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OFFICIAL REPORT  
(HANSARD)

**Thursday, November 28, 2002**



THE HONOURABLE DAN HAYS  
SPEAKER

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## THE SENATE

Thursday, November 28, 2002

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers

[*Translation*]

### SENATOR'S STATEMENT

#### OFFICIAL LANGUAGES

##### REPORT ON THE FUTURE OF HEALTH CARE IN CANADA

**Hon. Jean-Robert Gauthier:** Honourable senators, official-language minority communities have been heard by the Honourable Roy Romanow, who has just presented us with an important report on the future of health care in Canada.

The report, entitled "Building on Values," will make history and seize the attention of Canadians and their leaders. Recommendation No. 28 is one that I find particularly gratifying, and I quote:

Governments, regional health authorities, health care providers, hospitals and community organizations should work together to identify and respond to the needs of official language minority communities.

My honourable colleagues will recall that, in June 2001, the Fédération des communautés francophones et acadienne (FCFA) made public a major report entitled "Improving Access to French-Language Health Services."

I am delighted that the Romanow commission has clearly understood the FCFA's message. Now the important thing is to go from words to action and to take all means necessary to follow up on this important report on the future of health care in Canada.

A great Canadian in the field of medicine, William Osler, once wrote:

It is easier to buy books than to read them and easier to read them than to absorb them.

We have all received a copy of the Romanow report. We will all read it. We must now absorb it. Let us hope that Canadians and their leaders will absorb it and take action.

### ROUTINE PROCEEDINGS

#### COMMISSION ON THE FUTURE OF HEALTH CARE IN CANADA

##### REPORT TABLED

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I have the honour of tabling in the Senate, in both official languages, two copies of the final report of Commissioner Roy J. Romanow, Q.C., of the Commission on the Future of Health Care in Canada. This report is entitled "Building on Values: the Future of Health Care in Canada."

• (1340)

#### KYOTO PROTOCOL ON CLIMATE CHANGE

##### DOCUMENTS TABLED

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I also have the honour of tabling in the Senate, in both official languages, a copy of the following documents: the "Kyoto Protocol to the United Nations Framework Convention on Climate Change," the "United Nations Framework Convention on Climate Change," the "Provincial and Territorial Statement on Climate Change Policy," and the "Climate Change Plan for Canada." The last document had already been tabled, but it is tabled again for greater certainty.

[*English*]

#### NATIONAL SECURITY AND DEFENCE

##### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING ADJOURNMENT OF THE SENATE

**Hon. Colin Kenny:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Senate Committee on National Security and Defence be empowered, in accordance with rule 95(3), to hold meetings between Monday, January 6, 2003 and Friday, January 10, 2003.

## QUESTION PERIOD

### FOREIGN AFFAIRS

#### KENYA—ATTACK ON AIRPLANE

**Hon. J. Michael Forrestall:** Honourable senators, I have a couple of questions for the Leader of the Government in the Senate.

The British Broadcasting Corporation has reported that Canada, Australia and the European Union have closed their embassies in Manila due to “a credible and specific” terrorist threat.

Can the Leader of the Government tell the senators the nature of this threat? What steps are being taken to protect Canadian embassies and their staff and embassy personnel there and elsewhere in Southeast Asia?

**Hon. Sharon Carstairs (Leader of the Government):** I am sorry, Honourable Senator Forrestall. I am assuming that you are speaking about the presumed terrorist attack today in Kenya. However, you mentioned Southeast Asia, so you have confused me a bit.

**Senator Forrestall:** Yes, I am talking about Kenya.

**Senator Carstairs:** Honourable senators, I can in fact give some information with respect to what has happened today in Kenya. As individuals are, perhaps, aware, there was a bombing of a plane. Fortunately, the rockets missed the plane. However, damage was done to a hotel and people, including two children who were killed in that attack. There were no Canadians involved, but loss of life is loss of life.

No one has indicated that a specific terrorist group is attached to this assault or whether it is, in the usual sense of the word, a terrorist act. However, that examination is going on at the present time.

Embassy staff have been put under careful watch orders and Canadians have been given an advisory warning, at this point, that Kenya is a place that they should not visit unless they have extraordinarily serious reasons to go there.

**Senator Forrestall:** To say the least, honourable senators, it is a little disconcerting. It must be terribly uncomfortable for the families of Canadians who are working there.

### NATIONAL DEFENCE

#### POSSIBLE WAR WITH IRAQ—INTELLIGENCE SHARING AGREEMENT BETWEEN INVOLVED COUNTRIES

**Hon. J. Michael Forrestall:** Honourable senators, on Tuesday, November 19, we had the privilege of hearing, in Committee of the Whole, LCol. Stogran, the former commander of the 3 Princess Patricia Canadian Light Infantry Battle Group. He told us, among other things, that intelligence that was passed along to them in Afghanistan came locally from our allies the Americans, and that the information was not necessarily sent down from our sources above him in the chain of command.

Needless to say, this is not what one would consider to be an optimum situation in a war.

In the event that we send troops to Iraq, can the Leader of the Government assure us that an intelligence sharing agreement is in place before we depart?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, that is an extremely interesting question. My understanding was that intelligence sharing was in place in Afghanistan. However, it does not surprise me that troops in the field mixed together might share information, one with the other. That may well have taken place. It seems to have taken place from what the lieutenant colonel informed us.

However, I will ensure that this good question goes immediately to the Department of Defence as a recommendation.

#### POSSIBLE WAR WITH IRAQ— RELEASE OF RULES OF ENGAGEMENT

**Hon. J. Michael Forrestall:** Honourable senators, intelligence sharing has as much to do with the rules of engagement as anything else. If the minister is not aware herself, perhaps she might pursue it, giving some indication that we on this side of Parliament are a bit concerned.

It was made pretty clear that, despite the government’s assurances about timely drafting and training on rules of engagement, as recommended in the Somalia commission report, the Princess Patricia’s battle group did not see the finalized ROEs until just prior to their deployment. As in my first question, this is somewhat unacceptable and a little alarming.

Will the government leader give us her assurance that, in the event that the government decides to enter conflict with Iraq, our troops will have the rules of engagement at least one month, if not more, in advance, and not when the commanding officer is on his final reconnaissance?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, obviously, it is important that the rules of engagement be provided to those in command and to those under them as early as it is possible to achieve that objective. I will certainly bring forward a representation of that nature to the Minister of Defence.

#### HEALTH CARE OF TROOPS SERVING ABROAD

**Hon. J. Michael Forrestall:** Honourable senators, I noted in the Romanow report this morning that there is no mention of the health and well-being of Canadian Armed Forces personnel and other people serving abroad.

We still have a serious shortfall in the extent to which we go to protect Canadian Forces and other Canadian personnel who are caught up in war zones. When we start withdrawing people from otherwise safe situations, we can only consider such zones to have been reclassified to something akin to, if not necessarily directly, a war zone.

**Hon. Sharon Carstairs (Leader of the Government):** As the honourable senator knows, the delivery of those particular services is totally within the delivery system of the federal government. It is fair to say that the Romanow report was concentrating on the health care of Canadians in Canada and the relationships between the provinces, territories and the federal government in the delivery of that health care system.

However, there are certain groups in Canada that are served directly by the federal government with respect to their health care needs. One of those groups is the military, including veterans, which sometimes is a shared responsibility. Another group is Aboriginals living on reserves and yet another is inmates in our correctional institutions.

It may surprise honourable senators, because it certainly surprised me, that, in terms of the number of Canadians actually provided direct service by the federal government, the federal government is now the fourth largest deliverer of health care in the country. They are only behind the provinces of Ontario, Quebec and British Columbia.

## VETERANS AFFAIRS

### LOSS OF PENSION OF VETERAN

**Hon. Michael Meighen:** Honourable senators, my question is for the Leader of the Government in the Senate. The media reported a week or two ago that retired LCol. Al Trotter, a bomber pilot during World War II, is being denied supplementary pension benefits — benefits he is entitled to for serving nine months in a German prisoner-of-war camp. Throughout his 268 days in captivity, Mr. Trotter was tortured routinely, threatened with execution by a firing squad and force marched across Germany.

It is those nine months of inhumane treatment and imprisonment that have entitled Mr. Trotter to a supplementary pension. Yet, because he did not realize until 1990 that he was eligible for such benefits, Mr. Trotter has been denied them. He missed the deadline for application.

I know the Minister of Veterans Affairs has reopened his case; however, Mr. Trotter is not a young man.

My question for the leader is this: What is she and her government doing to speed up the process to ensure that Mr. Trotter, a bona fide war hero, gets what this country surely owes him before it is too late?

• (1350)

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I thank the honourable senator for his question. As he well knows, the federal government passed a law in 1976 that would pay compensation to veterans who had been held as prisoners of war. It was anticipated that about 5,000 veterans would apply. In fact, some 5,700 applied, following a broad-based publicity campaign throughout the country. The legislation itself contained a provision that did not allow it to be retroactive.

I met this morning with the Minister of Veterans Affairs. He raised this case with me because of his deep concern about it. He has asked for a comprehensive review to be done quickly.

### REVIEW OF CASES INVOLVING LOSS OR REJECTION OF PENSIONS

**Hon. Michael A. Meighen:** Honourable senators, that is very good news. I thank the Leader of the Government in the Senate for giving it to us. Obviously, Mr. Trotter will be very pleased.

Perhaps the Leader of the Government in the Senate herself — and I would be prepared to do it as Chair of the Subcommittee on Veterans Affairs — could look into this question of people, particularly those who have served our country in the military, losing benefits by reason of a bureaucratic oversight, a term I do not use disparagingly.

In such cases, the fact that someone misses a deadline can well and truly do with some sympathetic consideration. Perhaps there is a provision that we could enact or a practice we could adopt whereby a bona fide case would never be prevented from being honoured simply because a particular step in the process was not followed through inadvertently.

**Hon. Sharon Carstairs (Leader of the Government):** Frankly, honourable senators, I hesitate to blame the bureaucrats. I believe it was the legislators who made the mistake. It was the legislators and the legislation of 1976 which indicated that it would not be retroactive. This is not a bureaucratic problem. I would suggest to the honourable senator that this really was a problem of legislators at the time the legislation was passed.

Having said that, let me reassert what I said earlier. The minister is looking at this matter with the kind of personal attention that a minister does not usually bring to such a case.

**Senator Meighen:** Honourable senators, my comment was prospective. I appreciate very much what the Leader of the Government and the Minister of Veterans Affairs are doing in this particular case.

## CHURCH COMMUNITY

### FINANCIAL SUPPORT FOR SETTLEMENT OF LAWSUITS BY FORMER STUDENTS OF RESIDENTIAL SCHOOLS

**Hon. Douglas Roche:** Honourable senators, I wish to ask a question of the Leader of the Government in the Senate concerning the residential schools issue. She will recall that I have raised this matter on previous occasions. There is a reason I am bringing this matter up again. It concerns a comment reported this week in the press by a senior Catholic official in these proceedings who charged that the government is off-loading its financial responsibilities on the entire Catholic Church.

Honourable senators, this issue is too complex to summarize in a question. I will therefore try to avoid putting complicated facts on the record, which will be hard to follow in such a brief period of time.

Minister Goodale is the third minister with responsibility for this file. It has been going on for years. It is what I call Ottawa permanence. There are so many lawyers involved in the matter that they cannot be counted.

Of all the lawsuits in this residential schools file, 73 per cent involve Catholic institutions, or some 6,000. One would think that the government would make an effort to ensure that Catholic authorities are being engaged in the discussions and negotiations. I am saddened to tell the minister that it is now close to one year since there have been any formal discussions between the government and the Catholic authorities.

The Catholic authorities are claiming that the government has taken the position that they want to deal with the entire Catholic Church in this matter, whereas, in actuality, there are specific institutions bearing the Catholic name that are involved in the actual cases which should be dealt with.

Will the minister take steps to ensure that the comment I am now making is brought to the attention of Minister Goodale with the request that he cause there to be, at an early opportunity, formal discussions between himself and his department and the relevant Catholic authorities in which the government would recognize that it cannot tie the whole of the Catholic Church into bearing the burden of compensation that is properly borne by specific bodies within that church, and that the government would work with the appropriate church entities to find a fair way to exercise their respective responsibilities in this matter? It has gone on for far too long.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I will certainly bring the message of the honourable senator forward. However, I must say that I do not agree with it.

The Government of Canada has recently entered into an agreement with the entire organization of the Anglican Church of Canada. The Anglican Church recognized that they had a responsibility. Thus, they have entered into this agreement that will see them paying a maximum of \$25 million in a 70-30 split to those individuals who suffered in the residential schools, which were in existence in this country for a number of years.

The Government of Canada has indicated its willingness to continue to negotiate with the United Church, the Presbyterian Church and the Catholic Church.

The honourable senator is quite right in indicating that the largest number of claims made to date have been made in institutions that were controlled and operated by the Catholic Church. It is my hope that we can come to an agreement with the Roman Catholic Church of Canada in the same way we came to an agreement with the Anglican Church of Canada.

**Senator Roche:** Honourable senators, I anticipated that answer. Of course, it gets to the heart of the matter of the legal responsibilities therein.

I wish to put on the record that it is the position of the Catholic Church that it will pay for mediation, for reconciliation, and all those activities that would come under the general heading of pastoral work.

I repeat that there have been no formal discussions in one year with the Catholic authorities, which suggests to us that there is at least a breakdown in communications.

Could we now make an effort to get those communications back on the rails by a concerted effort for formal discussion and negotiation to be resumed?

**Senator Carstairs:** The position of the government is clear. It is prepared to negotiate with the Catholic Church any time that the Catholic Church wishes to enter into the negotiation process.

However, I have to tell the honourable senator that I do not think that to totally exclude the compensation issue of these people, many of whom suffered incredible damages which have lasted a lifetime, is a way to begin that negotiation process.

**Senator Roche:** Honourable senators, I just cannot accept any idea left on the floor of the Senate that the church is refusing to accept its responsibility for compensation in a legal matter. They are. It is a matter of the appropriate means of ensuring that this compensation is paid in the proper manner. That is what is required in the negotiations that have broken down. We need the government to take an initiative to get this thing back on the rails.

**Senator Carstairs:** With the greatest of respect to the honourable senator, the process is twofold. It can go on through mediation or it can go on through the courts. I agree totally with the honourable senator. I would prefer to see it go through mediation and that the dollars available go to the victims, both for treatment and for compensation, rather than to go to myriad lawyers across the country, particularly as this one seems to be in the particular concentration of very few lawyers across the country.

The church has known that the government has been willing to continue its ongoing negotiations. The church must indicate, in a clear way, that it is willing to come to the table to negotiate all aspects of a settlement agreement.

[*Translation*]

## THE SENATE

### ROOM TEMPERATURE IN CHAMBER

**Hon. Roch Bolduc:** Honourable senators, is it possible to turn up the heat a little in the Senate chamber? For the last two weeks, I have found it chilly, and this is very uncomfortable. I would like someone to correct the situation. We become more sensitive to the cold as we get older.

[English]

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I must reply to the honourable senator that the temperature of this chamber is absolutely perfect for me, but it may be my gender and my age.

• (1400)

### PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

**The Hon. the Speaker:** Honourable senators, I have the pleasure today of introducing a visiting page from the other place. Sophie Verrier is from Victoria, British Columbia, and she is studying at the Faculty of Arts at the University of Ottawa.

[Translation]

## ORDERS OF THE DAY

### BUSINESS OF THE SENATE

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, under Government Business, Item No. 1, resuming debate on the third reading of Bill C-12, has been called. At this time, I would like to adjourn the debate on the motion and the amendments until the next sitting of the Senate.

Would the chair of the Standing Senate Committee on Legal and Constitutional Affairs be ready to present his report? I think that the committee has concluded its proceedings, and leave was given earlier to revert to Presentation of Reports from Standing or Special Committees.

**Hon. Gérald-A. Beaudoin:** Honourable senators, we had been instructed to split the bill in two. We heard evidence, and examined the whole issue, in compliance with the orders of reference. We considered two documents: Bill C-10A and Bill C-10B, to amend the Criminal Code regarding cruelty to animals. We have completed the first part, that is the consideration of the first document — because I would rather talk about a document than a bill — on which we are reporting today.

We wish to reserve the right to continue with the consideration in committee of the second document, which deals with animals and cruelty to animals. This is my report. I have nothing further to say for the moment.

[English]

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I understand that the senator must actually table a report.

**Senator Stratton:** Does the honourable senator have the report?

**Senator Beaudoin:** Not yet. The report will be brought here in one or two minutes.

**Senator Carstairs:** Honourable senators, we have to be in agreement that the honourable senator will have leave when the report arrives at his desk.

**The Hon. the Speaker:** There is leave to revert to Presentation of Reports from Standing or Special Committees, and I will leave it up to the Leader of the Government or the Deputy Leader to draw to our attention when it is appropriate to revert.

**Hon. Jean-Robert Gauthier:** Honourable senators, on a point of order, it could be my former experience in the House of Commons, but on Thursday we usually question the government about the business in the following week.

[Translation]

I have started reading the Romanow report entitled “Building on Values.” I would like the honourable Leader of the Government to tell us when this report will be taken into consideration in the Senate of Canada.

[English]

**Senator Carstairs:** Honourable senators, there are two ways we could approach the matter. The Kirby report is still before us and we could broaden that debate, with a general agreement that it include the Kirby report and the Romanow report. or we could have an individual senator initiate an inquiry to examine the Romanow report. Either option is quite acceptable.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I wonder whether, on the point of order, I could express a degree of warmth for the proposition that has been articulated by the Leader of the Government in the Senate. It seems to me that it makes sense and it would be economical, in terms of the time of this honourable house, that we would deal with the matter of health care in Canada, whether examining the report of our Standing Senate Committee on Social Affairs, Science and Technology on health care, or the report of the royal commission on health care, “Building on Values,” by Mr. Romanow, which was made public this morning.

That makes eminent sense and I would recommend we proceed in that way.

**Hon. Douglas Roche:** Your Honour, are we now on Bill C-12?

**The Hon. the Speaker:** No.

**Senator Robichaud:** In answer to the honourable senator, we are under Motions now, Item No. 1, which is the motion that deals with the Kyoto accord.

**The Hon. the Speaker:** Honourable senators, I should apologize to Senator Roche and the Deputy Leader of the Government. I saw Senator Roche rise. Senator Gauthier had put a question on house business, and Senator Roche resumed his seat and I did not call on him.

I do not remember saying “stand” with respect to Item No. 1, but perhaps I did. I am always anxious to accommodate a senator who wishes to speak to one of the orders. Honourable senators, I am not sure whether leave has been granted, but let me put it to the house: Is leave granted to return to Bills, Item No. 1, Bill C-12? Senator Roche would like to speak.



**Hon. Senators:** Agreed.

**Senator Robichaud:** On a point of order, honourable senators, if Senator Roche desires to speak on the amendments before us, then I do not see a problem. Earlier in the week Senator Roche wanted to move an amendment and we proposed that we stack amendments so that we could hear them, but it was indicated by the opposition that they would not agree to stacking the amendments. I raise that as a point of information, which leaves the floor entirely to Senator Roche if he wants to speak on the amendment proposed by Senator Murray.

**The Hon. the Speaker:** Honourable senators, Senator Roche has already spoken on Senator Murray's amendment and honourable senators can only speak once. If there is another amendment, there will be another opportunity to speak. However, I must advise that the honourable senator has spoken and used his right to speak on the amendment.

• (1410)

**Senator Kinsella:** Honourable senators, I want always to be helpful in these matters. The Deputy Leader of the Government is absolutely correct that, earlier in the week, when the question of stacking amendments was raised, we on this side were of the view that this might not be such a good idea. Notwithstanding the name of the party that I am proud to be a member of, the Progressive Conservative Party, we are not tied to that great dictum of *semper idem*, that everything remains the same. Upon reflection, it may be a good idea to bring forward the amendments that several senators wish to bring forward on this issue. If we brought forward other amendments, it would give our colleague Senator Roche the opportunity to speak, as I am sure we all want him to do. Also, it would afford the government an opportunity to see the kinds of amendments we are talking about.

I know that Senator Gauthier has some important amendments dealing with the application of the Official Languages Act. Some of us have what we believe to be important amendments in the area of the access to information and the privacy considerations as they apply to the bill. The word on the street is that the government is favourably reflecting upon those kinds of considerations.

In that vein, if my colleague opposite agrees, we on this side would now agree to stacking the amendments and we would rise to speak to the issue.

[Translation]

**Senator Robichaud:** Honourable senators, I certainly need not repeat my consent for stacking amendments; however, it should be noted that time solves many problems.

When Senator Murray refused his consent during the last sitting, he said he preferred to deal with each amendment separately. If I understand correctly, Senator Murray agrees to proceed with stacking the amendments.

It has been suggested that the government consider the amendments. In fact, the government is always very interested

in considering the amendments moved, because it recognizes the great wisdom to be found in the Senate.

**Senator Gauthier:** Honourable senators, I have followed this debate with great interest, and I have found the procedural matters regarding Bill C-12 to be very interesting. I understand Senator Robichaud's position, to debate all of the amendments. However, the *Rules of the Senate* do not provide for the stacking of amendments. There must be an amendment to a main motion before another can be moved.

I do not understand the argument that we should discuss all of the amendments in a 15-minute period. I have three amendments dealing with official languages to move; however, under the *Rules of the Senate*, I may only move one amendment. However, I shall not accept that my two other amendments be shelved because I only have the right to move one amendment. May we move more than one amendment?

**Senator Robichaud:** We could certainly consent to a senator moving more than one amendment.

[English]

**The Hon. the Speaker:** Honourable senators, the business before us arises out of what I understand to be an agreement between the house leaders with respect to Bill C-12. Therefore, I put the following question to the chamber using the language of the house leaders: Honourable senators, is there agreement to stack the amendments, a practice we use from time to time?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Perhaps I might help Senator Gauthier with his problem by pointing out that, with this arrangement in place, he would be able to move more than one amendment, should he wish. In other words, if he has three amendments, he will be able to put them forward in the same speech, as opposed to putting them forward one at a time, having them dealt with and then moving to the next one.

**Senator Gauthier:** I appreciate that comment. However, I did not want to be told that I could not put forward more than one amendment in the 15 minutes allocated for my speaking time. I should like a little more time to explain why I want to put forward the other motions, but I will not be able to do that because His Honour just confirmed what I thought — that I will have to comply with the 15-minute time period when I put the amendments on all the three issues. Do I understand correctly?

**The Hon. the Speaker:** No. If the Honourable Senator Gauthier puts his amendments one at a time, they will each be debated separately. However, they will not be dealt with until all speakers have concluded and commented on the bill. It may be that they will speak to the main motion or to one or all of the amendments, but they will do that as they rise in the chamber. The honourable senator will be bound by the 15-minute time limit, but if he puts his amendments separately, then, as I understand it, he will be afforded that amount of time for each separate amendment. Senators have already agreed to stack the amendments.

Senator Roche is asking for the floor. We are left with the problem that Senator Roche has already spoken to Senator Murray's amendment. Thus, I am not able to give the floor to Senator Roche again unless there is leave to either extend his time or to allow him to speak a second time.

## PHYSICAL ACTIVITY AND SPORT BILL

### THIRD READING—MOTIONS IN AMENDMENT—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Mahovlich, seconded by the Honourable Senator Poy, for the third reading of Bill C-12, to promote physical activity and sport,

And on the motion in amendment of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Oliver, that the Bill be not now read a third time but that it be amended,

(a) in clause 32, on page 13, by adding after line 27 the following:

“(4) The Minister shall cause a copy of the corporate plan to be tabled in each House of Parliament on any of the first fifteen days on which that House is sitting after the Minister receives the plan.”; and

(b) in clause 33, on page 14, by adding after line 11 the following:

“(5) The Minister shall cause a copy of the annual report to be tabled in each House of Parliament on any of the first fifteen days on which that House is sitting after the Minister receives the report.”

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I rise now to speak to the matter before us and to move an amendment, whereupon Senator Roche will be able to rise if he chooses to speak to the amendment.

The issue that I wish to draw to the attention of this honourable house is the difficulty that the bill, in its present form, has with reference to two matters of rights. One is the right to information that is part and parcel of our machinery of government in Canada. This bill, as presently drafted, is quite weak in creating the Sport Dispute Resolution Centre, but it is not clear whether the standard that we set in place for Canadians to be able to exercise their right to information —

**The Hon. the Speaker:** Senator Kinsella, I am sorry to interrupt, but I should like to draw to the attention of honourable senators the fact that there is a significant amount of noise in the chamber at this time. I am having difficulty hearing Senator Kinsella. I should like to hear him. I ask honourable senators, if they must have conversations, to go outside of the chamber for that purpose.

**Senator Kinsella:** Thank you, Your Honour.

[ The Hon. the Speaker ]

Honourable senators, the issue that I raise with reference to Bill C-12 is the failure of the bill, in its present form, to adequately provide Canadians with the right of freedom of information. This is not a situation that should be difficult for us to embrace. The general machinery of government provides for the application of the Freedom of Information Act. We think that act should apply to this particular agency that would deal with sports.

In regard to the application of the Privacy Act, the same principles that we apply to the Department of Canadian Heritage or the Department of Health dealing with privacy ought to apply to organizations that are being established and that will operate as agencies, but in a new kind of relationship.

• (1420)

Every time a new federal agency is created that is subject to the jurisdiction of Parliament, we ought not have to argue *ex de novo* the validity of applying, whether it be the Official Languages Act or the Privacy Act and so forth, to those agencies.

I can understand how bills get drafted and the preparatory work that is done, often with particular community interest groups. In their specific focused approach to their area of interest, they do not have that broad view of, if you like, the corporation of the Government of Canada. It behooves us to ensure that those broad principles, whether it be the application of the Official Languages Act or, indeed, the Canadian Multiculturalism Act, that provide for a government-wide commitment to certain values, be in the act.

### MOTION IN AMENDMENT

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I move in amendment, seconded by the Honourable Senator Atkins:

That Bill C-12 be not now read the third time but that it be amended:

(a) on page 13, by adding after line 10, the following:

“**32.** The Centre is deemed to be a government institution as that term is defined in section 3 of the *Access to Information Act* and section 3 of the *Privacy Act* for the purposes of those Acts”;

(b) on page 15:

(i) by adding before the heading, “*Department of Canadian Heritage*” before line 17, the following:

“*Access to Information Act*”

**37.** Schedule 1 to the *Access to Information Act* is amended by adding the following, in alphabetical order, under the heading “Other Government Institutions”:

Sport Dispute Resolution Centre of Canada  
Centre de règlement de différends sportifs du Canada,

(ii) by adding after line 21, the following:

“*Privacy Act*”

39. Schedule 1 to the *Privacy Act* is amended by adding the following in alphabetical order under the heading “*Other Government Institutions*”:

Sport Dispute Resolution Centre of Canada  
Centre de règlement de différends sportifs du Canada;  
and

(c) by renumbering clauses 32 to clauses 40 and any cross-references thereto accordingly.

**The Hon. the Speaker:** It is moved by the Honourable Senator Kinsella, seconded by the Honourable Senator Atkins, that Bill C-12 be not now read the third time, but that it be amended —

**Senator Kinsella:** Dispense.

**Hon. Eymard G. Corbin:** On a point of order, honourable senators, I am seeking clarification from the Chair with respect to Senator Kinsella’s intervention. Was he recognized to speak in lieu of Senator Roche, or was he rising on a point of order? What was the nature of his intervention? That is what I would like to know.

**The Hon. the Speaker:** Honourable senators, as Chair, I took it that Senator Kinsella was speaking to the matter before us, which was the amendment to Bill C-12 put by Senator Murray.

**Senator Kinsella:** No, I was speaking to the bill.

**The Hon. the Speaker:** The honourable senator could have been speaking to the bill, but we are, by agreement, dealing with all amendments on a stacked basis. There is perhaps a more elegant word, but that is the word we have been using. The Order Paper indicates we are dealing with a bill as amended by Senator Murray.

Senator Roche did stand, but Senator Roche has already spoken to Senator Murray’s amendment, and in accordance with our rules, I did not let him speak.

Senator Kinsella then was speaking to the matter on our Order Paper, and he has now put an amendment, which I will put to the house.

It was moved by the Honourable Senator Kinsella, seconded by the Honourable Senator Atkins, that Bill C-12 be not now read the third time but that it be amended (a) on page 13 by adding after line 10 the following —

**Senator Kinsella:** Dispense.

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

**Hon. Douglas Roche:** Thank you, honourable senators. I thank both house leaders for their courtesy to me. I hope I have not created a sense of rising expectations with this speech that has

been long awaited. I will do my best to be brief but also persuasive with the government, and I will enter an amendment at the end of my speech.

Honourable senators, we should take a moment to refresh our minds about the centrepiece of this bill. The centrepiece is that the Sport Dispute Resolution Centre of Canada will be enacted, an independent organization whose mission is to provide to the sport community a national alternative dispute resolution service for sport disputes and expertise and assistance in that regard.

The heart of my intervention, keeping in mind that I support the bill, is that I do not like clause 35, which is a source of deep concern to me. As a matter of fact, I am operating here on a point of principle, because clause 35 says that the minister may dissolve the centre. In other words, he or she will have the right to dissolve by fiat that which has been legislated into existence. It is an act of Parliament that will bring this Sport Dispute Resolution Centre into existence, and yet an individual, albeit a minister of the Crown, will have the right to dissolve it. That is wrong.

If the government wanted to have the minister responsible at all stages for this body, the bill should permit the minister to set up the centre, and if, in the course of events, the minister decides to dissolve it, he or she would be able to do so. However, that is not what the government did. The government said, using very affirmative language in the bill, that the Resolution Centre shall be set up and then the centre shall be managed by a board of directors. In other words, there is no option in here.

I ask a simple question, honourable senators: Why are we enacting a law to set up something which we believe to be important and then giving an individual, albeit a minister, the right to dissolve it? I will confine myself to that argument.

The other day, in speaking to it in a manner that turned out to be procedurally incorrect, I laid down additional arguments, but I do not want to take the time of the Senate to dwell on these points. I think I have made my point clear. I object to clause 35. I should like to have it deleted.

• (1430)

MOTION IN AMENDMENT

**Hon. Douglas Roche:** Therefore, I move, seconded by the Honourable Senator Murray:

That Bill C-12 be not now read a third time but that it be amended, in clause 35,

(a) on page 14, by deleting the heading before line 23 and lines 23 to 46;

(b) on page 15, by deleting lines 1 to 7; and

(c) by renumbering clauses 36 to 40 as clauses 35 to 39 and any cross-reference thereto accordingly.

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

[*Translation*]

**Hon. Jean-Robert Gauthier:** Honourable senators, Bill C-12, to promote physical activity and sport, addresses two distinct subjects. I am sure that the more physically active people are, the healthier they will be, and thus they will be able to cope with everyday stresses and maintain their bodies in harmony with their environment.

I acknowledge the importance of sports, but not all of us can practice high intensity sports, which require considerable fitness and sometimes lead to conflict. Bill C-12 proposes a Sport Dispute Resolution Centre to resolve conflicts and provide conciliation, perhaps even arbitration, on conflict situations.

I have three motions to move, one of which addresses linguistic duality, the second, Part IV of the Official Languages Act concerning the language of service, and the third, Part VII, which deals with supporting and assisting the development and enhancing the vitality of the communities. The purpose of these motions is to ensure that people required to comply with the decision of Parliament will have these three notions in mind: linguistic duality, service in the language of one's choice, and official language minority communities. We need to ensure access to this centre on a regular basis, with no difficulty and in both official languages.

My first motion, on duality, is based on the staunch conviction that many Canadians are irritated by the word "bilingual." We have been hearing bilingualism this and bilingualism that, right and left, for 30 years.

I remember how Dr. Gaston Isabelle, when an MP, described bilingualism as "the national ketchup that goes over everything." Bilingualism is blamed for every disagreement. Bilingualism is used as the grounds for any demand. We have neglected to explain to Canadians the difference between individual and institutional bilingualism. They are two different concepts. One is a matter of individual choice and the other an obligation, the obligation of an institution to serve people in the language of their choice. No more, no less.

This is why I firmly believe that the concept of duality is more modern and reflects more accurately what Parliament means by two official languages.

Let me tell you about the argument that was used in committee. The bill reflects the Official Languages Act. I agree. That act was passed in 1969 and amended in 1988. I was there. It is true that the term "bilingual" was misread, misunderstood and not properly explained for many years. The result is that there is a malaise when we talk about bilingualism. It is not hard to learn a second language. It can be done! While it may be more difficult for some, many Canadians find it perfectly normal to be able to work in both official languages and to debate issues in either French or English.

Let us not forget that, according to the 1996 census, in Canada, there are 19 million unilingual Anglophones, and four million unilingual Francophones, who mostly live in Quebec, but also in Acadia and Ontario. My grandparents did not speak English.

We are looking for equal access, for everything to be equal. Let us change the preamble by replacing the reference to the "bilingual character" with more modern language and talk about "linguistic duality" to better reflect constitutional duality. Nowhere in the Constitution Act, 1982, in the Charter of Rights and Freedoms, will you find the word "bilingual".

Some say that the concept of "bilingual character" was incorporated in Bill C-12 by modelling it on the Official Languages Act. To that, I can answer that the supreme law of the land, the Constitution, does not talk about bilingualism, but rather about two official languages. This is a different concept altogether: two equal languages, two languages to respect, two languages commonly used. It is not a matter of being bilingual. No one is required to be bilingual.

People who speak only one language and consider themselves to be full-fledged Canadians, even though they do not speak both official languages of the country, are absolutely right. We may remain unilingual in this country. But we must be served in the language of our choice by our institutions.

Removing the word "bilingual" from the bill would make the concept clearer and eliminate misunderstandings. We cannot honestly continue talking about bilingualism. Nowadays, we talk about linguistic duality. I think this is consistent with reality and appropriate.

#### MOTION IN AMENDMENT

**Hon. Jean-Robert Gauthier:** Therefore, I move, seconded by the Honourable Laurier L. LaPierre:

That Bill C-12 be not now read a third time but that it be amended:

in the Preamble, on page 1, by replacing lines 5 to 8 with the following:

"social cohesion, linguistic duality, economic activity, cultural diversity and quality of life;"

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

• (1440)

**Senator Gauthier:** Honourable senators, I have two more amendments to move. I doubt that my time has expired.

[*English*]

**The Hon. the Speaker:** Senator Gauthier, your time has not expired. However, there are other senators who wish to speak. Senator Bolduc has risen a number of times. I will recognize Senator Bolduc now, and then I will return to you for your next amendment or your next intervention.

**Senator Gauthier:** That is generous of Your Honour, and I accept that.

**The Hon. the Speaker:** Senator Bolduc.

[*Translation*]

**Hon. Roch Bolduc:** Honourable senators, I would like to share some thoughts on Bill C-12.

My first comment deals with clause 5, which defines the role of the minister. This clause lists some 15 paragraphs, which will define this role with a degree of subtlety. Bill C-12 is about the centre; however, the minister is using the bill to broaden his jurisdiction. Among other things, clause 5 mentions programs related to physical activity and sport, but I will allow you to read clause 5 yourselves.

I will not move an amendment. However, I am tempted to move one to say that nothing will interfere with provincial responsibilities concerning physical education in the school system. I believe that this is obvious and that we do not need to spell it out; however, one never knows.

[*English*]

Nothing in this bill will interfere with the provincial responsibilities concerning physical education in the school system.

**Senator Kinsella:** I have one suggestion.

**Senator Bolduc:** There should be a minimum somewhere in the minds of the people, if it is not in the bill.

[*Translation*]

My second comment deals with the centre. The centre is a not-for-profit corporation. The centre is not an agent of the government and is not a departmental corporation. "Departmental corporation" is an old expression that dates back to the 1950s and was used in the first Financial Administration Act. Nor is it a Crown corporation. I am therefore left to wonder what it is. It is pretty puzzling.

Upon reading the clause the first time, one sees that the centre will have a board of directors, and that the centre will also settle disputes. It is not really a board of directors, nor an administrative tribunal, nor a Crown corporation, nor a departmental corporation. I cannot really figure out what, in fact, it is. It is a fact that Parliament is establishing it and that the minister can dissolve it. This is legislatively inconsistent. In my opinion, Senator Roche's argument carries a great deal of weight. It is in the interest of everyone and it is a basic element. Otherwise, the minister could disregard the will of Parliament. It does not work at all.

My final comment is on the parliamentary overview of the administrative activities. The centre will exist, will be covered by statute, and will be part of the public machinery.

In the National Finance Committee, we learned that there are 86 agencies reporting to the chamber, submitting plans and priorities, and filing performance reports. The centre will be the 87th, but it is not indicated that any reports will be filed.

I would like to encourage parliamentary overview. I would therefore have a suggestion for amending Bill C-12:

That Bill C-12 be not now read a third time but that it be amended, in clause 28, on page 10, by replacing lines 34 to 38 with the following: "Auditor General of Canada"

The general principle of the system is that the Auditor General has a mandate over the entire public system, except for the exclusions. The Auditor General is there to keep an eye on all operations of the federal machinery. The exclusions are the Crown corporations, because these are government corporations.

#### MOTION IN AMENDMENT

**Hon. Roch Bolduc:** Honourable senators, I move that Bill C-12 be not now read a third time but that it be amended, in clause 28, on page 10, by replacing lines 34 to 38 with the following:

#### *Auditor General of Canada*

**28.(1)** The accounts and financial transactions of the Centre are subject to examination and audit by the Auditor General of Canada.

**28.(2)** The Auditor General of Canada shall annually

(a) audit and provide an opinion on the financial statements of the Centre; and

(b) provide a report to the Chairperson and to the Minister on the audit and opinion.

**28.(3)** The Minister shall cause a copy of the Auditor General's report to be tabled in each House of Parliament on any of the first fifteen days on which that House is sitting after the Minister receives the report."

[*English*]

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

[*Translation*]

**Hon. Jean-Robert Gauthier:** Honourable senators, I want to move another amendment. It deals with Parts IV and VII of the Official Languages Act. Bill C-12 clearly says that the Official Languages Act does not apply to the Sport Dispute Resolution Centre. In my opinion, an amendment is essential, since this legislation is exempted from compliance with the Official Languages Act. I think that the concepts put forward in Parts IV and VII of the Official Languages Act must be clearly explained to Canadians.

• (1450)

Part IV deals with the language of service. It is quite simple. The centre will have to serve Canadians in both official languages. Part VII deals with the advancement of the official languages. The centre will have to enhance, promote and help the vitality of Canada's two linguistic communities. It is important that the bill be amended so that Parts IV and VII of the act — which deal with the spirit of the Official Languages Act — apply.

Honourable senators, because of a slight slip-up on my part, I do not have with me the text of my amendment. Therefore, I will propose that the debate be adjourned until a later date, so that I can conclude my remarks on this important issue.

**Hon. Lowell Murray:** Would Senator Gauthier agree to answer a question?

**Senator Gauthier:** Of course.

**Senator Murray:** Will Senator Gauthier's proposed amendment apply to the whole of Bill C-12? The honourable senator knows that the government and the Commissioner of Official Languages agreed that there is a constitutional problem in subjecting the Sport Dispute Resolution Centre to the Official Languages Act.

**Senator Gauthier:** I do not intend to propose that the Official Languages Act apply in full to the whole of Bill C-12. My amendment is important. I accept with reluctance that Bill C-12 be excluded from the full scope of the Official Languages Act, but I accept it nevertheless, because it was explained to me that there would be problems. Many conflicts will fall under provincial jurisdiction, and we would not want to impose Canada's Official Languages Act on the provinces. We would like to see them implement it, but they will not do so.

Under the bill, the Sport Dispute Resolution Centre of Canada to be established will be responsible for adopting a clear and definite language policy. The language of service and the promotion of both official languages will be among the obligations of the centre. I will bring this matter to the attention of the honourable senators when we resume debate.

**Hon. Serge Joyal:** Honourable senators, my question is along the same line as Senator Murray's. This is a very important question. When the Canadian government transfers to a provincial agency a federal responsibility for administering the service in question, can it evade its obligations under the federal legislation?

A Federal Court of Appeal judgment questioned the agreement between the Canadian government and the Minister of Justice of Ontario regarding the delivery of judicial services in both official languages in Ontario courts. The Federal Court cancelled this agreement, on the basis that Canadian citizens who applied to an Ontario court, which operated almost exclusively in English, could not obtain the services they would normally have received from a federal court. The Honourable Senator Gauthier is familiar with this judgment, because reference was made to it earlier when we considered his Bill S-32 in the last Session.

When the federal government establishes an agency in conjunction with a unilingual English province, which is under no constitutional obligation to provide services in the language of choice of the plaintiff — I am thinking of New Brunswick, where institutional bilingualism is applied to provincial services — can it evade its constitutional obligation to provide services in the other official language? This is a very important question, because it could mean that all the Canadian government has to do to shirk its responsibilities is to establish a federal-provincial agency and have it say it is very sorry not to be able to provide the services,

because the province is unilingual and cannot be forced it to change its ways. I doubt that what is proposed in the bill is valid, given the judgment I mentioned earlier, with respect to judicial services in Ontario.

In preparing his amendments, should Senator Gauthier not take this important principle into account? As the Commissioner of Official Languages said, based on Senator Gauthier's remarks, this is a constitutional issue.

• (1500)

**Senator Gauthier:** As I understand it, section 25 of the Official Languages Act stipulates that if the federal government transfers a jurisdiction to a provincial, municipal or regional authority, it has an obligation to Canadians to tell the agency, the person or the province in question that the Official Languages Act applies to the jurisdiction that they will be administering. They did not do it in the case of tickets, for example.

The courts said that the federal government was mistaken when it transferred a jurisdiction to a province and the province, in turn, delegated it to a municipality, which is a provincial creature, and that the province must tell the municipality that it must comply with the Official Languages Act. This is unavoidable. The Court of Appeal ruled on this.

I believe that the principle is established in section 25, which states it quite clearly. In an area of federal jurisdiction, such as Pearson airport in Toronto, for example, it goes without saying that the municipality of Mississauga is responsible for applying the act and regional transportation bylaws, and giving tickets. The municipality was giving tickets that were only in English and there were complaints. There were legal proceedings and the court ruled that the agreement between the Department of Justice, or the federal government, and the Province of Ontario was not acceptable. Mr. Justice Blais gave them until March 31, 2002 to settle the matter. The Department of Justice went before Mr. Justice Blais and said that it was unable to reach an agreement and asked for an extension. The judge agreed. They now have until March 31, 2003. I do not know where they are at with that. I will certainly raise the matter in the Standing Senate Committee on Official Languages to find out what is happening in that case. It is an important one.

If it were true that the government could delegate its obligations and say that it was no longer its problem, that it was up to the agency, or the centre, or another organization, I do not think that would work. That would not work with me.

On motion of Senator Gauthier, debate adjourned.

## BUSINESS OF THE SENATE

**Hon. Fernand Robichaud (Deputy Leader of the Government):** I wish to provide honourable senators with some information on Motion No. 2 under Government Business. This was adjourned in the name of Senator Beaudoin. I wanted to make sure that all senators understood that items standing under Government Business are not adjourned in the name of anyone in particular. Anyone wishing to express views may do so without affecting the speaking privilege of the person who took the adjournment in a prior sitting.

I am inviting honourable senators wishing to speak to do so. That is why I offer the following information: I call upon any honourable senator, at any time, to speak to this motion if he or she had planned to, as it is a very important motion.

We have heard some excellent speeches that give food for thought. I am certain that a number of other senators will have contributions to make and that this motion, when it is referred to the committee, will certainly be subjected to lengthy consideration and will benefit from the opinions and the wisdom of honourable senators. We could all benefit from that.

[*English*]

## HERITAGE LIGHTHOUSE PROTECTION BILL

### SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Forrestall, seconded by the Honourable Senator LeBreton, for the second reading of Bill S-7, to protect heritage lighthouses.—(*Honourable Senator Rompkey, P.C.*).

**Hon. Bill Rompkey:** Honourable senators, I congratulate Senator Forrestall for bringing this bill forward. In principle, I share his motivation and wish to advance the cause he is espousing as much as I can.

However, in doing that, I would need to be cognizant of the federal purse. I would also need to ensure that we are not overstepping our bounds in terms of money. I would want to examine what other acts of Parliament and what other provisions and policies now exist which could achieve what the honourable senator wishes to achieve. I hope that this bill will be referred to committee where it will receive thorough examination so that all of those issues can be examined.

In principle, I know where the honourable senator is coming from. I know what he feels and what he means. Let me say how important lighthouses have been to the people where I live. In that regard, the words of the poem *Erosion* come to mind. The poem was written by E.J. Pratt, who was born in Western Bay, Newfoundland. He is not only a great Newfoundland poet but a great Canadian poet. Honourable senators, the poem goes like this:

It took the sea a thousand years,  
A thousand years to trace  
The granite features of this cliff,  
In crag and scarp and base.  
It took the sea an hour one night,  
An hour of storm to place  
The sculpture of those granite seams  
Upon a woman's face.

For me, those words encapsulate the importance of lighthouses. Our people have lived on the sea and by the sea. We are from the sea. Lighthouses have been a beacon and a direction in the part of Newfoundland from where Senator Cook comes. Down around the Grand Banks you will find on the upper storey of some houses

a widow's walk. There are many widows who lost their men at sea. They walked back and forth across that balcony looking out to sea, looking at the lighthouses and waiting for a ship to come in.

• (1510)

The “widow's walk” in Newfoundland might be comparable to the Lunenburg “bump.” Senator Murray may know about this, or some of my colleagues here from Nova Scotia. There is a measure of architectural significance called the Lunenburg bump, which is a bay window, I believe. In Newfoundland we have the widow's walk, which symbolizes the importance of the sea and, therefore, the importance of lighthouses.

Honourable senators, we may not be able to preserve them all, but we should preserve some for their historical significance. I can think of the lighthouse at Point Amore, for example, in the area I used to represent in the Strait of Belle Isle. It was one of the oldest in the Atlantic provinces and presides over a virtual graveyard of ships.

I cannot remember how many ships are at the bottom of the Strait of Belle Isle, but all the ships from Europe would go through the funnel of the Strait of Belle Isle before they would arrive in the Maritime provinces and then go up the St. Lawrence to wherever they were going. Thus, it was an open door. It was the first barrier that they faced.

Honourable senators, that lighthouse at Point Amore was quite important. Senator Doody would remember it because when he was Minister of Finance in Newfoundland, they tried to start a tunnel under the Strait of Belle Isle when he served in the Conservative government.

There is a real significance to these lighthouses, as well as historic importance. That particular lighthouse has now been taken over by Parks Canada and opened up to tourism, which emphasizes its historical significance. People can walk through it and see how it works. It is still a working lighthouse.

I can think of another one, which is now a bed and breakfast. As a matter of fact, it is on an island.

Not only should honourable senators think about having the government operate these lighthouses in future, but there may be people in the — private sector — and indeed there are people in the private sector who would take them over and use them for tourist purposes, building on their historical significance.

This is an important measure that has been brought before us. It is a measure that we should examine in great detail. The lighthouses that exist in New Brunswick are no less important, and I believe the honourable senators from that province would, in principle, support this measure as well.

As I said in the beginning, we have to examine carefully the financial implications. We have to be careful to examine the other acts of Parliament and the other measures, policies and procedures that might be in place to do what it is that Senator Forrestall wishes to achieve.

Honourable senators, I support the bill in principle, but I hope that it is given a full examination in committee.

**Hon. Terry Stratton:** Would Senator Rompkey entertain a question?

**Senator Rompkey:** Yes, with great delight.

**Senator Stratton:** Is the honourable senator aware of what is happening with all the grain elevators in Western Canada?

**Senator Rompkey:** No, but I would be happy to have the honourable senator inform me.

**Senator Stratton:** They are being torn down or blown up. A way of life is gone.

**Senator Kinsella:** You have a much better sense of heritage.

**Senator Rompkey:** Honourable senators, although I am not from Western Canada and have not spent a great deal of time there, I appreciate how important those elevators are to the culture of Western Canada. There is a similarity here. I believe we are talking along the same lines because we are not just talking about the East Coast; we are talking about the coast of British Columbia as well.

**Senator Stratton:** It is nice of you to say that.

**Senator Rompkey:** I know how important this measure is to Senator Carney. However, when I go to British Columbia, I feel a kinship with that part of the country perhaps more so than others because it is a maritime area.

I understand that the centre of the country is Winnipeg, is it not?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, the geographical centre of the country is located a few miles to the east of Winnipeg.

**Senator Rompkey:** I rest my case. Thus, I can appreciate how important grain elevators are to the culture. That is what we are talking about. We are not talking economics; we are talking about heritage and a way of life. We are talking about how people have lived, what they identify with, what they see in their past, and what their memories are about. That is why this bill is so important and that is why grain elevators are so important.

**Hon. Norman K. Atkins:** Honourable senators, I should like to lend my support to Senator Forrestall's bill. To follow along on Senator Rompkey's comments, I believe that we are talking about heritage and that the lighthouse is an important symbol of our history. I can give honourable senators an example.

There is a major lighthouse in a little Nova Scotian village called Spencers Island. In the 1980s and early 1990s, technology was taking over and the Department of Public Works began to wipe out all these lighthouses. The villagers on Spencers Island rose up against the decision to tear down their lighthouse. They collected money in Cumberland County to save that lighthouse.

Spencers Island is probably a village that not many people know about, but it is also where the *Marie Celeste* was built. The village has a history.

The lighthouses on the Bay of Fundy coast, let alone the Newfoundland coast, are a tourist attraction and they do reflect a history that is important to Canadians. I am very much in support of preserving some of the lighthouses in this country.

• (1520)

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

[Translation]

## CRIMINAL CODE FIREARMS ACT

### BILL TO AMEND—REPORT OF COMMITTEE PRESENTED AND ADOPTED

Leave having been granted to revert to Presentation of Reports from Standing or Special Committees:

**Hon. Gérald-A Beaudoin,** Deputy Chair of the Standing Senate Committee on Legal and Constitutional Affairs, tabled the following report:

Thursday, November 28, 2002

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

### SECOND REPORT

Your Committee, to which was referred Bill C-10, An Act to amend the Criminal Code (cruelty to animals and firearms) and the Firearms Act, and to which instructions were given to divide Bill C-10 into two bills, has, in obedience to both orders of reference, examined the said bill and now reports that it has divided the bill into two bills, Bill C-10A, An Act to amend the Criminal Code (firearms) and the Firearms Act, and Bill C-10B, An Act to amend the Criminal Code (cruelty to animals), both of which are set out in Appendices A and B respectively to this report.

Your Committee has agreed to report Bill C-10A without amendment, and further reports that it is continuing its examination of Bill C-10B.

Respectfully submitted,

GÉRALD A. BEAUDOIN  
*Deputy Chair*

(For text of appendixes A and B, see today's Journals of the Senate, p. 234.)

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

**Senator Beaudoin:** Honourable senators, with leave of the Senate, I move that this report be taken into consideration now.



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

**Hon. Senators:** Agreed.

**Senator Beaudoin:** Honourable senators, the Standing Senate Committee on Legal and Constitutional Affairs received Bill C-10, to amend the Criminal Code and the Firearms Act.

The committee also received an order from the Senate to split Bill C-10 into two bills. Pursuant to these two orders of reference, the committee considered these bills and made two separate copies: Bill C-10A, to amend the Criminal Code and the Firearms Act, and Bill C-10B, on cruelty to animals.

We heard expert witnesses and we devised a way to solve the problem, because splitting a bill is always a complicated task. We ensured that we were going in the right direction. We took special care to ensure that the report on the first part, Document A, would not prevent us from pursuing consideration of the second part, Document B, on cruelty to animals.

Today, the report is on the first document, which will become the first bill, and the Standing Senate Committee on Legal and Constitutional Affairs will pursue consideration of the second document. Let us not forget that Bill C-10 was considered in committee and, pursuant to the order received from the Senate, we proceeded with consideration of the first part, while retaining the right to proceed with consideration of the second part.

[*English*]

**Hon. Anne C. Cools:** I wonder if I might ask the honourable senator a question.

**The Hon. the Speaker:** Would you accept a question, Senator Beaudoin?

**Senator Beaudoin:** Yes, I would accept a question.

**Senator Cools:** Honourable senators, I am looking at this report with interest. I observe that the bill was divided. I am mindful that the mandatory instruction to the committee ordered the committee to divide Bill C-10 into two bills.

Could the deputy chairman of the committee explain the reasoning that was given at the committee to name the bills "Bill C-10A" and "Bill C-10B"? My understanding is that this is an unusual procedure and is rarely done. The precedent is not clear. Perhaps the deputy chairman could tell us about the precedent that is being relied upon. I understand that that precedent is not reliable because it did not settle many of the questions. The precedent offered was that of Bill C-103, which was dealt with in 1988.

If it was the committee's intention to follow that precedent precisely and exactly, which has been referred to as a poor precedent, then the committee did not do that. In 1988, the instruction to the committee was worded almost exactly as this instruction was. However, in 1988 when that committee divided Bill C-103, it did not claim to create two new entities with two

new numbers. What it did was treat Bill C-103 as one bill in two parts, in other words, leaving some room for future decisions by others, either this chamber or the House of Commons, to confer a number on the bill.

What I am driving at is that, in 1988, when Bill C-103 was divided and when the committee reported on the division of the bill to this chamber, it reported in the forms of Bill C-103 Part 1 and Bill C-103 Part 2. Some people may think this is a slight and inconsequential point, but it is not. The 1988 precedent did not purport to try to name a bill on behalf of the House of Commons, which is what this particular report does.

Would the deputy chairman tell us what was in the minds of committee members when they chose to give Bill C-10 new numbers? That is exactly what was done. These are new numbers that did not exist before: Bill C-10A and Bill C-10B.

**Senator Beaudoin:** Honourable senators, we looked carefully at the legal and constitutional questions for many hours. There is no direct precedent. The precedent of 1941 is not the same as the precedent of 1988. In that sense, we have created a new precedent.

[*Translation*]

We complied with the order from the Senate to split the bill into two parts. We knew from the outset that we had to create a Document A and a Document B. When we devise a new way of doing things and have no precedent, we are very cautious, and we were indeed.

The work done in committee is now before the Senate. The Senate has the power to follow up on it.

• (1530)

We have done everything to avoid repeating past mistakes. It will be up to the Senate to decide what it will do with the report.

We took a great deal of care to follow every legal and constitutional provision that might apply.

I cannot summarize everything that we discussed in committee and with the steering committee. We consulted with every expert that was available. I am confident that we chose the best route. When establishing a precedent in a house such as the Senate or the House of Commons, or in a committee, it is important to be careful to follow the legal and constitutional rules. I am convinced that this is the right approach to take.

We held a number of meetings on this point. This morning, the committee heeded the advice of the experts that were there. This precedent that we created is well founded. It should work.

We must not repeat past mistakes; however, we must have enough confidence in ourselves to try to establish precedents.

[*English*]

**Senator Cools:** Would the deputy chairman of the committee take another question?

**Senator Beaudoin:** Yes, I will, although I think my explanation is sufficient.

**Senator Cools:** Honourable senators, it would be a very interesting debate to be able to determine when a precedent is a precedent and how a precedent is created. My understanding is that it takes more than an event or a decision or something to happen once to make it a precedent to be followed. In other words, if one is not careful, one could make a mistake or one could have committed a bad practice, which then could become a precedent. In other words, first practices by themselves do not become precedents.

I am aware that the committee, and everyone else, seems to be relying on the events of Bill C-103 in 1988 to be a precedent. However, there has been no debate whatsoever in this chamber on that, because when the instruction was given to the committee, it was given devoid of any explanation or even proper instructions to the committee as to the premises and the basis on which the bill was to be divided. Bill C-103 is far from a clear precedent and far from a settled question. At the end of the day, there remain as many questions as before, by which I mean that the Senate's actions in respect to Bill C-103 were never accepted in the House of Commons. That is my first point.

Second, the Senate itself retreated from the position it had taken in respect of splitting the bill and yielded to the House of Commons opinion. To my mind, very distinct constitutional parliamentary mechanisms and rules must be followed. If the Senate in 1988 intended to create what it did on Bill C-103 as a precedent, when the House of Commons rejected the Senate's actions, the Senate would have insisted on the Senate's opinion. This is how a clear answer would have been put forth. If honourable senators will recall, in that same time frame, the Employment Insurance bill, for example, which I believe came before us in the fall of 1989 —

**The Hon. the Speaker:** I regret to advise honourable senators that Senator Beaudoin's time has expired.

**Senator Robichaud:** Question!

**Senator Cools:** I move adjournment of the debate, honourable senators.

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

**Some Hon. Senators:** Yes.

**Some Hon. Senators:** No.

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

**Some Hon. Senators:** Yea.

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

**Some Hon. Senators:** Nay.

**The Hon. the Speaker:** In my opinion, the nays have it. The debate will resume.

**Senator Cools:** Very well, honourable senators. I do not quite know how I can lift my remarks and just move them. I do not want to bore senators to tears by repeating everything I have

already said. I will attempt to bridge the concerns that I have on the particular question.

The fact of the matter is, honourable senators, that I lived through the events of 1988 and Bill C-103. I certainly am very well aware and understand very clearly what happened and why it happened. I was a party to those events.

Just to make the point, when the upper house has a disagreement with the lower house, certain steps should be taken if the Senate wants its will to carry; in other words, if it wants its will or its opinion to prevail. None of those steps happened in the incident of Bill C-103 in 1988.

Interestingly enough, if we were to look at the record and go forward a year or so when we had the unemployment insurance bill before us, which was 1989, I believe, at that time the Senate made certain amendments to the EI bill and sent a message to the House of Commons. The House of Commons sent a message largely rejecting the Senate amendments.

After careful debate and consideration, again I believe in committee, the Senate sent back another message saying that it did insist on its amendments.

Honourable senators at the time were inching their way toward what is called a conference between the two Houses, which is the only way to resolve a major difference between the two chambers. That did not happen in 1989 on the EI bill because a little while later the GST debate intervened, as did many other things that are on the record for anyone to examine.

I am not convinced that Bill C-103 and the actions therein form a precedent in that the questions were not settled. I kept raising procedural questions during the committee, quite frankly often to deaf ears, because I wanted committee members to be as crystal clear and to be as diligent as possible to ensure that we got this particular bill right so that we would not fall into the exact same pitfalls that might have been fallen into some years later.

I am not convinced, honourable senators, that we have not repeated the same errors of 1988. I regret that honourable senators did not go a little bit more slowly and proceed a bit more cautiously so as to really engage in the process of creating a precedent. That process is a difficult and diligent one, to be attended and accompanied by many citations and references.

• (1540)

What I would like to continue to say is that I am not of the opinion that this is a precedent. I am not of the opinion that our case before the House of Commons is a solid one. I am not convinced at all. However, I am always happy to be wrong.

What I would also like to place here on the record is that, in my opinion, the Senate has created a House of Commons creature, a House of Commons animal. If we look to this report, we see that we have two documents in the appendix, which is what the report says. The two documents are appended as Bill C-10A and Bill C-10B. What we have here is a miraculous conception

and a bizarre birth. The Senate, in point of fact, has given birth to two House of Commons bills: Bill C-10A and Bill C-10B. I cannot find any precedents or examples of that ever happening before. It is crystal clear that Bill C-103 in 1988 did not purport to create new bills. It purported to split a bill into two parts. I thought that should be recorded here.

Honourable senators, I understand clearly another problem that is worrying to me here. It is very bothersome to me, but there was no time in the Senate committee to raise these issues. However, while this bill was before the House of Commons, many members of the House of Commons attempted to have the bill split there because many members in the House of Commons contended that the bill was a collection of almost disconnected issues, so to speak.

I find it very interesting that the Minister of Justice, Martin Cauchon, would not agree to have the bill split or divided over there but was willing to agree to have the bill divided over here. I find that very unusual. I do not understand how a minister of the Crown, the minister responsible for these areas, could agree to the bill in a particular form and could vote on it in that form and would not allow his supporters in the House of Commons there to alter the form of the bill. However, on the bill coming to the Senate, that same minister could agree to overturn the vote of the House of Commons and agree, for his supporters here, to execute what he was not willing to do in the other place. In a way, he is asking us, and has asked his supporters here, to agree to something here which will have to go back there to overturn a vote there.

I am under the impression, honourable senators, that the business of overturning votes in legislative chambers is a difficult and unusual business and that ministers should think twice and be cautious before they attempt to overturn a vote of the House of Commons by a Senate vote.

I submit to you, honourable senators, that that is what the Minister of Justice has asked his supporters here to do — or the government supporters here — namely, to overcome a vote of the House of Commons which was no longer useful to him for the needs of the moment that he identified at that particular time. I would submit to you, honourable senators, that that is a very wrong thing for any minister of the Crown to do.

Honourable senators, it is my intention to speak further on this matter at third reading. However, I thought it was important that the Senate record some of the facts around the particular case. I wanted the record to show very clearly that all senators here were not in agreement that the events of 1988 actually do constitute a precedent that should be followed verbatim and imitated in the future.

As far as I am concerned, the paucity of material in the reference books and the scarcity of examples — and I believe one of the Speaker's rulings began by saying that there was a dearth of examples to follow — should be an instruction to us and a counsel to us to move slowly and most cautiously.

What we may have done, honourable senators, is not created a new precedent or a better precedent from 1988; we may simply have created another bad practice which some others in the future will seek to overcome.

Honourable senators, that is enough for the time being. I know that this whole business of the law of Parliament is terribly boring for many. However, I was trained to believe that the business of mastering the law of Parliament and mastering the business of Parliament is a matter that took enormous exertion and a lot of study. It is something that interests me; it is something that I love. It is something that I admire and it is something that I was raised to respect. I am very sorry if my constant interventions and if my constant upholding of these principles irks some people some of the time. However, I sincerely believe that this system of Parliament under the Crown, under the Queen, is, as far as I am concerned, the apex of the world's developments in constitutionalism. I was born that way and I was raised that way, and I propose to continue being that way.

**The Hon. the Speaker:** It was moved by the Honourable Senator Beaudoin, seconded by the Honourable Senator Bolduc, that the report be adopted now.

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

**Hon. Senators:** Agreed.

**Senator Cools:** On division.

Motion agreed to and report adopted, on division.

**The Hon. the Speaker:** Honourable senators, when shall Bill C-10A be read the third time?

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

[*Translation*]

#### THIRD READING—NOTICE OF TIME ALLOCATION

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, it was impossible to reach an agreement to dispose of Bill C-10A.

I give notice that at the next sitting of the Senate, I will move:

That, pursuant to rule 39(2)(d), not more than a further six hours of debate be allocated for third reading of Bill C-10A, An Act to amend the Criminal Code (firearms) and the Firearms Act;

That when the debate comes to an end or when the time provided for the consideration of the said motion has expired, the Speaker shall interrupt, if required, any proceedings then before the Senate and put forthwith and successively every question necessary to dispose of the said motion; and

That any recorded vote or votes on the said question be taken in accordance with rule 39(4).

[English]

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, in terms of order, may I have some clarification? The Deputy Leader of the Government is certainly well within his rights to give that notice. However, to help honourable senators who travel to their provinces, is it your intention that, having given that notice, we would reconvene tomorrow morning in order for that motion to be debated and then return on Tuesday to have Tuesday for the fullness of the debate until the matter is disposed of? Or is it your intention that we would come back on Monday evening, debate the closure motion and then deal with the debate on Tuesday, the closure motion having been adopted on Monday evening? We are still in the same position at the end of Tuesday with the matter having to be disposed of.

• (1550)

I raise the question simply because many honourable senators travel a long distance across this very large land. This is where we are at, and the rules provide for the guillotine to be brought in. However, if we were to grant leave now to deal with the motion for closure, then we could come back at 2 p.m. on Tuesday. We would be at the same point in time as far as the substance of the bill is concerned. Effectively, it is a procedural matter that we are dealing with.

[Translation]

**Senator Robichaud:** Honourable senators, in response to my honourable colleague's question as to whether we intend to be coming back tomorrow or on Monday, when we proceed to the motion to adjourn, I will move that we reconvene on Monday, at 2 p.m., to consider this motion and the business of the Senate before us at that time.

[English]

**Senator Kinsella:** Of course, coming at 2 p.m. on a Monday makes it that much more difficult for our colleagues from the West Coast. That means that they would have to travel on Sunday to be here in time, unless they travelled all night long on Sunday night. If all that we are going to achieve on Monday, effectively, is the debate on the closure motion, why not deal with that now and then come back at 2 p.m. on Tuesday? We would be just as far ahead.

[Translation]

**Senator Robichaud:** Honourable senators, we could have avoided coming back on Friday or Monday, if an agreement had been reached with the honourable senators opposite to end the debate on this bill by Tuesday, at 5:30 p.m. or another time agreed upon. Since no agreement could be reached, I have to proceed in accordance with rule 39(1), which states that the Deputy Leader of the Government may give notice of the terms of a motion to allocate a specified number of hours or days of debate on an issue. This is precisely what I am doing.

To be sure that the debate will end on Tuesday, we must come back on Monday to ensure that everything is in order. It may be too late to come to an agreement now, but, with leave, it is always possible to change that, if that is what the honourable senators present want.

[English]

**Hon. Lowell Murray:** Honourable senators, we have reached such a pique that I cannot wait until Tuesday's caucus to ask the following question. My friend the Deputy Leader of the Opposition is now prepared to accommodate a closure motion. Why can he not accommodate the debate on third reading? Is it that the demands of the government on this matter have been so thoroughly unreasonable as to be absolutely beyond the pale, or is there some other reason? My friend has suggested that we accommodate a debate on a closure motion. I have never heard of such a thing in Parliament. As I say, I cannot contain my curiosity until Tuesday's caucus.

**Senator Kinsella:** I made my best attempt in the best interests of all honourable senators. Our caucus will take place on Tuesday, well after the closure motion debate Monday.

**Hon. Douglas Roche:** I do not have a house leader to speak for me, so I will say that I certainly give my consent for the expeditious treatment of this bill. As one member from Western Canada, and perhaps speaking for others, it is extremely difficult, particularly at this time of the year, to get airline reservations to get oneself back here. I think some consideration should be given to a regularity of hours so that we are not put into these very difficult situations.

**Hon. Sharon Carstairs (Leader of the Government):** I recognize what Senator Roche has said. I, too, come from the West. The reality is that we should be sitting five days a week. That is what our calendar says. We choose to sit most times three days a week. However, there are occasions when it is necessary to sit on those Mondays and Fridays.

By introducing the closure motion today, because the decision had been made earlier that we would sit tomorrow, we are trying to avoid having senators make arrangements both for today and again potentially for Sunday, in the honourable senator's case, but if not, early on Monday morning. I believe it is important that we try to accommodate honourable senators in any way, shape or form.

I had also indicated the suggestion that we meet on Monday evening rather than Monday at 2 p.m. Apparently, a number of senators on both sides of the chamber are engaged in a fashion show on Monday evening, and the preference was indicated for a meeting at 2 p.m. and not in the evening. The fashion show is in honour of charity, and in fact a charity well known to many of us in this chamber, the United Way. That is the reason we are not sitting Monday evening but are sitting Monday at 2 p.m.

I can assure the honourable senator that when we look at options for extra sittings of senators, we take everything into consideration.

**Hon. Anne C. Cools:** I think I am misunderstanding, but I just want it to be clear. The leadership is giving notice now, not moving the motion. Am I correct in that?

**Senator Carstairs:** That is right.

**Senator Cools:** The honourable senator said a few minutes ago that they had introduced the motion, because my understanding is that notice is clearly required.

It is my understanding as well that on Monday at 2 p.m., the debate on closure will begin. Let us just clarify it.

**Senator Carstairs:** I thank the honourable senator for that opportunity to clarify. Clearly this is a notice of motion. The notice of motion means that the actual motion will take place at our next sitting, and the next sitting, to indicate to honourable senators something which will come later in this afternoon's proceedings, will be at 2 p.m. on Monday.

**Senator Cools:** Honourable senators, again to the Leader of the Government in the Senate, I am very mindful, as I listen to the discussions and the exchanges between Senator Kinsella, Senator Carstairs and Senator Robichaud, that due consideration is given in respect of the wishes of senators opposite. However, I must also add, as a member of the government supporters on this side, that this notice of motion is news to me. I encourage the leadership on our side to be diligent in informing its own side of events as they would be unfolding.

## RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

### FOURTH REPORT OF COMMITTEE— DEBATE ADJOURNED

The Senate proceeded to consideration of the fourth report of the Standing Committee on Rules, Procedures and the Rights of Parliament (depositing committee reports) presented in the Senate on November 21, 2002.—(*Honourable Senator Milne*).

**Hon. Lorna Milne** moved the adoption of the report.

She said: Honourable senators, on October 23, in response to Senator Murray's question of privilege, Senator Kirby suggested that it would be useful to have the matter of the practice of depositing of committee reports with the clerk clarified, and the matter was referred to the Standing Committee on Rules, Procedures and the Rights of Parliament.

• (1600)

This order of reference raises the often competing interests of the Senate and senators' undoubted right to be the first to receive the work of one of its committees versus the desire of committees to maximize the public's awareness of their work. The committee struggled with these issues and engaged in a vigorous discussion. In the end, this report reinforces and underlines to honourable senators that committee reports must —

**The Hon. the Speaker:** Senator Milne, on your behalf and on behalf of all senators, I would ask for order. I would ask senators who wish to have conversations to please carry them on outside of the chamber.

**Senator Milne:** Honourable senators, we want to underline to all senators in this chamber that committee reports must be tabled first in the Senate chamber unless there are exceptional circumstances. Senators need to carefully consider requests authorizing reports to be deposited with the clerk.

This report of the Standing Senate Committee on Rules, Procedures and the Rights of Parliament reminds honourable senators that they have rights, that they need to guard them

carefully, and that motions seeking to set aside the rights of honourable senators should be more explicit in this respect.

We are all agreed that much of the most important and significant work of this place is done in our committees. This point has been made even more clearly in recent weeks with reports on illegal drugs, the Canadian health care system and the military, to name but three. It is essential that the work and recommendations of Senate committees be as broadly disseminated as possible. The Standing Committee on Internal Economy, Budgets and Administration requires committees to develop communications strategy with that end in mind. However, we must not lose sight of the rights of all senators to see reports before, or at the same time as, they are made public.

In short, the following have been recommended: that there is an overarching requirement to table reports in the Senate before all else, unless there are exceptional reasons to do otherwise, such as anticipated lengthy adjournment, prorogation, dissolution or a media strategy that has elements compelling enough to persuade honourable senators to set aside their rights; that motions asking for such authority should not be included in motions for orders of reference; that any such request should only be made immediately prior to a perceived need so as to be absolutely clear as to the need; that the onus is entirely upon that committee requesting this leave to persuade the Senate of the need to use this mechanism; that it is absolutely necessary for a committee, which has been given this authority, to give adequate notice to their colleagues when a deposit with the clerk is about to take place; that they make copies available in electronic and paper format immediately to their colleagues; and that briefings, where appropriate, be available to senators and/or their staff at the earliest possible opportunity. It is the belief of the Rules Committee that these recommendations reflect the concerns and importance that honourable senators place on their traditional rights, while still allowing the flexibility that the Senate is so rightly proud of in the conduct of its affairs.

Your committee believes that the adoption of this report will provide clarification and guidance for the Senate in this matter.

On motion of Senator Corbin, debate adjourned.

## BUSINESS OF THE SENATE

**Hon. Anne C. Cools:** Honourable senators, concerning a point of order, sometimes it takes a long time to hear or to be heard from this back corner. Sometimes His Honour moves too rapidly for us here in the back corner.

## SANCTIONING OF MILITARY ACTION AGAINST IRAQ UNDER INTERNATIONAL LAW

### MOTION—ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Roche, seconded by the Honourable Senator Taylor:

That the Senate notes the crisis between the United States and Iraq, and affirms the urgent need for Canada to uphold international law under which, absent an attack or imminent threat of attack, only the United Nations Security Council has the authority to determine compliance with its resolutions and sanction military action.—(*Honourable Senator Rompkey, P.C.*).

**Hon. Douglas Roche:** Honourable senators, I rise on a point of order. This motion is in my name, and Senator Rompkey is leaving. This is the tenth day. The subject matter of this motion is extremely important. The Iraq situation is dealt with every day in Question Period. Can the Deputy Leader indicate to me when this motion will be spoken to and voted upon, because it has been dragging on for a long time?

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I will certainly make representations to the Honourable Senator Rompkey, asking him to speak to this matter within a short period of time so that he has time to prepare. I know Senator Roche has been very patient and would like to have his motion dealt with, so I will make those representations.

Order stands.

## PARLIAMENT HILL

### ACCESS TO PRECINCT—MOTION ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Corbin, seconded by the Honourable Senator Banks:

That the Commissioner of the Royal Canadian Mounted Police and the Chief of the Ottawa Police Service do take care that during this Session of Parliament streets and roads leading to the Senate precincts be kept free and open and that no obstruction be permitted to hinder the passage of Senators to and from the precincts of this House; and

That the Clerk of the Senate do communicate this order to the Commissioner of the Royal Canadian Mounted Police and the Chief of the Ottawa Police Service.—(*Honourable Senator Robichaud, P.C.*)

**Hon. Eymard G. Corbin:** I have already spoken on this matter, as honourable senators will recall. However, this order now stands at day 10, and I have a hunch that no one else wishes to speak to it. The motion stands in Senator Robichaud's name simply for the purpose of accommodating potential eventual speakers. However, since no one is coming forward, I wonder if there is a will and a disposition to vote on this matter and to refer the matter to the Standing Committee on Rules, Procedures and the Rights of Parliament at this time.

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

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Perhaps the honourable senator would repeat his request for Senator Robichaud.

**Senator Corbin:** I noticed that he was in serious conversation about the interests of this house.

[*Translation*]

Honourable senators, it seems to me that no senator wishes to speak to Motion No. 3, adjourned in Senator Robichaud's name.

It is not that I am concerned it will be dropped from the Order Paper after fifteen days, but the Deputy Leader of the Government has indicated that his reason for requesting that this motion be adjourned was simply to accommodate senators who may want to speak on the subject. Nobody seems to be interested.

I am interested, however, in having the Standing Senate Committee on Rules, Procedures and the Rights of Parliament examine the subject matter of the motion. Everyone knows that this is a committee where individual initiatives are always considered after other matters deemed more urgent.

If the subject matter of this motion were referred immediately to the Standing Senate Committee on Rules, Procedures and the Rights of Parliament, the committee could perhaps take it under advisement and report in the near future.

• (1610)

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, this motion has been on the Order Paper for some time, and I moved adjournment of the debate on it in order to allow some senators to speak to its content.

We have recently introduced some new security measures relating to access to the Hill, and some senators might have liked to suggest others. If no one wants to say anything on this motion, however, I will move that it be referred to the Standing Committee on Rules, Procedures and the Rights of Parliament.

[*English*]

**Hon. Anne C. Cools:** Honourable senators, I think that Senator Corbin's motion is an excellent one, and very well intended. It speaks to a very relevant and pertinent matter. I had not been paying too much attention to it, but I was just glancing at it following the debate. If we are short of speakers, I would be happy to take the adjournment and speak to it next week. However, the intent, content and substance of the motion is so crystal clear, I really do not understand why we have to refer it to anyone other than the judgment of this house.

I admire Senator Corbin for bringing it forward. I know the historical perspective from which he has done so, and I am mindful of the problems that we have all had in gaining entry to the Hill in the past year. I understand the context and the purpose of the motion. It seems to me it is pretty clear on its face. I do not see why we simply cannot proceed, if Senator Corbin is willing, to move on and put the question. It is perfectly clear.

[Translation]

**Senator Robichaud:** Honourable senators, I shall be governed by what Senator Corbin wants to do about this motion. He is the originator and would like to see it referred to the committee. I have no objection to that.

Perhaps Senator Corbin would like to provide the committee with the reasons why the security system impedes his comings and goings, and to take the opportunity at the same time to make some suggestions, no doubt. I will therefore bow to Senator Corbin's wishes.

[English]

**Senator Corbin:** Honourable senators, do I have a right of closure on this motion?

**The Hon. the Speaker:** I did not hear the question.

**Senator Corbin:** Do I enjoy that right on this type of motion? I have already spoken once. If no other senator wishes to speak, I would like to make a final comment.

**The Hon. the Speaker:** I should put to the Senate the matter of whether Senator Corbin has the right of reply. It is a substantive motion. If he speaks now, his speech will have the effect of closing the debate.

**Senator Corbin:** I wish to add, honourable senators, to the comments I made earlier, during which I did not go into any details because what we are dealing with are technical matters of security and freedom of circulation, not only on Parliament Hill itself but also to the annexes of the other buildings occupied by senators and members of Parliament. It is not simply a matter of access; it is a matter of getting around, doing our work properly and being able to get to our committee assignments in time.

There are now two entrances to the Hill: one in front of the main building, and one at Bank Street, which is a pain for many people. We talk about Kyoto. I have to make quite a detour and burn much more gas to get to the other gate when this main gate is chained and padlocked. I think that is quite improper in view of the traditional rights of access of members of both Houses to their place of work.

Today I had to go to a meeting in the Victoria Building, and it is sometimes problematic getting there. I have noticed a number of senators not taking the crosswalks, taking their chances with speeding cars. There is no one facilitating the access of parliamentarians crossing from one building to the other building, especially when you have to cross Wellington Street. It is a problem getting out of here. We have to stand in line for the green buses, which have a terrible habit of letting off passengers at the stop sign, instead of doing it just beyond the stop sign so that we can go on to our other assignments and get out of this place when we want to. There are a number of other matters, but I will not bother honourable senators with them today.

This is why I think the Standing Committee on Rules, Procedures and the Rights of Parliament could best deal with this sort of problem. I am seeking to have put in place the type of practice that they have had in place for many years now at Westminster, to accommodate the Lords and members of the

Commons to go about their business, to facilitate their entry on the parliamentary grounds, as well as the exit. I am all for security. However, we still have to put in place, in spite of what we are told, all this —

[Translation]

When we got our last access cards, we were told they would work wonders, including opening doors. But when we get to the barrier, there is no electronic control.

[English]

In this day and age, that is unforgivable, because there are ways of facilitating the speedy access of parliamentarians to their place of work.

Many members are bothered by the RCMP. I came in to work last Saturday. I had a number of files that I wanted to archive, and I could only do it on a Saturday. I came in. It so happened that, when I got there, the RCMP officer at the so-called Bank Street entry was cleaning the snow off his windshield some distance away from the checkpoint. I had to wait for him to come in. Then he said, "Who are you?" I told him, "I am Senator Corbin." His reply was, "Well, I do not know you. Prove to me you are Senator Corbin." I said, "There is the sticker in the back windshield of my car. I have been here for 35 years, almost. How long have you been here, sir?" His reply was, "Oh, I was off yesterday, and there is no way I can identify every senator who comes on the Hill. I want you to produce identification for me." That is the kind of annoyance that is totally unnecessary in this electronic age. It is the sort of thing that I wish we could modernize and redress. I think we can do it. We have done it in a number of other situations.

• (1620)

Take the example of the Honourable Senator Gauthier, who has been severely handicapped following a very serious illness. He has been provided with the means to function, and function well, as a senator. We ought to extend that concept so that our rights and privileges are respected. That is all I am asking for.

Therefore, I am asking for the question, honourable senators.

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

Motion agreed to.

[Translation]

## CRIMINAL CODE FIREARMS ACT

THIRD READING—TIME ALLOCATION—  
MOTION ADOPTED

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I am very pleased to inform you that an agreement has been reached regarding the disposal of the stages of Bill C-10A. Consequently, I move, seconded by Senator Kinsella:

That, pursuant to rule 38, in relation to Bill C-10A, An Act to amend the Criminal Code (firearms) and the Firearms Act, no later than Tuesday, December 3, 2002, at 5:30 p.m., any proceedings before the Senate shall be interrupted and all questions necessary to dispose of third reading of Bill C-10A shall be put forthwith without further debate or amendment, and that any votes on any of those questions be not further deferred; and

That, if a standing vote is requested, the bells to call in the senators be sounded for thirty minutes, so that the vote takes place at 6:00 p.m.

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

Motion agreed to.

[*English*]

#### POINT OF ORDER

**Hon. Anne C. Cools:** Honourable senators, I rise on a point of order.

Your Honour, it would be very easy to proceed properly. I was on my feet before the question was put. I wanted to ask a question.

**Hon. Fernand Robichaud (Deputy Leader of the Government):** It is not a debatable motion.

**Senator Cools:** I wanted to ask a question.

Honourable senators, the intention of the rules is to ensure that proper notice is given and that there is ample opportunity for debate. It is very improper to use rules to stifle debate.

A few minutes ago we were told one situation, and a few minutes after that we were told that there is an agreement. The least the leaders can do is inform the members on both sides of what is happening.

**The Hon. the Speaker:** It would probably be helpful if I read the relevant rule, which is rule 38. It states:

At any time while the Senate is sitting, the Leader of the Government in the Senate or the Deputy Leader of the Government in the Senate may state from his or her place in the Senate, that there is an agreement among the representatives of the parties in the Senate to allot a specified number of days or hours to the proceedings at one or more stages of any item of government business. At the same time, without notice, the said Leader or Deputy Leader may propose a motion setting forth the terms of such agreed allocation and every such motion shall be decided forthwith without debate or amendment.

[ Senator Robichaud ]

I am relying on that rule in indicating that this is a non-debatable motion, and I would ask the Table to proceed.

[*Translation*]

#### OFFICIAL LANGUAGES

##### MOTION AS MODIFIED TO AUTHORIZE COMMITTEE TO STUDY REPORT ENTITLED "ENVIRONMENTAL SCAN: ACCESS TO JUSTICE IN BOTH OFFICIAL LANGUAGES"—DEBATE ADJOURNED

**Hon. Jean-Robert Gauthier,** pursuant to notice of motion of October 29, 2002, moved:

That the report entitled *Environmental Scan: Access to Justice in Both Official Languages*, revised on July 25, 2002, and commissioned by the Department of Justice of Canada, be referred to the Standing Senate Committee on Official Languages for study and report; and

That the Committee review the issue of clarifying the access and exercise of language rights with respect to the *Divorce Act*, the *Bankruptcy Act*, the *Criminal Code*, the *Contraventions Act* and other appropriate acts as applicable.

He said: Honourable senators, I forgot to set a deadline for the tabling of the report. I would like to amend the wording of this motion slightly by adding the following at the end of the motion:

That the Standing Senate Committee on Official Languages report to the Senate no later than May 31, 2003.

The report, a pretty voluminous one, was prepared by the research firm PGF Consultants for the Department of Justice. This report makes it quite clear that a real policy regarding the active offer of judicial services in the official languages of this country has to be put in place to strengthen minority official language communities, which continue to be vulnerable. This was the idea behind a so-called "restorative" justice. In clear terms, this means justice that is accessible to all and that redresses injustices.

I would like the Senate to consider access to legislation, as opposed to the amendments to legislation.

• (1630)

I am not talking about amending the Divorce Act or the Bankruptcy and Insolvency Act. I am not talking about amending the Contraventions Act. I am talking about access to these laws for official languages communities.

The document clearly indicates that access to these laws is sometimes very difficult for minority official language communities.

Take the Divorce Act, for example. This is federal legislation, but it is the provinces that are responsible for most of the administration of the act. The same is true for the Bankruptcy and Insolvency Act. It could also be the case for legislation related to the Criminal Code, which is administered by the provinces. I simply want to improve access to these laws.



Last year, in London, Ontario, French lawyers said that it was difficult for a person to have a divorce case heard because there was no judge who could try the case in French. When people want to undertake legal proceedings, they are told that there can be no trial in their language of choice because there is no judge to hear the case. Their case can be heard in two or three months' time, or more, because a judge has to be brought in from elsewhere. If they accept to proceed in English, the case can be heard in a week.

Imagine a woman who has two or three children, who is having marriage problems, and who is told that if she wants to speak French in London, Ontario, and undertake divorce proceedings, it cannot be done in French for two or three months. She needs economic support, she needs support, and she is having problems.

I wrote the Minister of Justice asking him for a concrete solution: for a judge who speaks both official languages, who understands them both and who is able to hear divorce cases in both languages, to be appointed in London.

Within four or five months, the Department of Justice appointed a judge from Rockland to London, Ontario. This lady speaks both official languages and can hear divorce cases. The problem, if it existed, was solved.

In Manitoba, lawyers told me the same thing needed to be done there. I told them that I was unable to do everything for everyone.

A document entitled "Environmental Scan" has been published, which, if considered in committee, might give us the chance to hear from representatives of minority official language communities to explain the problems they have had in accessing these federal acts that are administered by the provinces. That is all I want to do. I move that this motion be adopted.

[*English*]

**The Hon. the Speaker:** Before putting the motion, is it agreed, honourable senators, that Senator Gauthier's motion be varied by adding at the end the words, "and that the committee report no later than May 31, 2003"?

**Hon. Senators:** Agreed.

[*Translation*]

**Hon. Rose-Marie Losier-Cool:** Honourable senators, I am speaking to this motion as the Chair of the Senate Official Languages Committee. Senator Gauthier is a member of its steering committee.

A message has been sent to all members requesting that they identify all priorities and studies we ought to undertake.

I am in agreement with our examining this very important report. I am, however, a bit uncomfortable with the March 31, 2003 deadline. I hope you will have comments on this at the next committee meeting.

**Senator Gauthier:** What I said was May 31, 2003, not March 31, 2003.

**Senator Losier-Cool:** Oh, pardon me.

On motion of Senator Corbin, debate adjourned.

[*English*]

## ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY MATTERS RELATED TO MANDATE— ORDER WITHDRAWN

On the Order:

That the Standing Senate Committee on Energy, the Environment and Natural Resources be authorized to examine such issues as may arise from time to time relating to energy, the environment and natural resources.

**Hon. Tommy Banks:** Honourable senators, subsequent events having overtaken this motion. I would ask leave of the Senate to have it withdrawn.

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

**Hon. Senators:** Agreed.

Order withdrawn.

[*Translation*]

## OFFICIAL LANGUAGES

### MOTION TO AUTHORIZE COMMITTEE TO STUDY ANNUAL REPORTS RELATING TO OFFICE OF COMMISSIONER—MOTION MODIFIED TO STUDY OPERATION OF OFFICIAL LANGUAGES ACT— DEBATE ADJOURNED

**Hon. Rose-Marie Losier-Cool,** pursuant to notice of November 20, 2002, moved:

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; and

That the Committee table its final report no later than March 31, 2003.

[*English*]

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

[*Translation*]

**Senator Losier-Cool:** Honourable senators, under rule 30, by leave of the Senate, I wish to modify this motion. I overlooked something.

I move:

That the Standing Senate Committee on Official Languages be authorized to study and report from time to time upon the operation of the Official Languages Act in Canada in general and in the federal public service in particular; and

That the Committee table its final report no later than March 31, 2004.

[English]

**The Hon. the Speaker:** The request is that the following be substituted for the motion. Is leave granted, honourable senators? Shall I read the motion?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** The request is that the following motion be substituted for the one listed in the Order Paper as No. 68, and I will read it. It is as follows:

That the Standing Senate Committee on Official Languages be authorized to study and report from time to time upon the operation of the Official Languages Act in Canada in general, and in the federal public service in particular, and that the committee table its final report no later than March 31, 2004.

Is it agreed, honourable senators, to make this change?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** This motion, then, is in place of the one that I originally read.

I now reconfirm. Is it your pleasure, honourable senators, to adopt the motion?

**Senator Losier-Cool:** Honourable senators, the only change is the one on the budget and the date; instead of 2003 it is 2004.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, if we are in debate on the new motion, I am concerned with the deletion of the Department of Canadian Heritage, in particular.

• (1640)

I wonder whether the mover of the motion would accept, as a friendly amendment, the following: "... in general and in the federal public service and with special attention given to the Department of Canadian Heritage."

The reason I should like to see that phrase in the motion is that of all the ministries in the machinery of government, the Ministry of Canadian Heritage is the one that has the largest number of programs or greater responsibility for citizen participation programs and the promotion of the official languages with citizens' organizations across Canada.

**Hon. Lowell Murray:** As well as the federal-provincial agreements.

[ Senator Losier-Cool ]

**Senator Kinsella:** Exactly. It would be opportune that our new Standing Senate Committee on Official Languages would examine this subject and do a longitudinal study. My hypothesis is that there has been a serious erosion of citizen participation programs and the promotion of official languages communities in that ministry over the past 10 years.

I should very much like to have that hypothesis tested by our new Official Languages Committee. If Canadian Heritage is not at the lead with ever-enriched programs for promoting official languages in communities across Canada, there is no one else to do it. I like the original motion with the particularity that was attached to it.

I believe that I understand the reason this motion is before the chamber; it is so the committee would have a broad sweep in its order of reference. Perhaps, as a friendly amendment, we could reinsert the Department of Canadian Heritage for the reasons that I just mentioned.

**Senator Losier-Cool:** I thank Senator Kinsella for his comments. Honourable senators will understand that we are talking about the public service sector in particular. However, I have no objection to this being clearly specified. Senator Kinsella is correct that it is my intention to look carefully at how Heritage Canada might better promote section 7 of the Official Languages Act. I will accept the friendly and precise amendment.

**Hon. Jean-Robert Gauthier:** Honourable senators, I am a member of the committee, and I am somewhat confused. I have not seen this amendment before.

If we are planning to remove Heritage Canada and Treasury Board from the motion, why do we not simply include the words "federal institutions?" The Official Languages Act covers all federal institutions. That would take care of all departments, including the Public Service of Canada.

**Senator Losier-Cool:** Honourable senators, I completely agree. I believe we are saying the same thing. The federal public service includes all of the federal ministries.

**Senator Gauthier:** I am in the hands of the Deputy Leader of the Opposition. My point is that when a motion is too specific, the scope of work is restricted. I do not think we want to be specific. We should like to have as wide a mandate as possible. By saying "federal institutions," we know what we mean. There are a number of federal institutions recognized and created by Parliament. I should like those words to be part of that motion.

**Senator Murray:** Honourable senators, I agree completely with what has moved Senator Kinsella to make his suggestion.

The Department of Canadian Heritage is very important, not only in terms of the support that it is supposed to bring to official language communities across the country, but also because, if I am not mistaken, it inherited from the old Secretary of State department the responsibility for federal-provincial agreements, which, among other things, helped to finance minority-language education in the provinces. I agree completely with Senator Kinsella on that matter.

As Senator Gauthier suggests, the matter could be covered by referring only to federal institutions.

With great respect to Senator Losier-Cool, I suggest that the reference to the public service does not cover the waterfront. The reference to the public service in the context of bilingualism has a special and particular meaning that has to do with the language of work and equitable representation in the public service. The reference to the federal public service does not necessarily include the matters that were raised by Senator Kinsella.

Either we accept Senator Kinsella's friendly amendment or Senator Gauthier's alternative, which is a reference to federal institutions.

**Senator Kinsella:** I am very favourably disposed to Senator Gauthier's approach. However, my amendment could indeed be attached to Senator Gauthier's amendment. The words that I would add would be simply: "... with special attention to the Department of Canadian Heritage." If there is a reference to all institutions, or the way that Senator Losier-Cool has worded the motion, I simply want to have included the specific mention of the Department of Canadian Heritage.

**Senator Losier-Cool:** If both honourable senators agree, we could use the word "institutions" and specify also Canadian Heritage.

**Hon. Serge Joyal:** I do not wish to stir the pot further, but my concerns arise from the fact that within a week, I hope, we will receive the results of the Statistics Canada census, especially centred on rates of assimilation. This is a compelling issue that relates as much to the English language minority in Quebec as it does to the French language minority in the rest of Canada. This will become a measurement with which to reappraise programs as well as to define priorities.

The point raised by Honourable Senator Kinsella, especially in relation to the programs that Canadian Heritage is managing to the benefit of the official languages minority, is of particular importance to the future work of the committee.

[*Translation*]

**Senator Losier-Cool:** Honourable senators, I can indicate that Statistics Canada has already been invited to appear before the Standing Joint Committee on Official Languages in early 2003.

**Hon. Eymard G. Corbin:** Honourable senators, I too now sit on the Standing Senate Committee on Official Languages, and I had not seen this proposal. In fact, I saw it on the Order Paper, but I was not on the steering committee of the Standing Senate Committee on Official Languages that adopted this proposal, which seeks to get leave from the Senate.

In light of the various comments heard from both sides, I think it would be preferable to set the motion aside for the time being. We must be reasonable and allow the committee to think about the scope of the work to be done in the coming year and in the following year.

It is for this reason that I adjourned the debate on Senator Gauthier's previous motion to set a date for the final report on the study entitled "Environmental Scan: Access to Justice in Both Official Languages", which was revised on July 25, 2002.

The committee should only undertake what it can reasonably study in a given period.

• (1650)

As a member of that committee and as a senator, I would prefer if the chair of the committee came back with another proposal, so as to meet the concerns expressed by a number of senators today.

**Senator Losier-Cool:** I agree with this proposal. However, this motion was presented on November 20 and since then we have never made it to this item on the Order Paper. It has always been postponed. The committee will hold its first official meeting on Monday. I must obtain leave from the Senate to allow it to sit. I wanted this motion to be adopted sooner, but the Senate always adjourned earlier. Therefore, I am asking leave of the Senate to begin our proceedings. I will come back with a more definite work plan if the Senate allows us to move forward.

On motion of Senator Corbin, debate adjourned.

[*English*]

## TRANSPORT AND COMMUNICATIONS

### MOTION TO AUTHORIZE COMMITTEE TO STUDY MEDIA INDUSTRIES—DEBATE ADJOURNED

**Hon. Joan Fraser,** for Senator Day, pursuant to notice of November 26, 2002, moved:

That the Standing Senate Committee on Transport and Communications be authorized to examine and report on the current state of Canadian media industries; emerging trends and developments in these industries; the media's role, rights, and responsibilities in Canadian society; and current and appropriate future policies relating thereto; and

That the Committee submit its final report to the Senate no later than Wednesday, March 31, 2004.

She said: Honourable senators, I know the hour is late but, as I hope will become clear, there are reasons for speaking to this motion today. It does need to be spoken to because there are many people across the country who will pay attention to what is said here this day.

This motion would authorize the Standing Senate Committee on Transport and Communication to undertake a wide-ranging examination of issues relating to the media industries in Canada. It reflects discussions that occurred in committee and a general consensus in the committee on this subject.

To set the stage for this motion, honourable senators, I believe it is worth taking a short look at history. Next month, it will be 32 years since the special Senate committee headed by our former colleague, Senator Keith Davey, published its landmark study of the Canadian media. Nothing quite like it had ever been done before.

Senator Sparrow, who was a member of that committee, will recall that when the Senate launched it, it was viewed, particularly in the media, with considerable suspicion. There was then, as now, considerable public concern about concentration of ownership in the mass media, but there was much skepticism about having a Senate committee look into the matter. After all, freedom of the press consists first of all of freedom from government control. That is the most basic, though certainly not the only, element of the role of the media in a true democracy. Except in the very rarest of circumstances, the state has no business in the newsrooms of the nation.

As Senator Davey and his colleagues went about their work, however, they inspired first interest and then considerable respect. It became apparent that this was not a body of politicians out to get the media. Indeed, one of their concluding observations was as follows:

We hope the media will not be reluctant to embarrass the powerful. If the press is not a thorn in the side of the Establishment, it is a wart on the body politic.

As that suggests, the members of the Davey committee had a profound appreciation of the importance of the media and of the complex and delicate role that the media play in Canadian society. Their objective was simply to see whether and how public policy or other things could contribute to the flourishing of vigorous, excellent Canadian media. As it happens, honourable senators, I can testify personally to that to some extent, since I was on one of the panels of journalists who appeared before them.

Not everyone liked the committee's report, of course, particularly its call for a press ownership review board. I was one of those who did not like it. Indeed, many of the recommendations have been largely forgotten now, though they did have some influence at the time. I am thinking of the call for the establishment of a national press council, which did eventually lead to the establishment of provincial press councils. In addition, some of the Davey committee's observations ring strangely today, for example, the following comment:

No matter how good the editor, he is ultimately at the mercy of the man he sends to do the story.

In the world of the Davey committee, journalists were all still newsmen.

The fact-finding work and analysis that the committee did, however, had a major impact that still merits attention today. The report is still studied in journalism schools, as it should be.

[*Translation*]

Many things have changed, however, honourable senators, since the days of the Davey report.

In a way, the most significant change is the fact that we now have the Canadian Charter of Rights and Freedoms, which guarantees freedom of the press. The media themselves have also changed to a huge extent. To cite the most notable example, in 1970, the Internet did not exist, and neither did direct-to-home

[ Senator Fraser ]

satellite television broadcasting. CNN, Newsworld, RDI, RDS, MuchMusic and MusiquePlus, none of that existed, and was not even contemplated, except perhaps in the mind of Marshall McLuhan. The word "convergence" was not used in connection with the media, and the concept itself would have made many people smile. Now, things have become infinitely more complex.

Another major change: We know that, in 1970, 88 per cent of Canadian adults read a newspaper every day. In 1998, one generation later, according to Statistics Canada, only 49 per cent of Canadian adults, or half of our total population, read a newspaper every day.

While concentration was the main concern of the Davey committee, it was much less obvious in those days than it is today in major media outlets, the papers and radio and television networks from which Canadians still get most of their information. Who would have thought, in 1970, that a single company would control as many major newspapers in this country as CanWest Global does? Who would have thought that the biggest company in the country, BCE, would control the biggest private television network and the main national newspaper? Changes keep occurring at an ever faster pace.

All this raises important and difficult questions. Some have to do with economic considerations. For example, what impact does the fragmentation of the broadcasting market, which is now made up of hundreds of stations or channels, have on the economic viability of the media? Will convergence, which is less in the forefront but remains a major element in the evolution of media, ultimately strengthen or weaken their economic health? Will newspapers continue, in the longer term, to be a profitable investment for their owners?

[*English*]

Then there are the questions relating to the social role of the media, and it is, after all, because of that social role that the press, alone among Canadian industries, benefits from constitutional protection. Again, let me cite just a few of the more obvious questions. In the new world of concentration, fragmentation, re-concentration and re-fragmentation, are Canadians still getting the quality and diversity of news and information that they need? In a world where, for purposes of communication, borders now hardly exist, how can we be sure that Canadians will have access to news and information from this country's perspective, seen through Canadian eyes, and that these Canadian stories will not be drowned out by voices from the rest of the world, particularly from our southern neighbour? Are there elements of public policy that, without impinging on freedom of the press, can or should be changed to address the new problems created by new realities? In other words, honourable senators, there is more than enough to merit a new Senate study, which is the purpose of the motion now before us.

[*Translation*]

Incidentally, Canada is not the only country dealing with these issues and studying them. Throughout the Western world, societies are asking the same difficult, but fundamental, questions, and each country is trying to find the answers that correspond best with its specific realities.

• (1700)

While the questions may be similar, Canada's answers may not necessarily resemble the answers arrived at in France, in England, in the United States or in other countries. This is why we must proceed with this study.

[*English*]

There is one thing, however, that it is absolutely vital to stress: This will not — repeat, not — be a parliamentary version of “gotcha” journalism, and it will not be a single-issue study focusing on any one medium or any one proprietor. Every member of the committee wants this to be a broad, serious, thoughtful study, including some travel to hear from Canadians in their own communities, and the use of other means, notably the Internet, to reach the public. As one member of the committee said the other day, there is no point in doing this at all if we do not do it properly.

Yet, clearly, someone does need to do the work, and I suggest that a Senate committee is one of the most appropriate vehicles imaginable to do it because of our independence from outside pressures, because our inquiries are cost effective, and because of our long tradition of solid committee work.

Honourable senators, I know that many senators have learned views on this topic and may wish to speak to it. Nevertheless, I hope that we shall be able to give this motion very rapid consideration and passage because the Internal Economy Committee cannot give us a budget until we have the order of reference. As you know, the Internal Economy Committee is working on budgets now, to its own very tight timeline. We do need the order of reference. I would observe that this is not a reason to limit subsequent debate. Nothing prevents us from holding our own debate in this chamber in the form of an inquiry into the state of the media, which can proceed until every senator who wishes to speak has spoken. Indeed, I believe that Senator LaPierre and perhaps some other senators would be interested in doing just that, and I can assure you that the committee members would pay the closest attention to those proceedings and would be grateful for the benefit of colleagues' views and advice to us.

I, of course, would be willing to answer any questions if, at this late hour, anyone has any.

**Hon. Lowell Murray:** Honourable senators, I will not take up much time. I want to ask the honourable senator for the assurance that the news and public affairs function of the CBC, Radio-Canada and CPAC are well within the scope of this inquiry and will receive at least as much scrutiny as other media by the committee. I expressed concern some time ago about the tendency of the CBC to enter into some kinds of working partnerships with media in the private sector. I have never really received a very satisfactory explanation of that. That is one small matter, and by no means the most important.

[*Translation*]

Senator Comeau is complaining to Radio-Canada about its paltry budget for Acadians in his province, Nova Scotia.

[*English*]

I just want to be assured that the CBC, Radio-Canada and CPAC are given very thorough scrutiny by this committee —

public news and public affairs; not the rest of the CBC, just those items.

**Senator Fraser:** Honourable senators, indeed, committee members are keenly interested in public broadcasting and in parliamentary broadcasting, as well as in other areas. I should have noted in my remarks that the committee is very concerned to study minority- and majority-language media in both of our language communities, as well as Aboriginal media or media serving the Aboriginal communities, and, to the extent that we can get there, other minorities as well, but the two official language communities and Aboriginals would be our first focus, of course.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I intend to speak to the substance of the motion. This short exchange that we have just had from Senator Murray and Senator Fraser underscores the point, for me at least, that the Senate and senators probably have a lot of darn good ideas to bring to bear on the kind of study that the honourable senators think ought to be undertaken by the committee.

Senator Fraser has properly advised us that she is in a little bit of a dilemma as chair of the committee in terms of the budget process, and that perhaps the fulsome debate that we might want to have could be conducted under the rubric of inquiries. I have reflected upon that. The senator was kind enough to share with us the problem that she faces, if her committee wants to get moving, and the way in which our budget process operates. I would hope that perhaps the Internal Economy Committee reads the Hansard of the debate in this place and understands that we are debating this matter and giving it high priority in our debate, and that appropriate long-term budget planning would be taken into consideration by that committee.

I do not know when this debate will end, but I hope that many honourable senators will participate in it, because this chamber will want to give detailed direction as to the kinds of study that the Senate wants to have done, not the kind of study that the committee of the Senate wants to have done. There may be convergence of the two at some point, but we just heard one example raised by one senator of an area that he thinks is important. I hope that I can contribute to this debate. I cannot do it this evening.

On motion of Senator Kinsella, debate adjourned.

[*Translation*]

## OFFICIAL LANGUAGES

COMMITTEE AUTHORIZED TO MEET  
TO RECEIVE COMMISSIONER

**Hon. Rose-Marie Losier-Cool:** Honourable senators, I move:

That the Standing Senate Committee on Official Languages be authorized to sit on Monday, December 2, 2002, to hear from the Commissioner of Official Languages.

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

**Hon. Senators:** Agreed.

Motion agreed to.

[English]

### BUSINESS OF THE SENATE

**Hon. Tommy Banks:** Honourable senators, I have a question, but I am not sure to whom it should be directed. It has to do with Order No. 74, but I have noticed that Senator Losier-Cool has just asked for permission for a committee to sit on Monday because the Senate is not, as we heard, then sitting.

Have I misunderstood the motion?

**The Hon. the Speaker:** Her motion was that the committee be authorized to sit to hear from the Commissioner of Official Languages. I think she is worried about a reference as much as the timing of the sitting.

• (1710)

**Senator Banks:** Honourable senators, am I correct in saying that, because the Standing Senate Committee on National Security and Defence plans now to meet on Monday, no permission is required for that meeting to be held and to hear witnesses?

[Translation]

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, the motion to which Senator Banks refers asks leave of the Senate to sit Monday even if the Senate is sitting at the same time. However, I will soon be moving a motion, that when the Senate adjourns today, it do stand adjourned until next Tuesday. This motion will no longer be relevant once I have moved today's adjournment motion.

[English]

**Senator Banks:** I apologize for not having made myself clear. I understood, and I hope to be corrected, that, in previous sessions of the Senate, the Honourable Deputy Leader of the Government has stood and asked that a rule in respect of Senate committees sitting other than when the Senate is sitting be suspended, but that suspension has not taken place in this session of Parliament and

that, therefore, permission to sit may be required even though the Senate is not sitting. Am I mistaken?

**The Hon. the Speaker:** Honourable senators, perhaps I could help. If I heard Senator Robichaud correctly, the Senate will not be sitting on Monday. Therefore, the honourable senator has no reason to be concerned about dealing with this motion.

In respect of the honourable senator's question about a general order of this chamber, perhaps Senator Robichaud should answer that.

**Senator Robichaud:** Honourable senators, we adopted a committee report that said that during sitting weeks, and I am sure the honourable senator remembers that, committees do not have to obtain permission to sit.

**The Hon. the Speaker:** Earlier today we gave leave to revert to Government Notices of Motions.

[Translation]

### ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

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

That when the Senate adjourns today, it do stand adjourned until Tuesday, December 3, 2002, at 2 p.m.

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

**Hon. Senators:** Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, December 3, 2002 at 2 p.m.

**THE SENATE OF CANADA**  
**PROGRESS OF LEGISLATION**  
**(2nd Session, 37th Parliament)**  
**Thursday, November 28, 2002**

**GOVERNMENT BILLS**  
**(SENATE)**

| No. | Title  | 1 <sup>st</sup> | 2 <sup>nd</sup> | Committee                   | Report   | Amend | 3 <sup>rd</sup> | R.A. | Chap. |
|-----|--|-----------------|-----------------|-----------------------------|----------|-------|-----------------|------|-------|
| S-2 | An Act to implement an agreement, conventions and protocols concluded between Canada and Kuwait, Mongolia, the United Arab Emirates, Moldova, Norway, Belgium and Italy for the avoidance of double taxation and the prevention of fiscal evasion and to amend the enacted text of three tax treaties. | 02/10/02        | 02/10/23        | Banking, Trade and Commerce | 02/10/24 | 0     | 02/10/30        |      |       |

**GOVERNMENT BILLS**  
**(HOUSE OF COMMONS)**

| No.   | Title  | 1 <sup>st</sup> | 2 <sup>nd</sup> | Committee                                     | Report   | Amend   | 3 <sup>rd</sup> | R.A. | Chap. |
|-------|--|-----------------|-----------------|---|----------|---------|-----------------|------|-------|
| C-5   | An Act respecting the protection of wildlife species at risk in Canada   | 02/10/10        | 02/10/22        | Energy, the Environment and Natural Resources |          |         |                 |      |       |
| C-8   | An Act to protect human health and safety and the environment by regulating products used for the control of pests   | 02/10/10        | 02/10/23        | Social Affairs, Science and Technology        |          |         |                 |      |       |
| C-10  | An Act to amend the Criminal Code (cruelty to animals and firearms) and the Firearms Act   | 02/10/10        | 02/11/20        | Legal and Constitutional Affairs              | 02/11/28 | divided |                 |      |       |
| C-10A | An Act to amend the Criminal Code (firearms) and the Firearms Act  | –               | –               | Legal and Constitutional Affairs              | 02/11/28 | 0       |                 |      |       |
| C-10B | An Act to amend the Criminal Code (cruelty to animals)   | –               | –               | Legal and Constitutional Affairs              |          |         |                 |      |       |
| C-11  | An Act to amend the Copyright Act  | 02/10/10        | 02/10/30        | Social Affairs, Science and Technology        |          |         |                 |      |       |
| C-12  | An Act to promote physical activity and sport  | 02/10/10        | 02/10/23        | Social Affairs, Science and Technology        | 02/11/21 | 0       |                 |      |       |
| C-14  | An Act providing for controls on the export, import or transit across Canada of rough diamonds and for a certification scheme for their export in order to meet Canada's obligations under the Kimberley Process | 02/11/19        | 02/11/26        | Energy, the Environment and Natural Resources |          |         |                 |      |       |

## COMMONS PUBLIC BILLS

| No.   | Title   | 1 <sup>st</sup> | 2 <sup>nd</sup> | Committee | Report | Amend | 3 <sup>rd</sup> | R.A. | Chap. |
|-------|---|-----------------|-----------------|-----------|--------|-------|-----------------|------|-------|
| C-300 | An Act to change the names of certain electoral districts | 02/11/19        |                 |           |        |       |                 |      |       |

## SENATE PUBLIC BILLS

| No.  | Title  | 1 <sup>st</sup> | 2 <sup>nd</sup> | Committee                        | Report | Amend | 3 <sup>rd</sup> | R.A. | Chap. |
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| S-3  | An Act to amend the National Anthem Act to include all Canadians (Sen. Poy)  | 02/10/02        |                 |                                  |        |       |                 |      |       |
| S-4  | An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)   | 02/10/02        |                 |                                  |        |       |                 |      |       |
| S-5  | An Act respecting a National Acadian Day (Sen. Comeau)   | 02/10/02        | 02/10/08        | Legal and Constitutional Affairs |        |       |                 |      |       |
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| S-7  | An Act to protect heritage lighthouses (Sen. Forrestall)   | 02/10/08        |                 |                                  |        |       |                 |      |       |
| S-8  | An Act to amend the Broadcasting Act (Sen. Kinsella)   | 02/10/09        | 02/10/24        | Transport and Communications     |        |       |                 |      |       |
| S-9  | An Act to honour Louis Riel and the Metis People (Sen. Chalifoux)  | 02/10/23        |                 |                                  |        |       |                 |      |       |
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