forces and the United States Department of Defence in an effort to borrow pods and precision-guided munitions for our CF-18s so that they could, having been asked, participate in Iraq?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the honourable senator began his remarks with reference to a little ditty that seems to be working its way around certain headquarters. That little bit of doggerel is, of course, based on a favourite folk song of many. It is regrettable that it refers to our Sea Kings serving only in the sun because they serve under many other circumstances — not just on bright, sunny days.

As the honourable senator knows, the CF-18s are currently undergoing an upgrading to bring them up to a standard that represents Canada at its primary combat capability.

• (1410)

POSSIBLE WAR WITH IRAQ

Hon. J. Michael Forrestall: Honourable senators, could the honourable leader confirm that the government is considering the deployment of an infantry battalion, likely 2 RCR, which is nearing completion of a series of intensive training exercises, elements of Joint Task Force 2, and at least 12 Canadian Forces CF-18s, whose pilots have also, as she has suggested, been undergoing very intensive exercises for a war with Iraq?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, as the honourable senator knows, a request was made not only of Canada but of all American allies, asking if they would be willing to participate or would be willing to make available certain weapons and troops should war be declared with Iraq. Obviously, we are dealing still with a hypothetical issue that I, for one, hope does not come into being. I still hope that Iraq will fully comply with the resolution passed by the United Nations. If there are armaments of mass destruction in Iraq, my hope is that they will be found and identified by the UN team of inspectors that has presently begun its work in Iraq, that they will be disarmed, and that we will not have to go to war with Iraq.

THE SENATE

POSSIBLE WAR WITH IRAQ—REVIEW IN ADVANCE OF TROOP DEPLOYMENT

Hon. J. Michael Forrestall: Honourable senators, like the Leader of the Government, I do not just hope, but I pray that we will not have to send Canadian Forces into that theatre of operations under the present circumstances. Can the honourable leader give us an assurance that should this happen, there will be an opportunity for discussion in this chamber of the state and condition of the soldiers we are about to send to war so that we might examine their equipment, their clothing, their personal needs, such as food, and all of the things that were missing in the Afghanistan operation? Can we have the assurance that we will have an opportunity for discussion so that senators might express views on this very important matter?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, first of all, I do not agree with my honourable friend's final statement in which he indicated that the troops we sent to Afghanistan were poorly equipped. In Committee of the Whole just yesterday, we heard testimony from Canadian Forces officers to the effect that, while they concurred that they might not have had every single thing they wanted, they certainly had adequate equipment and in many cases first class equipment.

In terms of the question, no, I do not believe we should micromanage our forces wherever they may go. If the honourable senator is talking about a general discussion of whether we should go to Iraq, there have been discussions in the past, in both chambers, when we have taken action to go to war. I would foresee that as a realistic possibility.

UNITED NATIONS

IRAQ—RALLIES IN SUPPORT OF WEAPONS INSPECTION PROCESS

Hon. Douglas Roche: Honourable senators, has the government taken note of the rallies held in 27 locations across Canada last Sunday on a national day of protest opposing a U.S.-led war in Iraq? These rallies were a vigorous manifestation of public opinion across the country in favour of Canada giving full support to the UN inspection process, to ensure that inspections are carried out in a fair and objective manner.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, not only did the government note the rallies, but I think the vast majority of Canadians noted them. They were well covered on radio, television and less so in the print media.

I think Canadians are of one mind on this issue, with few exceptions. They like the United Nations' process. They want Canada to respect the United Nations' process. That has been Canada's position from the beginning, and I think it maintains that position of strong support for the actions of the United Nations.

IRAQ—WEAPONS INSPECTIONS—USAGE OF DATA

Hon. Douglas Roche: Honourable senators, has the government noted that UN Security Council Resolution 1441, which is the operative resolution mandating the inspection process, requests all UN states to support the inspection process and to ensure that data is collected in proper conditions. What is Canada doing to help ensure that the data collected by inspectors is not falsely interpreted by the proponents of war, who are looking for any excuse to wage war on Iraq?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I have confidence, as does the Government of Canada, in the work that has been undertaken by those who are on the ground and who will search out and seek out, through proper methodology, the potential weapons of mass destruction that may exist in Iraq. Clearly, Canada supports the United Nations. It supports the process into which the United Nations has entered. It supports the resolution in its entirety.

THE ENVIRONMENT

RATIFICATION OF KYOTO PROTOCOL— ALBERTA LEGISLATION ON EMISSIONS

Hon. Gerry St. Germain: Honourable senators, my question is to the Leader of the Government in the Senate and involves the impending ratification of the Kyoto agreement.

Alberta passed legislation yesterday that would possibly counter ratification of the Kyoto Protocol or the position of the federal government. Could the Leader of the Government in the Senate advise us as to the position of the federal government vis-à-vis working toward a consensus with the provinces on the ratification or non-ratification of this agreement?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, it was my understanding, and I stand to be corrected, that the Government of Alberta introduced the legislation; it is not my understanding that they passed the legislation. However, we welcome the legislation as a government because it clearly indicates that Alberta is addressing the issue of air emissions in that province, which is a positive goal.

As to the process with respect to the ratification of the Kyoto Protocol, as the honourable senator knows, there is no need for ratification either in the House of Commons or in the Senate. Cabinet can ratify the treaty. The government has decided to have a much more open process and to submit ratification in principle to both chambers. I think that was a wise decision on the government's part. I anticipate that we will see that motion shortly.

RATIFICATION OF KYOTO PROTOCOL— ECONOMIC IMPACT

Hon. Gerry St. Germain: When the honourable senator says "shortly," will this happen before Christmas?

Is the leader aware that the federal government has consistently said the Kyoto accord would not have a negative economic impact on Canadians? My understanding is that, in the tar sands at Fort McMurray, there is a slowdown in economic development and a setback of a year to a year and one-half as we wait to see what evolves at the federal level in regard to ratification of the Kyoto Protocol. This debate is having a negative economic impact on Albertans and other Canadians already.

Hon. Sharon Carstairs (Leader of the Government): I do not think there is any indication there are any economic downturns at this point. The oil and gas industry and every other industry depends upon certainty. The more quickly we move to ratify the Kyoto accord, the more quickly that uncertainty will end.

RATIFICATION OF KYOTO PROTOCOL— ALBERTA LEGISLATION ON EMISSIONS

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, in answer to Senator St. Germain's question, the minister said that the Government of Canada welcomes the legislative initiative in Alberta. If that is the position, it does not seem to be the position embraced by Minister Anderson, who has said, and I am quoting from a news release, "That the attempt," namely, in the Alberta legislative assembly, to assert control over emissions is as "phony as a three dollar bill." Are there two views in cabinet again?

• (1420)

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, no, I do not think there are two views at all. The Province of Alberta is free to introduce legislation when it chooses to do so and it has done so. It is indicating the ways in which it will control emissions within the province. That is a legitimate process, but when the province would purport to have that as the sole answer to the Kyoto accord, then I think it would overreach the impact of their legislation.

RATIFICATION OF KYOTO PROTOCOL— AUTHORITY TO ENTER INTO TREATY

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I have a second supplementary that flows from the exchange with Senator St. Germain. The minister is correct when she points out that the federal executive has the authority to enter into treaties. However, while the exercise of that authority may be legal, does she agree with the view across most circles in Canada that while it may be legal, it would be unconstitutional given the existence of a constitutional convention?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I do not think so. In other words, I would not agree with the honourable senator. It is very clear that the federal government has the right to enter into treaties of an international nature. It has that right and that authority. The government has done it on other issues as well and will continue to do so. In terms of the ratification of a treaty in both the Senate and the House of Commons, it is a new process but one I welcome.

HUMAN RESOURCES DEVELOPMENT

RETROACTIVITY OF GUARANTEED INCOME SUPPLEMENT

Hon. David Tkachuk: Honourable senators, Human Resources Development Canada announced last week that it is increasing its efforts to contact seniors who qualify for the guaranteed income supplement. This is a follow-up to questions I asked on the same issue a number of weeks ago. While it is encouraging that more seniors are being made aware of the supplement, nothing in this new initiative indicates that the government will change the rules surrounding retroactivity. Currently, if people do not apply for the GIS before they turn 65, the retroactive payments they can receive at a later date go back only 11 months.

A lawsuit has been filed in the Quebec Superior Court on behalf of the estimated 300,000 seniors who have missed years of payments due to this policy. By providing payments beyond the 11-month limit, the government could avoid this challenge, which I believe could be costly. Will the government consider changing the retroactivity policy surrounding the GIS?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, as the Honourable Senator Tkachuk knows, retroactivity is not a concept or principle that is easily accepted by governments, and I see no indication that the federal government will go beyond the present 11-month time period.

VETERANS AFFAIRS

LOSS OF PENSION OF VETERAN

Hon. Edward M. Lawson: Honourable senators, my question is for the Leader of the Government in the Senate. It deals with Canadian war hero Al Trotter and his lost $40,000 pension. I understand that he lost it because he failed to respond to an ad in the *Legion Magazine*. Surely, a man's lifetime pension is not based on that. Someone on the staff at the Ministry of Defence could write him a registered letter saying that he is entitled to $40,000 and advise him to apply within a certain time frame.

Honourable senators, I know this issue was raised in the House of Commons. What, if anything, has been done about it? Does the minister know or has she made any attempt to find out? If Mr. Trotter cannot get his pension because of Canada Pension Plan's new retroactive rules, surely he can go to Treasury Board and seek an *ex gratia* payment to right this wrong. May we have an update on this matter?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the only update I can give at this point is that the Minister of Veterans Affairs, the Honourable Rey Pagtakhan, is looking into this particular situation. As soon as I have further information, I will be pleased to share it with the honourable senator.

Senator Lawson: Honourable senators, I know it can be done but I keep hearing that it cannot be done. The minister can go to Treasury Board to seek an *ex gratia* payment. I have had it happen in my experience. It was done in 24 hours and a wrong was righted. Surely, this man, with a wartime record of honour, should not be a peacetime casualty by losing his pension at 80 years of age.

Senator Carstairs: Honourable senators, let us be careful as to what we are saying. It is not a matter of losing a pension; Mr. Trotter has the pension. It is an addition to the pension that he does not have, which is the matter at issue here.

The Honourable Senator Lawson is quite right, and I will take his representations to the Honourable Minister of Veterans Affairs.

THE ENVIRONMENT

RATIFICATION OF KYOTO PROTOCOL— AUTHORITY TO ENTER INTO TREATY

Hon. Gérald-A. Beaudoin: Honourable senators, I should like to revisit a question raised by Senator Kinsella. It is true that the executive may enter into a treaty and may also ratify the treaty in Parliament, but is it not mandatory to give effect to the 1937 decision of the Privy Council that we must follow the division of powers for the implementation of treaties? It may be that some parts of the Kyoto treaty involve the provinces and come under the jurisdiction of the provinces, in which case, of course, a province may say it will legislate. There is no doubt that the federal authority may legislate, and I hope they will. However, given the 1937 decision, there is also no doubt that a province may legislate in its own jurisdiction and the federal authority cannot occupy the provincial jurisdiction.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, it is quite true that the provinces can legislate, which is exactly what the Province of Alberta is attempting to do by introducing legislation. However, they do not have, as the honourable senator well knows, the power to enter into international treaties and obligations. I indicated earlier that implementation legislation will probably follow the ratification of the treaty itself. Implementation legislation will obviously impact on federal responsibilities. We will deal with that in the Senate and in the House of Commons at the appropriate time.

Senator Beaudoin: Honourable senators, my question does not deal with the matter of entering into a treaty. That is a federal power. There is no problem there. Ratification, of course, may take place in this Parliament, but when we legislate to implement the treaty, we must follow the division of powers. We cannot do it for the provinces, but we may do it in our field.

There is no doubt in the world that the greater part of the treaty falls under federal jurisdiction. However, since natural resources are, according to the Constitution, within the powers of the provinces, we must be very careful here. In other words, we may legislate, providing that we stay in our fields.

Senator Carstairs: The honourable senator is quite correct. I can assure him that I am fully aware of the number of justice lawyers who draft legislation and who were educated at his hand. They will, I am sure, take into consideration the distribution of powers.

[*Translation*]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour to table the responses to questions raised in the Senate by the Honourable Senator Forrestall on October 23, 2002, regarding the Joint Task Force 2, and on October 29, 2002, regarding Iltis vehicles.

NATIONAL DEFENCE

TROOPS ON EXCHANGE WITH UNITED KINGDOM OR UNITED STATES UNITS ON ASSIGNMENT IN PERSIAN GULF—JOINT TASK FORCE 2 TROOPS ASSIGNED TO PEACETIME EXERCISES IN JORDAN

(Response to questions raised by Hon. J. Michael Forrestall on October 23, 2002)

At any given time, there are a number of Canadian Forces personnel on secondment or exchange with foreign military units.

The Government of Canada would make a decision as to whether or not Canadian Forces members serving with foreign military units would be authorized to participate in potential operations against Iraq, if and when necessary.

The Honourable Senator is well aware that I cannot comment on matters pertaining to Joint Task Force 2 (JTF2).

Revealing JTF2 operational and training details puts current and future missions of that unit in jeopardy.

PRINCE EDWARD ISLAND RESERVE REGIMENT—CONDITION OF VEHICLES

(Response to question raised by Hon. J. Michael Forrestall on October 29, 2002)

The Prince Edward Island Regiment currently has no Iltis vehicles in operation. Of their 24 vehicles, 3 are permanently out of operation and the remaining 21 are out of service pending a range of different maintenance issues.

The Area Commander is conducting contingency planning to mitigate the impact of this situation on proposed training and to identify long-term solutions to the maintenance and availability issues of this fleet.

The 17-year old Iltis light-vehicle fleet used by the Canadian Forces is nearing the end of its service life. It is no longer cost effective to operate and maintain the aging Iltis fleet.

I can assure the Honourable Senator that replacing the Iltis is part of the Department of National Defence's plan to ensure that the Canadian Forces have the equipment that they need to remain operationally ready.

At a total value of $225 million, the Light Utility Vehicle Wheeled Project will replace the Iltis jeep with 1,663 new vehicles that will further strengthen the CF's combat capability.

I am pleased to advise the Honourable Senator that a contract for 861 of these vehicles for use in North America by the Reserves and some elements of the Air Force and Navy was signed on November 5 with General Motors.

The awarding of this contract is the first in a two-step process. A separate contract for 802 Standard Military Pattern vehicles, designed to meet specific training and operational requirements of domestic and deployed operations, is expected in 2003.

Fielding of both fleets of vehicles is expected to commence in 2003-04.

[*English*]

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Acting Speaker: Honourable senators, I should like to introduce the pages from the House of Commons who are with us this week. Jessica Duarte of Whitby, Ontario, is enrolled at the Faculty of Social Sciences at the University of Ottawa. Jessica is majoring in political science and philosophy.

[*Translation*]

Ian Michon of Hull, Quebec, is studying social sciences at the University of Ottawa, majoring in political science. Welcome. Have a good week in the Senate.

• (1430)

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, on the Order Paper, under Government Business, I would like us to deal with Item No. 1, a motion.

[*English*]

CODE OF CONDUCT AND ETHICS GUIDELINES

MOTION TO REFER DOCUMENTS TO STANDING COMMITTEE ON RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Robichaud, P.C., seconded by the Honourable Senator Carstairs, P.C.:

That the documents entitled: "Proposals to amend the Parliament of Canada Act (Ethics Commissioner) and other Acts as a consequence" and "Proposals to amend the Rules of the Senate and the Standing Orders of the House of Commons to implement the 1997 Milliken-Oliver Report," tabled in the Senate on October 23, 2002, be referred to the Standing Committee on Rules, Procedures and the Rights of Parliament.

Hon. Donald H. Oliver: Honourable senators, I am pleased to join in this debate as to whether we should have a code of conduct for senators and, if so, what it should consist of.

I am not a newcomer to the theory of political ethics. As an undergraduate at Acadia University, I took several philosophy courses in ethics and political philosophy. I won the Ralph M. Hunt Prize in Political Science and completed all the course requirements for a master's degree in philosophy. I did not complete my thesis, but the topic would have concerned aspects of political ethics. Since coming to the Senate, I have served on two special joint committees on an ethical code of conduct for parliamentarians.

With that personal background, I now state that I feel that my serving Canadians as a member of Parliament is a public trust. For years, I have felt that a code of conduct for both Houses of Parliament would help to reassure the public that all parliamentarians are held to standards that place the public interest ahead of parliamentarians' private interests. It would also provide a transparent system by which the public may judge this to be the case. For us as senators, it would provide for greater continuity and guidance in how to reconcile our private interests with our public duties.

The draft code that I had the privilege to work on with the Honourable Peter Milliken was designed to foster a consensus among parliamentarians by establishing common rules and by providing the means by which questions relating to the proper conduct may be deliberated on or answered, and resolved by an independent, arm's-length, non-partisan adviser we chose to call a "jurisconsult." One of the advantages of having a jurisconsult or ethics commissioner is that, as in the House of Lords, the member who takes and acts on the advice of the parliamentary officer, jurisconsult/ethics commissioner, in determining what is a relevant interest and proper conduct, will receive a letter or certificate fully satisfying the requirement of the code in the U.K. That is a major benefit to the member or senator, and we have a similar section in the draft code, section 27(3).

I approach this entire subject of a code of conduct with the conviction that at least 99 per cent of Canadian parliamentarians intend, at all times, to represent the public interest and always want to act to maintain the public confidence and trust in the integrity of all parliamentarians.

In my opinion, the best way to provide the openness, transparency and accountability that Canadians want in their parliamentarians is to have a code. I feel that a code would provide guidance for senators in the standards of conduct expected of them in the discharge of their parliamentary and public duties.

If we have a code, what should be in it? First, it should be a regime based upon disclosure. We learned this from the Sinclair Stevens case. Sinclair Stevens was a cabinet minister or a public office-holder. The Honourable Mr. Justice W.D. Parker headed a commission of inquiry into the allegations of conflict of interest concerning the Honourable Sinclair M. Stevens. In an exhaustive report of nearly 500 pages, he conducted a comprehensive analysis of real and apparent conflicts of interest, and he also addressed, for public office-holders, the relationship of spousal disclosure. I am aware that the bill and code before us envisage a separate code for public office-holders, but the discussion of Mr. Justice Parker, with respect to members and spouses, is instructive.

Here is what he said about the importance of a disclosure regime, at page 348:

> In my view, public disclosure should be the cornerstone of a modern conflict of interest code. I recognize that the extent to which public office holders should make a public disclosure of private financial interests has been a matter of some debate both in Canada and abroad for a number of years. I am satisfied, however, that full public disclosure of public office holders' private financial interests and activities is the sensible direction of reform.

He added:

> The point was made in the Aird Report: "full public disclosure of all economic interests and relationships is the strongest weapon in the arsenal of any conflict of interest regime." I agree. If modern conflict of interest codes are to ensure that public confidence and trust in the integrity, objectivity and impartiality of government are conserved and enhanced, they must be premised on a philosophy of public disclosure.
>
> The suggestion that public disclosure must be a cornerstone philosophy for any modern conflict of interest regime, does not mean that public office holders would have to bare their souls. Canadians place a very high value on privacy.

He said that we should keep private those assets that are truly personal, such as place of residence, household goods, personal effects, automobiles, cash and savings deposits, RRSPs and so forth. The code need not require disclosure of net worth.

Finally, Justice Parker spoke about the disclosure regime in the United States, and he said:

> I was particularly interested to learn that the disclosure requirements have not discouraged "good people" from entering politics or running for Public Office.

I read in the newspapers that a number of our senators are concerned that this will prevent good people from running or even accepting a seat when summoned to the Senate.

I should like to read about the experience in the United States, from page 350:

> By all accounts, the U.S. disclosure requirements are working reasonably well. There had been criticisms relating to investigation and enforcement, but the requirements in principle have received wide-ranging approval. I was particularly interested to learn that the disclosure requirements have not discouraged "good people" from entering politics or running for public office. For example, a study of members of the U.S. House of Representatives and Senate conducted by the Center for Responsive Politics in 1985 found no one who felt that financial disclosure affected his or her decision to seek public office. Further, the vast majority of senators and representatives interviewed said that they knew no one who declined to seek public office because of the disclosure requirements. The disclosure obligation is seen as a reasonable requirement that quite properly attaches to the privilege of holding public office.

Honourable senators, in the time that remains, I wish to discuss four aspects of the code of conduct: first, appointment of an ethics commissioner; second, the House of Lords code in the U.K; third, spousal disclosure; fourth, whether people other than senators should have the right to file claims; and fifth, my conclusions.

First, the ethics commissioner must be independent, objective, non-partisan, and he or she must be the epitome of integrity. The Red Book promised such an individual would be chosen only after consultation "with the leaders of all parties in the House of Commons and will report directly to Parliament."

What we have in this draft bill, however, is that the Prime Minister, through cabinet, will make the choice without reference to other leaders in Parliament. It says:

> **72.1** The Governor in Council shall by commission under the Great Seal appoint an Ethics Commissioner.

This is fundamentally wrong and, in my opinion, should be changed. It makes the process too political. The appointment process would taint the commissioner before he or she even began work. If the right eminent Canadian is chosen, I feel assured there would be little, if any, difficulty obtaining consent from all the parties.

Second, the Leader of the Government in the Senate stated in her October 24 speech, in this place, the following:

> The Prime Minister has stated that the government will be open to changes recommended by the Senate...

Senator Carstairs also said a code would modernize "Canada's Parliament in line with other parliamentary democracies, including those of the United Kingdom, Australia and most of our provinces." Our provinces do not have upper chambers, but the United Kingdom has the House of Lords.

• (1440)

The Milliken-Oliver report was considered by the Prime Minister to be a framework on which a Senate code could be built. Therefore, on the suggestion of both the Prime Minister and Senator Carstairs, the Leader of the Government in the Senate, it may be useful for our Standing Committee on Rules, Procedures and the Rights of Parliament to study the disclosure regime of the House of Lords as something we, a sovereign body, may find more suitable to the nature of our chamber. After all, in the Constitution Act and by convention, our two Houses are very different. We are summoned; they are elected. Most of us represent the regions; they represent individual constituencies. Many of our house rules and procedures are different. In light of these and many other differences, there may well be changes and recommendations that we should make to the draft code that is before us, this framework legislation, which the government would welcome.

For instance, in the United Kingdom, members of the House of Lords are to register "all relevant interests." The test of relevance is whether the interests might reasonably be thought by the public to affect the way in which a member discharges his or her parliamentary duties. Their code says that the test of relevant interest is, therefore, not whether a member's actions in Parliament will be influenced by the interest, but whether the public might reasonably think that this might be the case. Relevant interests include both financial and non-financial interests.

The House of Lords adopted its code of conduct on July 2, 2001, as amended July 24. A careful distinction must be drawn with the U.K. practice because it does not have provisions such as our section 14(1) of the Parliament of Canada Act, which states:

> No person who is a member of the Senate shall, directly or indirectly, knowingly and willfully be a party to or be concerned in any contract under which the public money of Canada is to be paid.

They can, in fact, receive remuneration in relation to advice on parliamentary matters.

However, the Lords have an interesting section on "shareholdings." In the section covering "shareholdings not amounting to a controlling interest," their code requires that only "significant holdings" should be registered. Ownership of more than 5 per cent might reasonably be considered significant. Since there is not now, and never has been in Canada, a requirement to produce and declare a statement of personal net worth, the U.K. approach may be less intrusive, and yet just as effective as our draft section 22.

Third, when considering the issue of spousal disclosure, I find it useful to refer once again to Mr. Justice Parker in the Sinclair Stevens case. Here are some of the fundamental questions each of us as senators might want to ask in carrying out our duties as senators: What is the nature of my duties? What kind of decisions do I have to make? Is there anything in the activity of my spouse that could conceivably give rise to a conflict of interest on my part? Is any difficulty created when the professional or business activities of my spouse relate directly to the matters on which I am leading debate that could produce a benefit not generally available to Canadians? This is covered in our draft code, section 13(1), rules of conduct on insider information and the use of it.

Should only the member of Parliament disclose, or should the spouse be obliged to file a confidential disclosure statement? Throughout the draft code, the word "confidentiality" is stressed. First, let me quote section 30 of the draft code:

> The Committee —

— committee of the Senate, a joint committee of the Senate and House of Commons —

> — must take all reasonable steps to ensure that information relating to the private interests of Parliamentarians and those of their family is not publicly disclosed, except in accordance with this Code.

Honourable senators, I am aware that the question of spousal disclosure of financial assets, liabilities and interests is met with mixed enthusiasm.

The Milliken-Oliver report was premised on the belief that one reason for having a jurisconsult, or ethics commissioner, and for requiring disclosure, private and public, is to alert parliamentarians to situations that could prove embarrassing or difficult, to provide guidance as to how to resolve problems should they arise, and to provide an independent and fair mechanism for swiftly dealing with accusations, should that be necessary. From this perspective, the system may be seen as an asset for parliamentarians and their families, rather than an intrusion into their privacy.

Hon. Elizabeth Hubley (The Hon. the Acting Speaker): Senator Oliver, I wish to advise you that your time for debate has expired. Are you asking for leave to continue?

Senator Oliver: I would request leave to continue for a few more minutes.

The Hon. the Acting Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Senator Oliver: In the U.K., the House of Lords' code deals with spouses differently than the draft code before us. For instance, under paragraph 13(*c*), regarding the financial interests of a spouse, a relative or friend, it is unlikely that an interest not held by a member of the house himself or herself, in our case a senator, would be appropriate for registration, although it may, of course, be necessary to declare such an interest when the member is speaking or participating in a debate. This is a very different approach from our draft code. It may, therefore, be useful for the Senate Rules Committee to have placed before it all of the rules, papers, documents, codes and Register of Lords' interests as the committee reviews what form of declaration may be appropriate in Canada.

While it is true that the modern tendency is for spouses to have independent careers and assets, that is a reason for disclosure, not against it. It would be rare to find a spouse who does not know at least the general nature of the other's financial affairs. Thus, the situation of a spouse is relevant when consideration of the conduct of a senator or MP arises: for example, where there might be a question of a member of Parliament's trying to exercise influence in favour of a given policy or matter.

Spousal disclosure is a feature of all of the provincial systems that are similar to the proposed bill and code before us. There is no evidence that the requirement for spousal disclosure provincially has deterred excellent individuals from running for public office.

An important distinction should be made between confidential and public disclosure. While the former, to a jurisconsult or ethics commissioner, would be complete, the latter would exclude the most common kinds of assets and liabilities. It is felt by some that, at the end of the day, many senators, members and their spouses would not have extensive public disclosure documents.

In conclusion, honourable senators, I say the following: First, if we have a code, we must have a regime of disclosure.

Second, it is clear from the statement of the Leader of the Government in the Senate, and indeed from the Prime Minister's own words when he says that he is open to recommendations by the Senate, as to the form and content of this code.

Third, it is now possible to amend the draft in ways that will protect the dignity and the sovereignty of the upper chamber.

Fourth, the Senate Rules Committee should give serious consideration to having a separate code for senators, and to having a separate committee to oversee and administer the code for the Senate. This will ensure the flexibility to amend the rules when required by the Senate to enable the code to be current, given contemporary conditions. From my experience, in most joint or special joint committees, the division of membership is normally one-third/two-thirds, placing the Senate in a distinct minority. The separate committee is, of course, envisaged by section 28 of the draft code before us in that it indicates:

> Committees of the Senate and the House of Commons, or a Committee of both Houses of Parliament, must be designated or established for the purpose of this code.

It has already been envisaged in the draft that there could be a committee and a code for the Senate.

Fifth, the draft act should be amended so that only senators can initiate complaints against senators, as contained in section 31 of the draft code, and not as set forth in section 72.7 of the bill amending the Parliament of Canada Act.

• (1450)

Sixth, section 72.1 of the amendments to the Parliament of Canada Act should be amended to include a consultation process with all leaders tracking the undertakings in the Red Book, the rationale for which has been clearly articulated by Senator Lynch-Staunton in his remarks in this place.

Seventh, the code should not be created by legislation but should be adopted by resolution of the Senate. It may be useful for the Senate of Canada to review the House of Lords' Register of Lords' Interests.

Hon. Jerahmiel S. Grafstein: Will the honourable senator accept a question?

The Hon. the Acting Speaker: Would you permit a question?

Senator Oliver: I would permit a question.

Senator Grafstein: I wish to welcome Senator Oliver's contribution to this debate. I find what he has said with respect to a rule-based model very appealing and persuasive.

However, I found an inconsistency between the honourable senator's conclusion and some of his preparatory comments which were, in effect, with respect to a statutory ethics commissioner who would be appointed by both Houses.

Does the Honourable Senator Oliver not feel that this, in effect, erodes the concept of separation of rules and separation of process for the two Houses, in other words, to each his own?

Senator Oliver: That is a very good question.

I have received advice that it is possible to have a code adopted by resolution, either in this house or in the other House, or in both Houses, and that legislation is not necessary for that.

I have also been advised, however, that if we wish to have a commissioner appointed by Parliament, that must be done by legislation and not by resolution of the House. If there is a conflict, it is a legal conflict, because some of the drafters do not know how there could possibly be a parliamentary officer whose office is created by anything other than legislation. That is the dilemma.

Senator Grafstein: If I may add a supplementary question, we have officers already established in this house. There are clerks and legal officers already established under the construct of this Senate, and under our rules. I do not know why we must invent a new wheel that goes to the other place, and that puts us, as senators, in a position where we cannot defend ourselves in the other place by virtue of the existence of an officer who is, in effect, appointed by statute, or who has jurisdiction over both places.

We already have very good, staunch and capable staff and independent advisers here. Many of us have had the benefit of legal advice from the Clerk and others. It would be more consistent if honourable senators were to follow the existing structure and do as has been done in the past, which is to establish rules that, in effect, deal with the public interest as well as the private interest of each senator.

Senator Oliver: Honourable senators, in the draft that is before us, there are provisions. The honourable senator is quite correct that the Clerk is an officer of the Senate.

Even in the draft code before us, there is reference to a number of activities that can occur when there is an allegation against a senator that is to be referred to, and investigated by, the Clerk of the Senate. That provision is already included here.

The only thing that is different from what is here is that the drafters take it one step further. They say that after the Clerk of the Senate has gathered the information and conducted a preliminary investigation, he must then take the matter to the ethics counsellor who has been appointed by Parliament. This person is seen, by way of this draft at least, to have a higher authority by virtue of being appointed by legislation.

Hon. Serge Joyal: Honourable senators, I should like to ask Senator Oliver a question. I commend him for this report that he prepared with Mr. Milliken.

The report contains in Recommendation No. 2 under "Evasion" that the rules of the Senate be amended. It is mentioned in the report that the jurisconsult shall be an officer of Parliament. Then it goes on to say:

> After consultation with the leaders of the recognized parties in the Senate and House of Commons and such other persons as the Speakers consider advisable, the Speakers shall table a nomination in the Senate and the House...

The entire philosophy of the honourable senator's report, as I understand it, is to contain the system, not only the rules and the code but also the mechanism, within the Senate rules. That is, I understand, the thrust of the report.

What we have today under consideration, under the initiative of the Deputy Leader of the Government, is a draft bill and a proposed code of conduct that would be given effect in the *Rules of the Senate*. Thus, what I have difficulty reconciling is the philosophy of this report — and I will certainly have another opportunity to express my views later on — that in my opinion is consistent with the constitutional status of our house. The honourable senator's report is absolutely straight on this. I will have another question later. However, on principle, the report is sound.

I listened to the honourable senator carefully. He seems to be maintaining that road or pathway of proposal. I follow him. However, at a point in time on the status of the jurisconsult or the ethics commissioner, the honourable senator seems to return to the statutory route.

Could the honourable senator tell us today if he has the capacity to take his report and the proposal of the draft bill and advise what route he would recommend this house to consider?

Senator Oliver: Honourable senators, that is a very good question. The report of Milliken-Oliver was tabled in 1997, and it was not adopted by either house. Since that time, lawyers in the Privy Council Office and elsewhere have looked carefully at the proposal as set forth for a jurisconsult, and the powers and the relationship of the rules. Some lawyers have given their opinion that it cannot be done in the way that is prescribed in the Milliken-Oliver report. In order for us to have an officer, that officer must be appointed by legislation, and legislation of the Parliament of Canada. That is the change.

That is why the draft before us does not reflect the Milliken-Oliver report that was tabled in 1997. Since that time, there has been a legal opinion saying that it cannot be done in that way. The better way to do it is by legislation, so that this officer is appointed by legislation approved and adopted by both Houses.

Senator Joyal: Honourable senators, I, too, wrestle with the idea of the status of an officer of Parliament. What is an officer of Parliament? There is no statute that defines what an officer of Parliament is. There is no such thing as a statute of Canada that defines what an officer of Parliament is.

As a Parliament, we have a certain number of officers who help Parliament maintain accountability of the executive of government. We have the Auditor General, we have the Chief Electoral Officer, and we have the Privacy Commissioner. They help Parliament keep the government accountable because they have an arm in the administration that we cannot have in our individual capacity. They help Parliament maintain the accountability of government.

What we are dealing with here is not the accountability of Parliament; it is the accountability of individual senators, or individual members of this chamber. There is a difference between the two.

When I look at the proposed legislation with the idea that it is referring to an officer of Parliament, as was stated by the learned Deputy Leader of the Government in the Senate, I found many differences between the status of the ethics commissioner proposed in the draft bill and the analysis of the characteristic of each and every officer of Parliament that I mentioned.

For instance, important offices are held by the Auditor General, the Chief Electoral Officer, the Privacy Commissioner or the Access to Information Commissioner, who are all appointed by resolution, in other words, an order. That is important. The chamber gives an order. These officers have long-term mandates, such as a ten- or seven-year mandate, to put them outside of the reach of the electoral process.

Upon reviewing the draft bill before us, I note that it contains elements indicating a five-year term, which is essentially based on the electoral term, and the electoral agenda and calendar. It draws a kind of political mantle over the system. If we examine what and how that officer must report, we will find that he does not have the same status as those who we call officers of Parliament.

• (1500)

I understand that my honourable colleague and other learned lawyers are saying that if we want to have an officer of Parliament, we must do so by way of statute. However, a statute is not needed for the purpose of appointing an ethics commissioner. The honourable senator was right in saying that this house, through a resolution, could appoint its own ethics commissioner, and that ethics commissioner would answer directly to our house. We do not need to have the name of someone in a statute book to have an effective, credible and independent ethics commissioner who would be appointed to the age 70 years.

I read the 1978 bill to which the Honourable Leader of the Government referred. The previous government of Pierre Trudeau tabled it in 1978. That was Bill C-8, which, after consultation and resolution, would have appointed an ethics commissioner. In clause 13 of that proposed legislation, the person was to be appointed to the age of 70 years. Why? The report of the Allan MacEachen study notes that that is because the person must remain outside the reach of individual members.

I have looked at the bill, and listened carefully. Believe me, the honourable senator has provided me with a bible for the past several days. I tried to understand the characteristics of the individual whom we would wish to appoint, and I was in complete agreement with the honourable senator on this topic. However, we should not try to insert into the debate the notion of having an officer of Parliament. We are not seeking an officer of Parliament, because the person would be answerable to this chamber. The person would not control the administration of the government or its agencies.

Honourable senators, if the other place wants to have a statutory appointee for other reasons, which I will have an opportunity to discuss certainly, I would support that. However, the same thing is not at stake here.

At this time, as the honourable senator rightly says, we have the problem of having to reconcile our right to privacy as individuals and our public duty to maintain the trust of the people who are in the galleries and listening to us. How do we do that and maintain the constitutional independence of our chamber?

I have spoken at length. We rely on Senator Oliver because he has had an opportunity to investigate these issues. As I said, the principles were sound, but now it seems that we are mixing things that should be separated.

Senator Oliver: Honourable senators, it is really hard to add —

Senator Grafstein: Say "yes" or "no."

Senator Oliver: The record should show that I should say "yes" or "no" to that question.

Honourable senators, I agree with much of the logic and analysis that Senator Joyal has given. I would hope that the Standing Committee on Rules, Procedures and the Rights of Parliament would summon some of the authors of the legal opinions upon which this draft legislation and the creation of the ethics commissioner have been based. That would provide an answer to the question, in part.

The second part of the question, beyond the legal opinion as to whether we need legislation in order to have an ethics counsellor appointed by Parliament, is even more fundamental and important. Do we need to have a parliamentary appointment or can we establish an ethics commissioner for the Senate by way of resolution of a Senate committee? It would seem to me that if we do not wish to have the Clerk of the Senate as the ethics commissioner, we could identify a person through resolution. We could identify an additional person such as a retired judge of the Supreme Court of Canada as the jurisconsult or commissioner.

However, that is a secondary question. My report and my comments today were based upon the difference between the government proposed draft before us and the Milliken-Oliver report. I thank Senator Joyal for his most interesting intervention.

The Hon. the Acting Speaker: Would the honourable senator take another question?

Senator Oliver: Yes.

Hon. Anne C. Cools: Honourable senators, I was following the debate. Perhaps there should be some clarification; otherwise, the record may represent misunderstanding.

I understood Senator Oliver to say that the ethics commissioner would be appointed by legislation. I made a note as he was speaking, because my understanding is that such a person would not be appointed by legislation. My understanding is that such an appointment would be made through an Order in Council. The legislation authorizes the cabinet to make such an appointment. Am I correct?

Senator Oliver: The honourable senator is correct in that legislation is required under the draft before us.

Senator Cools: It is a Crown appointment; the record should be clear on that.

I have a question of a parliamentary nature for the honourable senator. As he knows, the relationship between Parliament and the Crown is supposed to be a very jealous relationship. To my mind, the proposal for this ethics commissioner is an unparliamentary one in respect of the law of Parliament because it purports to give a stranger, in parliamentary language, powers to investigate members of Parliament. Second, the proposal purports to give a Crown appointee powers to investigate a member of Parliament.

My reading of history, which is modest, tells me that such proposals are unparliamentary and even foreign to the common law under our system of Parliament.

Does the honourable senator have a comment?

Senator Oliver: Honourable senators, the premise of the honourable senator is correct. Both the proposal in Milliken-Oliver and the proposal in this bill purport to give someone who would be a stranger, an eminent Canadian, perhaps a retired judge, the power to investigate, give advice and report. That is correct.

It would be news to me if that were contrary to common law.

Senator Cools: Honourable senators, historically, as I said before, Parliament has been very jealous in its rights for its members. The term "trial by one's peers" comes from one House of Parliament.

Parliament has always been very jealous in its hold on its members. We could use different language. We could say that the Houses of Parliament are masters of their respective Houses. For example, any member can rise at any moment and make a motion to exclude strangers.

Parliament embodies the rights of the people. The rights of the subjects to representation were never to be subject to any stranger in respect of parliamentary activities. I point out to the honourable senator that the term "jurisconsult" is foreign to common law principles.

I find the proposed legislation not only alien to Parliament but also hostile to Parliament. In addition, the proposed legislation makes no provision for due process for senators. Therefore, I am not supporting it. I do not understand how these foreign concepts — and when I say "foreign" I mean hostile to the existence of Parliament itself — can make their way into our very being.

• (1510)

I can see from over here the reactions to questions that I am raising in senators' minds. It is extremely important that, at the end of the day, Parliament and Parliament alone maintains complete control over its own independence, and that it remains master of all its activities and, more important, that it is the master of the conduct of its own members. This is an important and longstanding parliamentary tradition. It was secured by the Bill of Rights of 1688 and has been secured in many subsequent statutes. I intend to speak in this debate as time unfolds, but I find the proposals contained in the documents before us repugnant to Parliament.

Senator Oliver: It seems that some of Senator Cools' suggestions concur with the eloquent suggestions made earlier by Senator Joyal, namely, that we have in this place already certain officers, such as the Clerk of the Senate, who could do the job that the code envisages. To that extent, Senator Cools agrees with Senator Joyal. Since both the Leader of the Government in the Senate and the Prime Minister have said that they would welcome these suggestions, it seems to me that this is something that our committee could recommend.

Senator Cools: What I am trying to get at, I suppose, is that the BNA Act clearly lays out that the control over the behaviour and conduct of senators is supposed to be a matter exclusive to the Houses of Parliament themselves, particularly the Senate. If you look at those sections of the BNA Act, they still refer to processes like "attainder," and so on. It was intended by the Fathers of Confederation that — and I do not want to use the word "control," — the superintendence of its members is a feature of the high court of Parliament. It was thought to be unparliamentary that members of the high court of Parliament should be subjected to lesser tribunals or to lesser persons. These are the principles of the system. That is why those sections are included in the BNA Act, namely, to ensure that at any given moment the control of the behaviours and conduct of members rests with the House as a whole.

I do not think I am revealing anything that every one here does not already know. It is for this reason that I consider the proposals that are before us to be extremely questionable and suspicious. I also see them as being very menacing and mischievous because, at the same time as they purport to contain certain piety, they make absolutely no provision for what I would consider as giving members of Parliament due process. As far as I am concerned, I would have great difficulty supporting that.

Perhaps, honourable senators, I am saying something that we have not yet canvassed enough in this chamber, and perhaps as the debate goes forward it will be canvassed a little more. However, there is absolutely no reason whatsoever, and there is absolutely no legal base for the phenomenon that is being proposed, which is to subject members of Parliament to investigations from non-members. There is no philosophical or historical ground for that whatsoever. This is totally new, and honourable senators should resist these proposals and fight them as strenuously as possible because, as I said before, they are pernicious and mischievous. What they will be creating is a regimen for false accusations and purely political manipulation where some individuals will be invited to make allegations, false and true, against other members.

We all know that, historically, the most effective way to tie up and to thwart and to blunt any parliamentarian's performance was to entrap a member of Parliament in the phenomenon of having to defend themselves, even before the courts. This is a very old phenomenon, and this is why, historically, we have a set of parliamentary privileges.

However, I am of the strong opinion as well that these proposals presently before us violate the protections that are already contained in the BNA Act and they also violate what we call the law of Parliament. I will expand on that as we go forward but, as I said before, the proposals that are before us are so bad and so poor that it is my humble opinion that we should abandon these proposals. If members of this house feel so strongly that we should have a code of ethics, then such a code of ethics should be brought forward as a product of this house, at the initiative of this house with the trustful cooperation of members of this house, rather than the proposals that are before us, which are coming forward to us as an executive proposal from the cabinet. Something is very wrong with that, honourable senators, and I would like to address that as we go on. These are not proposals from the Senate; these are cabinet proposals.

Hon. Fernand Robichaud (Deputy Leader of the Government): On, a point of order, just for my information, are we on questions to the honourable senator who just spoke, or is Senator Cools making her speech now?

Senator Cools: I thought I was having a lovely exchange with Senator Oliver. I was asking him for his comments on what I was saying. I have known Senator Oliver for a long time. We started our jousts beginning with the GST. This is not a question, but some honourable senators are calling for a question. Honourable senators can have an exchange once senators permit it, but I will keep you in suspense. I will be happy to take the adjournment if no one else wishes to do so.

The Hon. the Acting Speaker: Senator Oliver, do you wish to make a comment to that comment? Would you entertain another question from another senator?

Senator Oliver: Yes.

Hon. Richard H. Kroft: Honourable senators, I will try to confine my question to a specific portion of the comments of Senator Oliver. It has to do with the area of disclosure. Because we are early in the consideration of this subject, I would like some clarity. The honourable senator cited with favour a number of different sources on the issue of the importance of disclosure, and I believe he really described the process of disclosure as being central to the process.

I have some trouble with this whole area for a number of reasons, but I wanted to get some clarification. The honourable senator referred with favour, I believe in most cases — or at least with interest — to the code of conduct of the British House of Lords. It is my reading of that code, and of the reports that led up to the production of that code — and, I should add for all honourable senators that an enormous amount of time and effort was spent in committee in consideration before they got to their position, which should be a caution and advice to us all — that they did not accept the word "disclosure" lightly. There has been a great deal of emphasis in the lead-up to that and in the code itself to the concept of "relevant disclosure."

Disclosure can be made in two ways: It can be by way of the register or by way of declaration in the course of a debate or a committee proceeding. They went to great lengths to ensure that the disclosure is relevant, which I understand to mean relevant to a particular issue, a particular speech, a particular committee investigation that a given member of that house is involved with at the time. It is not a blanket revelation that should apply to a whole range of concerns, interests, benefits, assets or liabilities of a particular senator in anticipation of what may come up in the course of his or her work.

• (1520)

As I read both the preamble and the code itself in the House of Lords, I find that they have followed closely to the line that disclosure must be relevant to the issue that is under consideration. That is quite different and much more akin to the corporate world and other areas where many people are accustomed to functioning. The honourable senator has discussed this with favour on some occasions and on other occasions he has spoken in favour of a broad disclosure being central to the success of this type of provision. I find that to be a contradiction because the honourable senator seems to be citing contrary sources with favour.

Senator Oliver: Honourable senators, I do not think I am citing contrary sources with favour. I have tried to present a brief history of conflict of interest regimes. My chief source of information was the report of the Honourable Justice W.D. Parker who headed up the commission of inquiry into allegations of conflict of interest in the Sinclair Stevens case, wherein he referred to the Starr-Sharp report, the Aird report and many other major reports in Canada that have attempted to define, in a parliamentary way, what a conflict of interest is and how to overcome it. All of their conclusions were the same. In every case they said that to have a proper regime for public office holders — for cabinet ministers — there must be a regime of disclosure.

That is the same conclusion that the House of Lords reached. It has what is called a "Registry of Lords' Interests." They go even further than anything suggested in Canada by saying that if one even serves as a member of a board of directors of a charitable organization, they want to know about it. I will give an example: Lord Acton, member of the Oxford Brookes University Court, must disclose his membership in the register. In one sense, they go much further.

Was I in conflict when I said that if we are to have a code, we must have a regime of disclosure? The House of Lords states that they have a code that is based upon a regime of disclosure, and I agree with that. I do not see how there can possibly be a parliamentary code of conduct without some form of disclosure. At the beginning, in the middle and at the end of my speech, I said that the key issue for determination by the Rules Committee, if we are to have a regime of disclosure, what should it consist of? What is to be disclosed; how is it to be disclosed; and to whom is it to be disclosed? That is the issue before us.

The honourable senator will recall that I said it would be important for the Rules Committee to have laid before it all of the debates, the rules, the documents and the codes of the House of Lords because they could be most instructive, particularly if we are to take the approach that this chamber should have its own separate code administered by its own committee.

Senator Kroft: Honourable senators, I wish to re-emphasize my concern, which was not with the word "disclosure" but with the term " relevance." My problem with much of the concept of disclosure is the casting out of vast amounts of information, which becomes a playground for various and sundry purposes. The issue of relevant disclosure is central to the rule of the House of Lords, both in the language of the rule and in the language of its authorities. They have spent a great deal of time preoccupied with the word "relevance." That is where the honourable senator and I seem to be not quite connecting. When he talks about disclosure, I do not find him so pre-occupied with the concept of relevant disclosure.

Senator Oliver: Honourable senators, that is not accurate. When my speech is read, it will be obvious that I quoted the House of Lords' definition of "relevance with approval," both in terms of the member and of the member's spouse. I recommended that the Rules Committee look at the U.K. definition of "relevance," and I also talked about the definition of relevance in relation to shareholdings and stockholdings. They go so far as to say that perhaps 5 per cent is not a material holding, and if that is so, it does not have to be publicly disclosed. I spoke in favour of that measure.

Hon. Joan Fraser: Honourable senators, I have two questions for the Honourable Senator Oliver. The first one concerns spousal interests, which, as he noted, are subject to some controversy. Might one way to square the circle be to establish a system whereby spousal interests, above the thresholds that have been agreed upon, would be declared to the ethics officer and not declared to the public? The ethics officer would be empowered to rule on whether there were conflicts concerning spousal interests, but the public would not be aware. I do not know whether that would solve the problem, but I would like his view on that suggestion.

My second question has to do with the point raised by Senator Kroft. Many colleagues have been impressed by the approach of the House of Lords to these matters, but I am a little troubled. If I understand their approach, the peer decides what is relevant. There are long lists of indicators, but in the end the peer decides whether his or her interests are relevant. One of our colleagues showed me the list of registered interests to which the honourable senator referred. I noticed with some astonishment that Lord Jeffrey Archer, the well-to-do writer, did not declare his interests in all of those novels for which he collects large royalties. It may be public knowledge but the interest is not declared. Does the Honourable Senator Oliver believe that self-definition of what is relevant is sufficient, or does he believe that there must be a rather more compulsory quality in deciding what is to be disclosed and what is not to be disclosed?

Senator Oliver: Honourable senators, the first question relates to spousal interest and whether the person should just disclose to the ethics commissioner and that that not become public. That is not the way the regime in the House of Lords has done it. In that House, if you are speaking to, or leading, a matter and your spouse has financial or other interests that may be in conflict, you have an obligation to disclose it in the speech, the debate. If a conflict exists, you cannot vote on that particular matter.

Even in our code, we have a provision such that if that kind of conflict occurs — spousal interest — you cannot vote. In that sense, the two codes are the same. Part of a code of conflict is for the public, not just for us. The public must have some idea and some assurance that what we are doing is accountable. If everything is hidden and not disclosed, the public will never know and we will be in no different a situation than we are now. Certain things do have to be disclosed. The House of Lords got around the problem by saying that if a spouse is in conflict with the item or issue that the member is proposing in this debate, the member must disclose it publicly and explain the conflict. Then the member would take his or her place and not vote on the issue. That is appropriate.

Senator Grafstein: That is the common law.

Senator Oliver: The language of the Code of Conduct of the House of Lords states that:

> The test of relevant interest is whether the interest might reasonably be thought by the public to affect the way in which a Member of the House of Lords discharges his or her Parliamentary duties.

That is the subjective test. The test of relevant interest is whether the public might reasonably think that there is an interest.

Senator Fraser: My understanding is that, in the end, the peer decides whether the interest is relevant. Is it not better to have a set of rules established by an outside person that would be binding and not just suggestive?

Senator Oliver: There is a registrar to whom the lords may counsel advice and opinions, in the same way that we may approach an ethics commissioner. It is not just they who make that decision in the House of Lords regime.

Hon. Herbert O. Sparrow: Honourable senators, when the time for questioning the honourable senator is finished, I should like to adjourn the debate; but, first, I should like to ask Senator Oliver a question. We are covered in the Senate in respect of conflict of interest and ethics, it would appear, in at least four areas.

• (1530)

One is the Parliament of Canada Act; the second is the Rules of the Senate; the third is the Criminal Code; the fourth is the Constitution. We are covered, it seems to me, by all of those areas if there is conflict of interest or if there is an ethical problem with senators.

Might I just say that I appreciate the fact that this matter is being thoroughly debated and that no senators have objected to the time limit. This is crucial.

Perhaps Senator Oliver could tell me now what conduct of senators is not covered in those four parameters. Perhaps the honourable senator could indicate what is not covered in any of those rules and then we could discuss it on that basis.

Senator Oliver: Honourable senators, the Sinclair Stevens case would be a good example. I hate to make up hypothetical examples, but I will make one up. If a senator was involved in and took a position on a matter that might favour his brother, spouse or the honourable senator in a way that other members of the Canadian public could not benefit, and that was not disclosed so the public did not know about it up front, then that would not be covered by the definition of fraud in the Criminal Code as it exists now. It will not be caught by the Parliament of Canada Act, and it will not be caught by the Rules of the Senate. That is one reason why we should have a code.

I can think of many other conflict-of-interest-type situations in which a senator might find his or herself where it would be useful to have a public officer or the Clerk of the Senate, a person with whom one could discuss the idea in terms of whether one should make a certain investment or take a certain interest. It would be good to have a final, definitive opinion that would stand up in this house and outside this house that, yes, it is all right to take a particular course of conduct. It is not a conflict of interest. Right now there is no body to give that definitive opinion.

Senator Sparrow: I am certain we could draw out 100,000 such suggestions.

Who is Stevens?

Senator Oliver: The Honourable Sinclair Stevens.

Senator Sparrow: He was a member, was he not, of cabinet at the time? That is an entirely different story. We are not talking about that.

Senator Oliver: I know that.

Senator Sparrow: We are talking about the Senate and the Senate chamber. To bring in what other people may have done in contravention of the Criminal Code or as a conflict of interest in the other chamber or in the cabinet is an entirely different story.

Senator Oliver: I am aware of that.

Senator Sparrow: I am sure the honourable senator is aware of that. As members of the upper house of Parliament, we have freedom. However, we must not use that as an argument to bind us to rules that may be broken in the future. We cannot cover all of those possibilities.

The honourable senator used the word "hypothetical." We cannot change the rules or have conflict of interest or ethics rules because of some hypothetical issue that may come up. We must deal with these matters in terms of history that could happen and repeat itself in the future. I have no recollection of any problems in the Senate that the Senate has not dealt with by its peers.

Could the honourable senator give me an example of a situation that was not dealt with properly by the Senate?

Senator Oliver: I do not have such an example.

Senator Grafstein: Honourable senators, I have a brief supplemental question.

Listening to this last exchange, it occurred to me that everything that Senator Oliver has mentioned or alluded to, based on the comments of Senator Fraser, is already public. If one is an officer of a public company, it is public. It is in a public register. If one is a director or officer of a private company, it is public. It is on the corporate records. The same is true if one is an officer of a charity, and some of us have been advised not to serve on a charity.

Senator Meighen: Shame!

Senator Grafstein: Shame that conflict of interest should be so general to prevent senators from doing their duty in their region by serving on a charitable organization.

Finally, as an insider who owns up to a certain percentage of the company, again you are obliged to disclose that under the Toronto Stock Exchange or the Securities Regulations.

When I look at disclosure on the private side, there are a number of regulatory regimes in place. If it is happiness for some senators or for some members of Parliament or for some bureaucrat to know that they are all in one place, they can be registered, as they are in the House of Lords, in one place. There is no objection.

However, to say that there are not existing conflict of interest rules at every level of our public and private life is to say that there is no regulation. I do not understand this obsession to do more, which does not satisfy disclosure or public conflict of interest, but satisfies the prurient interests of some who say, "I want to know more. I want to delve into the private lives of public figures," which I abhor.

Senator Oliver: When one reads the declarations from the House of Lords, we do not get much information. There are a number of Lords who have nothing to declare, and there is absolutely no declaration. There is nothing that has been found to be in conflict: Lord Ackner, no relevant interest. Lord Aberdare, President of Mountain Ash, YMCA.

Hon. Tommy Banks: Honourable senators, I must say that I am still pinching myself at the level of the debate and discussion in this place that it has been my privilege to hear.

The day before I came here, I read a book, "Welcome to the Senate." Here is what it is about. I realized that independence is very important.

I know Senator Oliver rose today to make a comparison between Milliken-Oliver and the present draft before us. The distinguished work that the honourable senator and Mr. Milliken have done in respect of this question is very clear to us all.

However, I wish to go away from that and ask what is perforce, since it is me asking it, a much more simple question. The reference to the U.K. example is one, if I understand it correctly, in which a regime exists and obtains in the House of Commons in the U.K. and another completely separate, unconnected regime that exists in the House of Lords. I believe that is correct.

I believe it is the mood of many honourable senators present that it is all very well to have a connection, however tenuous, with the same kind of regime mechanisms, authority and the like, and with what might be quite properly decided by senators and what might be imposed by members of the other place, if they wish to have someone from outside be their policeman. However, since there seems to be a mood that perhaps we ought to drive our own bus, what is the honourable senator's view of the proposal or idea that the Senate ought to preempt the question and, rather than dealing with the proposal in the Rules Committee, but through whatever committee it decides, devise its own code, since there seems to be a political necessity for a code. Perhaps the Senate ought to be the captain of its own ship entirely and there ought not to be a connection of any nature between what is done in the other place and what is done here?

• (1540)

Senator Oliver: That is a good question. It is similar to two other questions that were raised this afternoon during the debate. The honourable senator has said that there were two things I tried to do. There were actually three things I tried to do. The first thing I tried to do was to speak in support of some of the good elements of the Milliken-Oliver report. The second thing I tried to do was to show the distinction between the draft code prepared by the government and the amendments to the Parliament of Canada Act presented to us. The third thing I tried to do was to ask, having read and studied both of those documents: Where should this sovereign, independent body, the Senate, now go?

In the Milliken-Oliver report of that special joint committee, we recommended that a joint committee of both Houses be established, and that there be a joint committee made up of members of both houses as a way of dealing with the jurisconsult. In today's debate, the third thing I tried to do was to move away from the draft before us, and move away from Milliken-Oliver, and try to come to something that was more patented to the Senate, which is directly in line with the honourable senator's question.

I concluded my remarks by making six recommendations, which I will not repeat. With the invitation of the Prime Minister, who said that he would welcome recommendations for changes from the Senate, and Senator Carstairs, who also said that she would welcome us looking at the U.K. experience in the House of Lords, I recommended that the Rules Committee look into the establishment of a set of Senate rules.

I went on to say that I have served on special joint committees, and as a member of the Senate I was always in a minority because the House of Commons always had the majority, and the view of the House of Commons prevailed. On the basis of my personal experience, I felt it would be better, given the situation, for the Senate to have its own committee, its own rules, and to report to itself. That is what I am recommending today.

Senator Banks: I am very glad to hear the answer of the honourable senator. My question was occasioned by his use of the word "change" in respect of what is there now as opposed to putting something else beside it, but I now understand and agree with the thrust of the honourable senator's recommendations.

[*Translation*]

Hon. Roch Bolduc: Honourable senators, I have always wondered why we got involved in joint committees with the other place. I have been in the Senate for 15 years, and would like some clarification on this. What is the advantage in it for the Senate?

[*English*]

In a joint committee with the other side, senators represent about 15 per cent of the membership, so I do not see the point of doing that.

[*Translation*]

On the other side, we have aspiring ministers. There is a shuffle and they get to be ministers. Then they are part of the executive branch of government.

[*English*]

They deal with matters of public policy and they are in the business of government. We are not involved with that here.

[*Translation*]

In the Senate, we are people of independent judgment. We have no ministerial aspirations. I do not want to be a minister and would not hear of it. What interests me is to be here, and to be able to voice my opinion on the government's public policies.

I do not see why the people in the other place, who have the same role as we have here in establishing our own rules, should be interested in knowing whether we are honest and acting appropriately. I do not see the need for it, maybe because I am getting older. Who knows?

[*English*]

Senator Oliver: I agree with the honourable senator.

[*Translation*]

Senator Bolduc: I was in government long enough to say that in the Senate, things are quite different.

[*English*]

I can tell you that.

On motion of Senator Sparrow, debate adjourned.

UNVEILING OF OFFICIAL PORTRAIT OF THE RIGHT HONOURABLE MARTIN BRIAN MULRONEY

MOTION TO APPEND SPEECHES MADE DURING CEREMONY ADOPTED

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I ask whether the speeches of the Right Honourable Jean Chrétien, Prime Minister of Canada, the Honourable Senator Pépin, the Speaker *pro tempore* of the Senate of Canada, the Honourable Peter Milliken, Speaker of the House of Commons, and the Right Honourable Brian Mulroney, eighteenth Prime Minister of Canada, delivered yesterday at the unveiling of the official portrait of the former Prime Minister Mulroney might be appended to the *Debates of the Senate*.

The Hon. the Acting Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

(*For text of speeches, see appendix, p. 415.*)

CRIMINAL CODE
FIREARMS ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Jaffer, seconded by the Honourable Senator Maheu, for the second reading of Bill C-10, to amend the Criminal Code (cruelty to animals and firearms) and the Firearms Act.

Hon. Willie Adams: Honourable senators, I should like to speak to Bill C-10 in regard to a concern that I have as it relates to the Criminal Code and cruelty to animals, and between the Criminal Code and the Firearms Act.

Before I make my speech, I want to say a few words in English, and from there I would like to repeat what I did once before when my colleague Senator Watt translated my speech from Inuktitut into English. I believe we need to understand how we legislate for the people of Canada because sometimes we have different cultures and systems, and things are done in different ways. In my case, during the time when the Senate is not sitting, I go home to Rankin Inlet and it is altogether different from living in Ottawa.

Before I make my speech, however, I wanted to speak a little in English about the fact that I am concerned about our people living with animals up on the land. We need to understand that all the people in other communities will be affected by legislation that is approved here in Ottawa.

[*Editor's Note: The honourable senator continued in Inuktitut, Senator Watt translating*]

[*For text of speech in Inuktitut, see Appendix A. p. 553.*]

Honourable senators, I rise today to speak on Bill C-10, about my great difficulties with this bill and how it is applied to the Aboriginal people. I feel this bill should be split into two bills and appropriate amendments should be made to the appropriate acts.

The Hon. the Acting Speaker: Honourable senators, I regret to interrupt, but I am wondering whether we might ask leave of the house for the Honourable Senator Watt to speak in his traditional language.

Is it agreed, honourable senators?

Hon. Senators: Agreed.

Hon. Anne C. Cools: I think we should be clear that Senator Watt is, in point of fact, translating. Senator Watt is being kind enough to provide a translation service for Senator Adams.

The Hon. the Acting Speaker: Thank you very much. Is this procedure agreed to, honourable senators?

Hon. Senators: Agreed.

Senator Watt: Honourable senators, may I remain seated while Senator Adams is standing?

Hon. Senators: Agreed.

Senator Adams: We will make it, honourable senators. Thank you very much.

• (1550)

[*Editor's Note: The honourable senator continued in Inuktitut — Senator Watt translating*]

We Inuit have lived in Nunavut and other northern regions for centuries without the meddling ways of other people. We have hunted to provide for our families. Animals provide many things for the day-to-day living of an Inuit family. The hunter shares extra meat from an animal with people in the community. We only kill what is needed. To this day, and for many years to come, I hope the Inuit will be considered sustenance hunters. Because there is high unemployment in Nunavut, many people can only provide for their families by hunting. By hunting for and with our families, we are installing in our children their culture and the ways of the Inuit before us. We have a very close relationship to the land.

Many hunters and trappers will be wary of this bill. Aside from examples mentioned in Senator Watt's speech on this bill, other examples of hunting methods used in the North are trapping, spearing and netting for fish.

On May 23, 1993, an agreement was signed between the Inuit of Nunavut settlement areas and Her Majesty the Queen in the Right of Canada. Article V deals with wildlife. Section 5.1.2(a), states that "there is a need for an effective system of wildlife management that complements Inuit harvesting rights and priorities, and recognizes Inuit systems of wildlife management that contribute to the conservation of wildlife and protection of wildlife habitat." Other parts of the section state that there is a need for a system of wildlife management in relation to this renewable resource. Other sections state that wildlife management and Inuit harvesting rights are governed by the principle of conservation.

Honourable senators, the Inuit follow the principles of the above article, and have for many centuries. As an example, the former Prime Minister was here yesterday. The agreement he highlighted is the one that is more of a bible for the Inuit in the North. This is well-detailed and thought out, and describes what the management is all about and how it can be done. It is not quite that simple to ignore this agreement, because it is an agreement between the people of the North and Canada, this great country of ours. The agreement is between the Inuit of Nunavut settlement areas and Her Majesty the Queen in the Right of Canada.

The principle of traditional Inuit hunting is the protection of wildlife while maintaining a balance of nature. Part of the agreement was that the Nunavut Wildlife Management Board was to be established to be responsible for wildlife management in the Nunavut settlement areas. This board also determined the number of animals that can be hunted after much study of the stocks and populations of wildlife has been conducted.

The hunter and trapper associations buy the furs from the hunters. This generates $6 million, money that is kept within Nunavut and within each community and used for programs that benefit all Nunavumiut. This is much needed money in a territory where there is high unemployment.

• (1600)

The section in the bill that deals with the firearms has had a great impact on northern communities. Senator Jaffer said in her speech that "this bill would improve efficiency in the administration of the program." This might be so in southern Canada; unfortunately, it is not so in Nunavut.

In April of this year, I asked a question regarding the difficulties people in Nunavut were having in obtaining their firearms licences. The firearms officer situated in Iqaluit was let go in March of this year. The office was closed and all services were administered out of Regina. Just recently, it was announced that a new firearms officer has been hired and that after a period of training he will reopen the office in Iqaluit.

The majority of people in Nunavut have guns in their homes, as they hunt on a daily basis. Many of our elders are unilingual, and there has not been anyone who can answer their questions. This delay means that many licences are not completed. I hope the people of Nunavut will not be penalized for the mistakes made by the firearms agency itself.

The Hon. the Acting Speaker: Honourable Senator Adams, I regret to inform you that your time for speaking has expired. Are you asking leave to continue?

Senator Adams: Yes.

The Hon. the Acting Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Senator Adams: According to proposed subsection 19(3) of this bill, why are non-residents treated better than Canadians and, more specifically, Canadian Inuit?

As I recommended in my speech, honourable senators, my hope is that this bill will be divided into two separate bills and dealt with accordingly in committee with regard to the definition of cruelty to animals and with regard to the firearms portion. We want the same generosity applied to Canadian Inuit as is applied to non-residents.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): I have a question of the honourable senator. Should we adopt this bill at second reading, it is my understanding that there is an agreement across the chamber to accept the proposition of the honourable senator. Presumably the debate is close to conclusion and a motion will be brought forward from the government side that there be an instruction to the committee to split the bill. Is that the honourable senator's understanding?

Senator Adams: Yes, that is my understanding.

Senator Cools: I have a question for the honourable senator. We have known each other well and for a long time. I believe that Senator Kinsella just asked Senator Adams whether he had heard of these events that have to do, from what I was able to understand, with the government agreeing to split the bill. Perhaps we could have a more fulsome explanation of that because it is all news to me. Whenever new information enters the fray, it should be brought forth to the chamber in a most fitting way. I do not know who should do that. Perhaps Senator Adams could tell us, or maybe the Leader of the Government or the Deputy Leader of the Government could rise to give an explanation. It seems to me that what has been brought forward is nothing less than profound, and it would seem to me to be of great interest to most honourable senators here. Perhaps we could have some information about this recent development.

Senator Adams: I will yield to Senator Watt, he being able to explain the agreement with our leader this morning.

Hon. Charlie Watt: Honourable senators, if the Senate is prepared to revert to Notices of Motions, I believe Senator Adams is willing to put forward a motion to refer this matter to committee with instructions to split the bill.

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I think that Senator Adams could clarify the matter by perhaps agreeing that what was discussed this morning was exactly as Senator Kinsella described, but that his motion would come forth after second reading of the bill and the referral of the bill to committee.

Hon. Herbert O. Sparrow: I do not know who to ask this question of, but I will proceed. If the motion that the bill be split goes forward, would it be an authoritative directive to the committee? Would the committee be bound to split the bill? Would the proposed legislation then come back to this chamber as Bill C-10A and Bill C-10B? Both bills would be returned following a split of the original bill. Do I understand the process correctly?

• (1610)

Senator Kinsella: Honourable senators, as Senator Sparrow's intervention is in the realm of a point of order, I think that I can speak to the point of order. My understanding is that it would be out of order to split a bill at second reading,. However, as Senator Adams has indicated, there has been a fulsome debate at second reading. One of the fruits of that debate has been an undertaking that the Deputy Leader of the Government has just verified: If we adopt the bill at second reading now, Senator Adams will rise and ask for consent to revert to Notices of Motions, whereupon he will give notice that an instruction be given to the Standing Senate Committee on Legal and Constitutional Affairs to split the bill in committee.

Senator Sparrow: I asked whether the split bill will come back to the Senate and be read a second time as Bill C-10A and Bill C-10B. Is that correct? Will the process be repeated?

[*Translation*]

Senator Robichaud: Honourable senators, the agreement on the bill was clear and straightforward. Once debate ended, the bill would be referred to committee after second reading. At that time, with leave of the Senate, Senator Adams would move a motion that the committee split the bill, based on what he proposed at the end of his speech. The committee would act accordingly, when it reported the bill to the Senate for third reading.

[*English*]

Senator Sparrow: Honourable senators, it is not clear to me yet. The answers from each side of the house appear to be somewhat different.

The Leader of the Government or Deputy Leader of the Government said that the committee will make that decision. I got the information from the other side of the house that, yes, that is an order to the committee that the bill will be split. Will the bill come back to the chamber as a split bill, and then will second reading begin on each one of them again? I need answers from both honourble senators on that.

Is that not an amendment to the bill, to split these two matters, and then have those two bills come back to this chamber as amended? The bill is split; if that is an amendment, does that not necessitate the bill going back to the House of Commons, stating that the Senate has amended the bill accordingly? In other words, it would have to go through the process of going back to the Commons and then coming back to this house; is that not correct?

Senator Kinsella: I think so.

Senator Cools: I am bewildered by this development because, essentially, we are being told that someone, I believe Senator Adams, has had private discussions with someone, I presume the Minister of Justice, and that somehow some undertakings have been made which are now being disclosed to honourable senators in this place. The whole situation is rather odd. It might have been far better if the government, in another way and using a different procedure, had disclosed this information to honourable senators.

Are we discussing a motion that is not before us, or are we discussing Senator Adams' intention to move a motion? It is all very curious. Perhaps it would be better if this debate were to take place once Senator Adams has moved his motion. The entire process is a little peculiar. If Senator Adams intends to move a motion to split the bill after second reading, then I do not understand how that can be done procedurally. The bill will be sent to committee, but where will the split happen? Will the bill be split here in this chamber?

Senator Robichaud: No.

Senator Cools: This is all very curious. If the bill is sent to committee to be split, then the committee will be studying two different bills. Will they be studied simultaneously or consecutively? Then, if they are being studied, one of those separated bills will not have had second reading because there will be two parts to the bill.

This is procedurally complicated. I feel as though I am operating in the dark, because I just happened to glean this information.

Perhaps, honourable senators, we could give the Leader of the Government an opportunity to make a more fulsome speech on this matter at this moment so that all honourable senators could get a better grasp of what it is that is unfolding before us.

Hon. Senators: Question!

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

It was moved by the Honourable Senator Jaffer, seconded by the Honourable Senator Maheu, that this bill be read the second time.

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

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

Motion agreed to and bill read second time, on division.

[*Translation*]

REFERRED TO COMMITTEE

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

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I move that the bill be referred to the Standing Committee on Legal and Constitutional Affairs.

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

Some Hon. Senators: On division.

On motion of Senator Robichaud, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

[*English*]

LEGAL AND CONSTITUTIONAL AFFAIRS

MOTION TO INSTRUCT COMMITTEE TO SEVER BILL C-10—ADOPTED

Leave having been given to revert to Motions:

Hon. Willie Adams: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(f), I move:

That it be an instruction to the Standing Senate Committee on Legal and Constitutional Affairs that it divide Bill C-10, an Act to amend the Criminal Code (cruelty to animals and firearms) and the Firearms Act, into two Bills, in order that it may deal separately with the provisions relating to firearms and provisions relating to cruelty to animals.

Hon. Senators: Question!

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

Some Hon. Senators: Agreed.

Hon. Eymard G. Corbin: I want to clarify a matter. Is an instruction a binding order on the committee?

Senator Kinsella: Yes.

[*Translation*]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, as I understand it, when the Senate issues an order, the committee must respond to the Senate's order.

• (1620)

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

Hon. Senators: On division.

Motion agreed to, on division.

[*English*]

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. E. Leo Kolber: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Senate Committee on Banking, Trade and Commerce have power to sit while the Senate is sitting today, and that rule 95(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

Motion agreed to.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Marjory LeBreton, pursuant to notice of November 7, 2002, moved:

That the Standing Senate Committee on Social Affairs, Science and Technology have power to sit Wednesday, November 20, 2002 at 3:30 p.m., even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

Motion agreed to.

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. George J. Furey: Honourable senators, with leave of the Senate and notwithstanding Rule 58(1)(*a*), I move:

That the Standing Senate Committee on Legal and Constitutional Affairs have power to sit while the Senate is sitting today, and that rule 95(4) be suspended in relation thereto.

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

Some Hon. Senators: Agreed.

Motion agreed to.

[*Translation*]

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

MOTION TO AUTHORIZE COMMITTEE TO STUDY ACCESS OF HARD-OF-HEARING PEOPLE TO TELEVISION PROGRAMS—ADOPTED

Hon. Jean-Robert Gauthier, pursuant to notice of October 9, 2002, moved:

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine and assess the obstacles confronting deaf and hearing-impaired persons who want full access to television programming, films or any other form of communication or official announcement dealing with health, the maintenance of order or public safety.

He said: Honourable senators, this motion asks the Senate committee to examine and assess the obstacles confronting deaf and hearing-impaired persons who want full access to television programming, films or any other form of communication or official announcement dealing with health, the maintenance of order or public safety. I will admit that this motion is far-reaching.

There has been no comprehensive study of this issue in the Canadian Parliament since 1981. A report entitled "Obstacles" was prepared by a special committee of the House of Commons in 1981. However, the Senate has never examined this issue.

I do not want to forget the thousands of Canadians who, because of their physical handicap, have difficulty communicating and accessing public services. I feel it would be important for the Senate to examine this whole issue.

This motion is purposely targeted so as to have an ad hoc study of a serious problem that requires urgent attention. This motion concerns over 3 million deaf and hard-of-hearing Canadians, that is, 10 per cent of all Canadians.

The Senate has never examined the issue of people with disabilities and their specific needs. It is high time senators took an interest in this issue and in the various means available from federally regulated services to help them. This is one of the many problems confronting a large number of Canadians.

Support for persons with disabilities is of vital importance to ensure their inclusion in the various segments of our society, including the labour market. Many persons with disabilities blame the lack of such services for their absence from the labour market and their failure to achieve their full social and economic potential.

The federal and provincial governments are not fully in compliance with the obligations set out by the Supreme Court of Canada in *Eldridge* concerning the provision of support services to persons who are deaf or hard-of-hearing.

The federal government could use taxation to a greater extent to provide support services to persons with disabilities.

As I said earlier, 10 per cent of Canadians are deaf or hard-of-hearing. Some have had hearing impairments since birth, while others become hard-of-hearing, to various degrees, because of an illness, an accident or aging. This is a growing problem in Canada for many reasons, including aging and exposure to increased levels of ambient noise. In my case, my loss of hearing is due to the side effects of medication that was prescribed to me several years ago.

I am very grateful to my honourable colleagues for being understanding and supportive, particularly for providing me with special equipment and the real-time captioning service that allow me to take part in debates in this place and in all committees. The benefits of captioning are such that I believe it should be made available to all Canadians. It is indeed possible today to provide this service to the deaf and hard-of-hearing. There are many benefits in education, for example, for reading, learning a second language or even one's mother tongue. Public announcements on health and security would be better understood.

[*English*]

Without assistance, most people who are deaf or hard-of-hearing cannot understand oral communications. They must rely on visual communications, either through sign language or written text such as captioning. Sign language can be taught early in life. It is more difficult for the elderly to learn. For some people who are hard-of-hearing, assistive listening device technology, ALD, such as FM, infrared or direct-wire sound systems, may be very effective. I have tried them all; they did not work for me.

Sign language and captioning are different methods of interpreting spoken language. Each language is distinct in that each has its own dictionary, grammar, spelling, accents and so on. Most real-time reporters were trained in one language. It would be extremely difficult and complicated to train bilingual reporters. Maybe some day technology will be developed that will make it possible. Currently, computer voice or speech recognition, as we call it, is being researched, but it is still early in that process. We have a long way to go to reach a satisfactory solution. Of course, today computer-aided transcription and communication access real-time translation, what we call the CART system, is available and used. I use it regularly each day in the Senate. This laptop on my desk and the technology that I just mentioned allow me to read what I cannot hear. I am functional up to a certain point, but I am dependant on the reporters who have mastered, real-time captioning technology. They are professional and efficient.

• (1630)

By the way, I returned from the West last week. I visited two post-secondary institutions. In Edmonton I visited the Northern Alberta Institute of Technology, and in Vancouver I visited Langara College. I met the students and professors, and I had a great experience in talking with these people and learning how difficult it is sometimes to master this technique.

Of course, I am lucky; I can read. What about the 25 per cent of Canadians who cannot read? There are still immense problems to be addressed, but that is not what a Senate committee can do.

The training of these reporters, as I just mentioned, is something that we should examine closely. There are serious problems facing us in terms of training and developing professional resources needed to supply real-time captioning. At this time there is no training available in French for our reporters. There are two schools out West, one in Vancouver and one in Edmonton. The Vancouver school, Langara, is closing next May for lack of money. They are short by a mere $136,000. Yet they will close down an institution that is essential to many services.

As I said, the training is long and difficult. It requires people who are dedicated to service. They must understand what is needed and the medium in which they work, be it legal, political or educational. There are many needs for well-trained, real-time reporters.

We are lucky here in the Senate in that we have an excellent staff for that purpose. We are the only institution of which I know that has this kind of system. We will have to convince the other place that it is the way to go in the future if they want to be serious about giving people continuous and real access to the debates of the Parliament of Canada.

There is a great fuss currently about the Quigley incident out east. Mr. Quigley is a New Brunswicker who complained to the House of Commons that he was getting his debates "in floor" — that is, as spoken in the House. He complained that as a unilingual person he was not able to understand when the proceedings were in French. He went to court, and he won because he is right. He is entitled by constitutional right to have access to the debates of Parliament.

The House of Commons is appealing that case in the Federal Court of Appeal. I do not wish to pursue this matter further, but I can tell you that they will lose. I will do my very best to try to make them understand that Canadians have the right to access the debates of Parliament in both official languages at all times.

The CRTC adopted a policy in 1995 that all broadcasters must supply their programming with real-time captioning. They did not do so. Recently, the CBC English network adopted a policy that as of November 1, 2002, every program broadcast will be accompanied by captioning in real-time. Every Canadian now has access in English, but not in French. I do not think that is fair. There must be some changes here.

I believe that what I get as a service in the Senate through the real-time reporters is an effective and efficient service that meets with my needs at this time. I am hoping this motion will initiate a thorough discussion in committee because there are many other situations in which real-time captioning could be of service to Canadians.

Captioning on airplanes is one example. As I mentioned, I recently returned from Edmonton and Vancouver. If I want to sit and hear nothing about security on an airplane, it would be easy to do that. Monitors give visual presentation of the location of safety equipment and the safety directions. There is no provision for the deaf or the hard-of-hearing Canadian. Not only planes but also trains and buses have such monitors. I do not think that that is fair. I hope that the committee will discuss this matter. The numerous deaf Canadians should have access to these instructions as others have.

Honourable senators, I hope that the committee will do a study of this very urgent matter. There are millions of Canadians at this time needing attention. The Senate has a responsibility for regional interests as well as a responsibility for minorities. I happen to be part of one of the minorities, and I would ask honourable senators to look at this matter attentively.

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

Hon. Senators: Agreed.

Motion agreed to.

ABORIGINAL PEOPLES

COMMITTEE AUTHORIZED TO ENGAGE SERVICES

Hon. Ione Christensen, for Senator Chalifoux, pursuant to notice of October 31, 2002, moved:

> That the Standing Senate Committee on Aboriginal Peoples have power to engage the services of such counsel and technical, clerical, and other personnel as may be necessary for the purpose of its examination and consideration of such bills, subject-matters of bills and estimates as are referred to it.

Motion agreed to.

COMMITTEE AUTHORIZED TO PERMIT ELECTRONIC COVERAGE

Hon. Ione Christensen, for Senator Chalifoux, pursuant to notice of October 31, 2002, moved:

> That the Standing Senate Committee on Aboriginal Peoples be empowered to permit coverage by electronic media of its public proceedings with the least possible disruption of its hearings.

Motion agreed to.

FOREIGN AFFAIRS

MOTION TO AUTHORIZE COMMITTEE TO MEET DURING ADJOURNMENT OF THE SENATE— ORDER STANDS

On the Order:

> That the Standing Senate Committee on Foreign Affairs be empowered, in accordance with Rule 95(3), to sit at 6 p.m. on Monday, November 18, 2002, even though the Senate may then be adjourned for a period exceeding one week.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): In regard to Motion No. 58, this item has been overtaken by events and should be removed from the scroll.

The Hon. the Acting Speaker: It is Senator Stollery's motion, and he must be here to make the withdrawal, so the order will stand.

Order stands.

• (1640)

NATIONAL SECURITY AND DEFENCE

COMMITTEE AUTHORIZED TO CONTINUE STUDY ON HEALTH CARE SERVICES AVAILABLE TO VETERANS

Hon. Noël A. Kinsella (Deputy Leader of the Opposition), for Senator Meighen, pursuant to notice of November 5, 2002, moved:

> That the Standing Senate Committee on National Security and Defence be authorized to examine and report on the health care provided to veterans of war and of peacekeeping missions; the implementation of the recommendations made in its previous reports on such matters; and the terms of service, post-discharge benefits and health care of members of the regular and reserve forces as well as members of the RCMP and of civilians who have served in close support of uniformed peacekeepers; and all other related matters;
>
> That the papers and evidence received and taken on the subject during the Second Session of the Thirty-sixth Parliament and the First Session of the Thirty-seventh Parliament be referred to the Committee; and
>
> That the Committee report no later than June 30, 2003.

Motion agreed to.

The Senate adjourned until Thursday, November 21, 2002, at 1:30 p.m.

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