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(HANSARD)

**Tuesday, December 10, 2002**



THE HONOURABLE DAN HAYS  
SPEAKER

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## THE SENATE

Tuesday, December 10, 2002

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

Prayers.

### SENATORS' STATEMENTS

#### INTERNATIONAL HUMAN RIGHTS DAY

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, today, December 10, marks Human Rights Day. It was on this day, at the Palais de Chaillot in Paris, in 1948, that the United Nations General Assembly met and adopted the Universal Declaration of Human Rights. In doing so, the world body laid the foundation for a new generation of international law that would entrench something previously understood as being meta-judicial — that there is a higher power above that of the state.

I have often used this occasion of Human Rights Day to remind the chamber of Canada's special connections to the Universal Declaration of Human Rights. We recall that it was New Brunswick's John Peters Humphrey who drafted the first secretariat draft of the Universal Declaration of Human Rights. It was Eleanor Roosevelt who was the chair of the United Nations Human Rights Commission that had the responsibility for the elaboration of the universal declaration. Mrs. Roosevelt summered in New Brunswick, on Campobello Island. Much of the inspiration for the Declaration of Human Rights flowed from the Atlantic Charter, which was the fruit of the famous early war years' meetings between Churchill and President Roosevelt that took place in Atlantic Canada, on waters off our East Coast.

Today we need to reflect on the future of human rights and what may lie ahead for us as Canadians. It seems that our focus must be on human rights education. Since the patriation of the Constitution and the coming into force of the Canadian Charter of Rights and Freedoms, our society has changed dramatically. The relationship between the citizen and the state has changed, and our national institutions such as the courts and tribunals, Parliament and the legislatures, the non-governmental organizations and the entire community of NGOs across Canada, must also continue to understand that change and to reflect the new age in which we find ourselves as Canadians.

Honourable senators, with the very dynamics of the post-September 11 world having impacted on human rights and civil liberties, we need to engage ourselves in a careful, ongoing reflection of the importance of human rights. We must also give focus to promoting human rights in our schools and universities. The youth of Canada need to be educated about human rights, just as they need to learn grammar, for human rights, indeed, is the grammar of law. It is that which regulates the relationship between the state and the citizen and between citizens themselves.

We must also consider the economic, cultural and social rights. These are often referred to as programmatic in nature because they require state intervention to be enforced. Probably the most visible of these rights is the right to health care and the right to education. It is in the area of these two rights, in particular, that Canada's performance has been challenged over the last decade.

Honourable senators, our current spending as a percentage of GDP on health and education is probably insufficient. The work of one of the committees of this house in the field of health speaks to that very issue.

**The Hon. the Speaker:** Senator Kinsella, I regret to advise that your three minutes have expired.

[Later]

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, today we commemorate, as my honourable colleague the Deputy Leader of the Opposition has done, International Human Rights Day. I wanted to put a few words on the record with respect to this important day that we celebrate with all member countries of the United Nations.

On this day in 1948, the United Nations General Assembly adopted the Universal Declaration of Human Rights which states — and I think it is important to remind ourselves of what it states — that all human beings are born with equal and inalienable rights and fundamental freedoms. All human beings, no matter where they live, no matter what their economic circumstance, no matter the government under which they may be forced to live, are equal, and all have inalienable rights and should have fundamental freedoms.

Despite the fact that we are at the beginning of a new millennium, with awe-inspiring technology and all its unprecedented potential, violations of basic human rights occur with appalling frequency around the world. Poverty and racism are still with us and are, in my view, primary causes of the violence that affects us all. As violence becomes less confined to national borders and more international, we have surely come to realize that we are inhabitants of a global village. We must care for the welfare of all of our neighbours because the repercussions will be felt by all of us.

With the creation of the International Criminal Court, together with the Declaration of Human Rights, I believe that we have the tools to create a more just world. We can be proud that Canada is in the forefront of the international community in promoting human rights for all citizens of the world because when other countries adopt these noble ideals as everyday realities, every person will be able to enjoy the fundamental freedoms and rights that are still, today, far beyond the reach of far too many of our fellow human beings.

## FISHERIES AND OCEANS

### PROPOSAL TO ALLOW LARGER FISHING BOATS

**Hon. Gerald J. Comeau:** Honourable senators, last week Senator Carstairs took exception to my question that the Minister of Fisheries and Oceans had launched an initiative to go to bigger boats. At that time, she said, "He did not indicate they were moving to bigger boats."

I would draw to the attention of honourable senators a discussion paper dated November 21, 2002, entitled "Vessel Replacement Rules and Procedures on the Atlantic Coast." The honourable senator need not take my word for it. The following are direct quotations from the discussion paper. On page 16, we see the following:

Consistent with the approach spelled out by the AFPR, DFO expects that over time, as requisite legislative changes are made and resource user groups demonstrate their capabilities to take on greater responsibilities, aspects of decision-making on vessel size and replacement may be delegated to resource users.

Until these larger changes are achieved, there will continue to be considerable latitude for fleets to make proposals for new rules and procedures, and to marshal industry support for such changes.

I would continue to quote from page 18, where we see the following:

Flexibility to allow two enterprises to combine/partner by pooling their quota shares or licences or gear (on a temporary or permanent basis), and using a larger vessel than formerly.

A community or group quota approach whereby a number of harvesters collectively manage a shared quota with the safest and most efficient fleet of vessels.

Adoption of quota management programs, such as individual transferable quotas.

Flexibility within IQ/ITQ programs to allow individuals to transfer their quotas to other vessels on a temporary or long-term basis.

• (1410)

Item 5 of that report indicates the following:

The removal of any restriction on vessel size in a fleet provided that any new vessel is only used in IQ fisheries.

The above section identifies a few possible examples for changes in vessel replacement rules. It is understood, however, that many more such examples might be developed to fit the unique circumstances of different fleets and fisheries.

I should also like to quote from page 20:

DFO's objective is to have a new vessel replacement approach in effect for the 2003 fishing season.

Honourable senators, the minister himself may not have launched the initiatives to go to bigger boats. However, these direct quotes are from the Department of Fisheries and Oceans for which the minister is responsible. I invite the minister to visit communities such as Canso, Nova Scotia, and many others and ask the people of those communities what they think of privatization and the concentration of fisheries resources in the corporate sector.

[Translation]

## VIOLENCE AGAINST WOMEN

**Hon. Lucie Pépin:** Honourable senators, this past December 6 was the National Day of Remembrance and Action on Violence Against Women. It marked the thirteenth anniversary of the massacre at the École Polytechnique de Montréal. On that day of commemoration, we recalled with great sorrow the tragic death of 14 young women in an event that is indelibly etched into our memories.

Our thoughts also went out to all women here and elsewhere who are living with the threat of violence. It may be a hard thing to face, but sexual violence is all too often used in war as a way of terrifying the civilian population. In virtually every conflict, women have been tortured and subjected to sexual violence by members of armed groups.

It is not hard to understand the devastating repercussions of this, not just physically but also emotionally and psychologically. Many of these women will never really get over this, and then there are the children born as a result of these rapes.

Last Friday, a number of events were organized across the country. In Montreal, a commemorative ceremony was organized by the December 6 Victims Foundation Against Violence.

December 6 is a day of remembrance we would most happily have done without, but reality has forced it upon us. It is true that the proportion of women subjected to the most serious forms of aggression is decreasing, but, to our profound regret, violence continues to be the lot of thousands of women and girls every day.

This is one of the key findings of a Statistics Canada study commissioned by the federal and provincial ministers responsible for the status of women. It reports that the problem remains a frequent one, particularly for younger women and Aboriginal women. According to the report, women under the age of 25 are the group at greatest risk. They are twice as likely to be murdered as other Canadian women.

Aboriginal women are also very vulnerable to violence. The homicide rate involving Aboriginal women remains eight times higher than that for non-aboriginal women.

Women with disabilities are another segment of the population that experience much more violence, which is not often talked about. A survey done by the DisAbled Women's Network Canada reveals that 40 per cent of women with disabilities have been raped, abused or assaulted. More than half the women with a disability since birth or early childhood have experienced abuse, which is unacceptable.

December 6 has become much more than a mere commemoration. It is a call to action that reminds us of the need to put an end to violence against women.

Canada is one of the most advanced countries in the world when it comes to equality and rights for women. We did not achieve this by some miracle. It is our combined efforts that have allowed us to make this progress. We need to work on the root causes of violence because, as the Statistics Canada study indicates, violence against women remains a significant and persistent socio-economic problem in our country.

Honourable senators, in memory of all of these women who have been victims of violence in Canada, I encourage you to continue to work within your communities to fight this social scourge, which we must vanquish.

[English]

## CONVENTION ON THE LAW OF THE SEA

### TWENTIETH ANNIVERSARY

**Hon. George Baker:** Honourable senators, it has just been brought to my attention that this is the twentieth anniversary of the Convention on the Law of the Sea. It was on December 10, 1982, that Canada signed the declaration for the Convention on the Law of the Sea. The document was opened in Jamaica on that day to await 60 ratifications to make it international law. That took place in November of 1994, when the sixtieth nation ratified the Convention on the Law of the Sea. Canada signed the document 20 years ago today.

Today, honourable senators, 138 nations have ratified the Law of the Sea. Unfortunately, one nation that has perhaps the largest coastline in the world, and that once had the greatest fishery in the world, has not ratified the Law of the Sea, and that is Canada.

**Some Hon. Senators:** Shame!

**Senator Baker:** Honourable senators, 20 nations in the world today have notified the United Nations Commission on the Limits of the Continental Shelf that they wish to extend their jurisdiction out to 320 miles, France being the first and the Soviet states did it just last month.

• (1420)

Here we are, honourable senators, not having ratified the Law of the Sea. We cannot make such an application under article 76 of the Law of the Sea. Perhaps a committee of the Senate should investigate this matter and nudge the Government of Canada to do the right thing.

**Some Hon. Senators:** Hear, hear!

[Translation]

## ROUTINE PROCEEDINGS

### INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

#### SIXTH REPORT OF COMMITTEE PRESENTED

**Hon. Lise Bacon,** Chair of the Standing Senate Committee on Internal Economy, Budgets and Administration, presented the following report:

Tuesday, December 10, 2002

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

#### SIXTH REPORT

Your Committee has approved the Senate Estimates for the fiscal year 2003-2004 and recommends their adoption.

Your Committee notes that the proposed total budget is \$67,032,050.

An overview of the 2003-2004 budget will be forwarded to every Senator's office.

Respectfully submitted,

LISE BACON  
*Chair*

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

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

[English]

## PEST CONTROL PRODUCTS BILL

### REPORT OF COMMITTEE

**Hon. Michael Kirby,** Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Tuesday, December 10, 2002

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

#### SIXTH REPORT

Your Committee, to which was referred Bill C-8, *An Act to protect human health and safety and the environment by regulating products used for the control of pests*, in obedience to the Order of Reference of Wednesday, October 23, 2002, has examined the said Bill and now reports the same without amendment.

Attached as an appendix to this Report are the observations of your Committee on Bill C-8.

Respectfully submitted,

MICHAEL KIRBY  
*Chair*

(For text of observations, see today's Journals of the Senate, Appendix "A", p. 400 )

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

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

[Translation]

## FISHERIES AND OCEANS

### BUDGET—REPORT OF COMMITTEE PRESENTED

**Hon. Gerald J. Comeau**, Chair of the Standing Senate Committee on Fisheries and Oceans, presented the following report:

Tuesday, December 10, 2002

The Standing Senate Committee on Fisheries and Oceans has the honour to present its

### SECOND REPORT

Your Committee, which was authorized by the Senate on November 6, 2002, examine and report from time to time upon matters relating to straddling stocks and to fish habitat, respectfully requests for the purpose of this study that it be empowered to engage the services of such counsel, technical, clerical and other personnel as may be necessary, and that it be allowed to adjourn from place to place within and outside Canada.

Pursuant to section 2:07 of the *Procedural Guidelines for the Financial Operation of Senate Committees*, the budget submitted to the Standing Committee on Internal Economy, Budgets, and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

GERALD COMEAU  
*Chair*

(For text of budget, see today's Journals of the Senate, Appendix "B", p. 402.)

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

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

## OFFICIAL LANGUAGES ACT

### BILL TO AMEND—FIRST READING

**Hon. Jean-Robert Gauthier** presented Bill S-11, to amend the Official Languages Act, to clarify the scope of Section 41 of the act to ensure that it is binding.

Bill read first time.

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

On motion of Senator Gauthier, bill placed on the Orders of the Day for second reading on Thursday, December 12, 2002.

[English]

## NATIONAL SECURITY AND DEFENCE

### COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

**Hon. Colin Kenny:** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move, seconded by Senator Forrestall:

That the Standing Senate Committee on National Security and Defence have the power to sit at 2:30 p.m. today, Tuesday, December 10, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

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

**Hon. Lowell Murray:** Explain.

**Senator Kenny:** Honourable senators, officials who are reviewing aspects of a report we are working on are available to meet with us today. We believe that today is the last occasion to meet with those officials before we meet again in January.

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

**Hon. Senators:** Agreed.

Motion agreed to.

## SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY HEALTH ISSUES SURROUNDING REPORT ON STATE OF HEALTH CARE SYSTEM

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

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine and report on issues arising from, and developments since, the tabling of its final report on the state of the health care system in Canada on October 2002. In particular, the committee shall be authorized to examine issues concerning:

- (a) Aboriginal health;
- (b) Women's health;
- (c) Mental health;
- (d) Rural health;
- (e) Population health;
- (f) Home care;
- (g) Palliative care.

That the papers and evidence received and taken by the Committee on the study of the state of the health care system in Canada in the Second Session of the Thirty-sixth Parliament and the First Session of the Thirty-seventh Parliament be referred to the Committee; and

That the Committee submit its final report no later than June 30, 2004.

## FOREIGN POLICY ON MIDDLE EAST

### NOTICE OF INQUIRY

**Hon. Marcel Prud'homme:** Honourable senators, I give notice that on Thursday, December 12, 2002:

I will call the attention of the Senate to the Canadian foreign policy on the Middle East.

[Translation]

## OFFICIAL LANGUAGES

### NOTICE OF INQUIRY

**Hon. Jean-Robert Gauthier:** Honourable senators, I give notice that on Thursday next, December 12, 2002:

I shall call the attention of the Senate to the need to put in place a real policy on the active offer of judicial and legal services in the minority official language and the need for the federal government to take all necessary measures in order to serve official language communities at risk.

## SERVICES AVAILABLE TO HEARING IMPAIRED USERS OF PUBLIC TRANSPORT

### NOTICE OF INQUIRY

**Hon. Jean-Robert Gauthier:** Honourable senators, I give notice that on Thursday next, December 12, 2002:

I shall call the attention of the Senate to the difficulties faced by the deaf and hearing impaired in availing themselves impartially and in full equality of the information and safety procedures available to Canadians at airports, on aircraft, in ships and on all forms of public transport.

[ Senator Kirby ]

## ACCESS TO CLOSED-CAPTIONING IN FRENCH

### NOTICE OF INQUIRY

**Hon. Jean-Robert Gauthier:** Honourable senators, I give notice that on Thursday next, December 12, 2002:

I shall call the attention of the Senate to the difficulties faced by national broadcasters in delivering realtime closed-captioned programming and the inequality of access to closed captioning in French of programming on Radio-Canada and other francophone networks, which broadcast barely 50 per cent of their programs with closed-captioning, compared with the anglophone networks, which, like the CBC, broadcast 100 per cent of their programming closed-captioned.

[English]

## QUESTION PERIOD

### NATIONAL DEFENCE

#### REPLACEMENT OF SEA KING HELICOPTERS— PROCUREMENT PROCESS— REJOINING OF SPLIT CONTRACTS

**Hon. J. Michael Forrestall:** Honourable senators, my question is for the Leader of the Government in the Senate. It arises out of the decision to rebundle the split Sea King contracts. Can the minister explain to the chamber why it is that the government has now decided to move from the split contracts back to a bundled single procurement to replace the Sea King fleet?

• (1430)

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, the simple answer is that the Minister of Defence decided that, in its unbundled form, the process was much too slow. Therefore, the minister decided to rebundle the procurement process in order to proceed as quickly as possible with the much needed Sea King replacement.

#### REPLACEMENT OF SEA KING HELICOPTERS— PROCUREMENT PROCESS—REJOINING OF SPLIT CONTRACTS—COMPENSATION TO COMPANIES AFFECTED BY CHANGE

**Hon. J. Michael Forrestall:** Honourable senators, last year, on April 25 and again on May 8, the Leader of the Government informed this chamber that the reason for the split procurement was to allow more Canadian companies to compete. I have *Debates of the Senate* for those dates in my hand. This gives rise to whether the response we have just heard is acceptable to those Canadian companies that have spent a fair amount of time, effort and resources participating in this procurement process, which, certainly, is one of the largest the federal government has considered entering into.



Specifically, does the government have any intention of compensating those companies that may have expended, in particular, large numbers of dollars?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, the honourable senator asks an important question. In proposing two separate contracts, it was certainly the position of the government that that might lead to more Canadian companies competing.

Bundling the process does not, however, deny the possibility that some Canadian companies could still participate. However, it is clear that that participation will not be as broad as otherwise might have happened. The issue of compensation, however, has not been raised, nor do I suspect it will be raised until after the contract is granted. If, at that time, a company can show proof that it acted in good faith and that that good faith was not protected, then it might have a case to put.

**Senator Forrestall:** Honourable senators, I am sure that at least those Canadian companies involved will appreciate the door not being slammed in their face at this stage and that there may be an opportunity later to demonstrate their case.

Could the minister tell us why it is that the department did not issue a press release regarding this major change in the \$2.9 billion-plus competition? One would have thought that a press release carrying some detail and indicating where more detail might be available should have been issued to advise the Canadian public.

**Senator Carstairs:** Honourable senators, as the honourable senator knows, the Minister of Defence chose to make a statement about this inside the House. He also chose to deal with the media outside the House of Commons last week in announcing that this change had taken place. It is also my understanding that it was put immediately on the Web site. Therefore, all those companies that had been engaged in the process up to this point were immediately informed.

## JUSTICE

### FIREARMS REGISTRY PROGRAM—INCREASE IN FIREARMS MURDERS—REQUEST FOR BREAKDOWN BY PROVINCE AND TERRITORY OF APPLICANTS REJECTED

**Hon. Gerry St. Germain:** Honourable senators, my question is also addressed to the Leader of the Government in the Senate. Yesterday, I raised a question regarding the gun registry and the 7,000 applications that had been rejected. I wanted to know how many of those applicants were Aboriginal. The minister replied that there has not been a breakdown of that figure.

I then asked the minister whether that information could be made available; however, at that point, the time allotted for Question Period had ended.

My question today is straightforward; it is to restate my request for that information. If at all possible, could I have a breakdown by province and territory of the data concerning the rejection of these applications?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I thank the honourable senator for his question. After I left the chamber yesterday afternoon, I immediately made such an inquiry.

The answer is that it is not possible to identify how many of the 7,000 applicants were Aboriginals because no self-identification as to whether one is Aboriginal or non-Aboriginal was required on the application form.

**Senator St. Germain:** Honourable senators, is it possible to be provided with a breakdown by province and territory?

**Senator Carstairs:** Honourable senators, I shall have to make inquiries in that regard. It is possible that that breakdown is available, given that one would have to identify where one lives.

I am sure the honourable senator does not want more money spent on the gun registry, however.

**Hon. Herbert O. Sparrow:** Honourable senators, a reference has been made in this chamber and by the minister outside the chamber that 7,000 applications had been returned or refused because of criminal records and so on. This is being stated as if to infer that 7,000 murders were prevented as a result of these rejections. The question asked by the Honourable Senator St. Germain as to where these 7,000 people live is important.

Is the Leader of the Government in the Senate saying that these 7,000 rejections have prevented some murders? Is that what is being inferred? Is there any indication that the minister can give about the refusal of those 7,000 applications having saved lives?

**Senator Carstairs:** Honourable senators, I do not think a direct linkage can be made between the applications of 7,000 people having been rejected and how many murders were committed, since we are dealing with a hypothetical issue.

The bottom line is that 7,000 people have been rejected and that those individuals, in my view, in the view of the government and, I suspect, in the view of most Canadians, should not have firearms.

### FIREARMS REGISTRY PROGRAM—SUSTENANCE HUNTER APPLICANTS REJECTED ON BASIS OF CRIMINAL RECORD

**Hon. Herbert O. Sparrow:** Honourable senators, if that is the case, is the minister saying that an individual who has a criminal record, be it for impaired driving, shoplifting or some criminal offence in the North, should never receive a licence for a gun or have guns? If so, that would, perhaps, take away the possibility of those people making a living. As a society, are we prepared to take away from Aboriginal people the type of living they may require for their subsistence?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, as the honourable senator knows, there were specific regulations made to the gun bill with respect to sustenance hunters, the majority of whom are Aboriginal people.

In the case of a sustenance hunter, although he or she may not have a licence for a gun, the community can provide a gun to that individual for the purposes of hunting. When the hunt has been completed, that gun must be returned to the community; it cannot remain in the individual hunter's possession.

It was very clear in those regulations that one had to look after the sustenance hunters.

**Hon. A. Raynell Andreychuk:** Honourable senators, our committee heard evidence that in those 7,000 applicants there are Aboriginals who have a criminal record and who may have violated some of our laws. As honourable senators well know, the Aboriginal community is "oversubscribed" in our penitentiaries and in our legal and social systems.

• (1440)

Does the honourable leader deem it fair to categorize in that way such a goodly portion of those 7,000 who are Aboriginals and cannot obtain a licence because of their status in our society and because of the rules, to which they have trouble adhering? Is it proper to indicate that they should never receive a licence and should always be beholden to someone else in order to obtain a gun that they would use for their subsistence? Surely this is a double blow to their society. Is there not a better way of dealing with this, particularly when the minister agreed that there would be full and adequate consultation with the Aboriginals to ensure that they would not be unduly harmed further by virtue of their Aboriginal status?

**Senator Carstairs:** Honourable senators, that is exactly why the government came in with special rules for sustenance hunters. It was so that they would not be prohibited from hunting. It was recognized that, in many communities, particularly Aboriginal communities, hunting is a basic way of providing food. The rules regarding sustenance hunters are in place.

There is also the ability to appeal to the government for a pardon in the case of a criminal record. The reality is that the legislation is clear: Those with criminal records are not eligible to have licences for their guns; however, if they are sustenance hunters, they do have the right to access a gun under certain circumstances.

**Senator Andreychuk:** Honourable senators, perhaps I did not make my point clear. The honourable leader has said that the government has devised a process whereby hunters would be allowed to continue some form of hunting. Surely, this is an intrusion on their inherent right to hunt directly by the means that they had. Does the government now recognize that the methods that they chose are insufficient to provide full due to the constitutional rights of Aboriginals? Furthermore, the consultation process was aborted by the government, although, the Aboriginal people told us, the process still infringes on their individual rights.

**Senator Carstairs:** As you know, honourable senators, the Aboriginal people have chosen to take this matter before the Supreme Court of Canada. Eventually, the court will rule on it. Currently, hunting by these individuals is not restricted. They can

go hunting. However, they cannot keep guns in their homes, where their crime, in all likelihood, was committed.

**Senator Andreychuk:** As a supplementary question, the honourable leader said, "...where their crime, in all likelihood, was committed." Does she have evidence of the crimes they have committed by virtue of having guns in their houses? I fully appreciate that they have criminal records, but is there any link? The honourable leader said that Aboriginal people who have a criminal record are likely to kill because they have guns in their houses.

**Senator Carstairs:** The honourable senator is putting words in my mouth, but they are not my words; they are her words. The reality is that when individuals go on a hunt, they are frequently alone or with family members. There are not many incidents of crime committed during that activity. However, we know that a great many crimes are committed in communities throughout this country, whether the communities are in urban centres or in rural settings. That is the kind of crime that we are trying to avoid.

#### FIREARMS REGISTRY PROGRAM—FARM APPLICANTS REJECTED ON BASIS OF CRIMINAL RECORD

**Hon. Herbert O. Sparrow:** I have a supplementary question. I understand what the honourable senator is trying to explain, but she should try to explain it to farmers everywhere who have used guns for the protection of their property. A farmer may have a criminal record and thus be refused a licence to own a gun on his premises. Just recently, cougars that came onto a farmland area killed 60 sheep. What would happen if a farmer on that land had no licence and therefore no right to own a gun? What would happen to him? Part of his livelihood would be destroyed because of his inability to obtain a long-barrel gun for the protection of his farm property. What happens in such a case? Are we prepared to take away his life's work and the sustenance that he would derive from his animals?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, it is certainly clear that I am not in full agreement with some of the questions that are being asked today. I believe that when one commits a criminal act in this country one will lose some privileges. One of those privileges is the right to have a licence for a gun. I know that some in this chamber would argue that that is not a privilege, that it is an absolute right. I do not agree that it is an absolute right. It is a privilege that one may choose to forfeit by virtue of a criminal act.

#### UNITED NATIONS

##### IRAQ—WEAPONS INSPECTION PROGRAM—DOCUMENTS ON WEAPONS OF MASS DESTRUCTION

**Hon. Douglas Roche:** Honourable senators, my question is for the Leader of the Government in the Senate and it concerns the speech made today in Oslo, Norway, by former United States President Jimmy Carter, who, in accepting the 2002 Nobel Peace Prize, made reference to the UN inspection process in Iraq. Former President Carter expressed the view that Washington, D.C., should work with the United Nations toward a peaceful resolution of tensions with Iraq. Mr. Carter amplified that opinion at a press conference by saying that, at this

point, in his opinion, Iraq has complied. President Carter also said that if the United Nations Security Council ultimately judges Iraq to be in compliance, he sees no reason for armed conflict.

Honourable senators, this raises the question: How will the information obtained by the inspectors, including the 12,000 pages of written submissions that is being analyzed by the inspectors, be communicated to other governments so that they will have a proper opportunity to evaluate the legitimacy of that information?

Specifically, will the Government of Canada have an opportunity to evaluate this inspection analysis and share that information with the government, Parliament and the public?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, allow me to outline the process. The 12,000 pieces of paper have now been received in New York and Geneva. Numerous pages were written in Arabic and will require translation into the working languages of the United Nations. All of the documents will be analyzed and the results will be made available to all member nations of the United Nations.

#### ADOPTION OF MOTION IN SUPPORT OF SANCTIONING MILITARY ACTION AGAINST IRAQ UNDER INTERNATIONAL LAW

**Hon. Douglas Roche:** The honourable leader will note that, for more than two months, we have had a motion, Motion No. 4, on the Order Paper, standing in my name, which states:

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.

• (1450)

Honourable senators, this motion grows in intensity by the day. It stands and has stood for some time on the Order Paper in the name of Senator Rompkey. I have raised with the Deputy Leader of the Government the issue of moving this motion forward, and he has indicated that he would hold consultations to that effect. Would the minister agree that it would be useful to call upon the Senate to give its view on this motion before we rise for Christmas?

**Hon. Sharon Carstairs (Leader of the Government):** As the honourable senator knows, I am responsible for government business and not for house business. The motion to which he refers is a piece of house business. It is a motion the honourable senator has put forward. The Senate, in due course, I am sure, will make a decision.

#### IRAQ—WEAPONS INSPECTION PROGRAM—DOCUMENTS ON WEAPONS OF MASS DESTRUCTION

**Hon. Laurier L. LaPierre:** Honourable senators, if I have understood correctly, when the documents arrived from Iraq, they

were given to the President of the Security Council, who took one copy and handed it over to the United States of America to be vetted and translated, following which it would be given to the four other permanent members of the Security Council. Only after some information has been removed — namely, the naming of various companies and countries who supplied products to the Iraqis that are said to have been used or could have been used in armaments of mass destruction — will the documents be distributed to the rest of the Security Council members and, after that, to the general members of the United Nations and then to the public. Would it be irrational for me to conclude that this procedure is not proper and that essentially it weakens the capacity of the international community to make an objective assessment of the work of the inspectors in order to prevent a war?

**Hon. Sharon Carstairs (Leader of the Government):** I do not interpret the events the same way as does the honourable senator. His process is right. A copy of the report was given to the United States. My understanding of the reasons it was given to the United States is that the United States has made some very serious charges with respect to the possession of these weapons in Iraq.

Presumably, if the Iraqi government has tabled a document in which it says it has no weapons of mass destruction, then the United States will have to then tell the inspectors where they believe those weapons are located. If that is the case, then maybe we will get to the bottom of this and find out whether or not Iraq has weapons of mass destruction. Before the United Nations can make a decision, it seems to me that they have to know one way or the other.

**Senator LaPierre:** Honourable senators, does the leader not think that this course of events pre-empts the issue? The United States seems to be quite keen on a war. The United States has moved masses of troops and armaments to that region. Everyday, someone in the high administration of the United States threatens the world with this war. Does the honourable leader not think, even though there are very honest and very magnificent creatures in the Government of the United States, who are very intelligent, superb and glorious, our best friends and best allies, that it is possible there may be some hanky-panky with the documents to prove the point that Mr. Bush has been making since his inauguration, namely, that Iraq has weapons of mass destruction and that its leader must be removed?

**Senator Carstairs:** Honourable senators, I would believe that if — and it is a very large “if” — all of the documents were being translated by the United States. That is not the case. The translation of the documentation is being carried out by officials at the United Nations who represent the global community.

I do think it is important that if the United States has evidence that is not in the documentation provided by Iraq, they must provide that information if we are to have a full view and a fulsome understanding of what is actually happening in the state of Iraq.

## THE SENATE

### POSSIBLE WAR WITH IRAQ—POSSIBILITY OF DEBATE

**Hon. Marcel Prud'homme:** Honourable senators, Senator Roche touched on the subject of Iraq. Tensions in that region could explode in our face while we are absent for the Christmas recess. It has been 12 days since the House of Commons had to face that debate, which took place for hours. I think it took 10 hours of debate. I remember very well that, in the morning, the Liberal Caucus of Canada, of which I am an elder, had decided that Canada should not participate, should there be a conflict. During the day, things being as they are sometimes, mysteriously we started collapsing and, at the end of the day, arrived at a decision to support the war effort, should there be one.

My hope is that senators in this chamber would resume this debate and that the Standing Senate Committee of Foreign Affairs would study the Middle East because it is a place that could endanger the peace of the world. Surely senators understand that. Senators are more independent-minded parliamentarians. Something should be done before the Christmas break.

I know the view of Canadians now is that we will only participate if the decision to go to war is a UN decision. However, if it is a decision of the United States alone, honourable senators know the pressure that Canada will be under. The Senate will not be sitting. We will not have had the chance to express our views and to say that we will not participate, even though the United States of America is our close friend. I do say that in all sincerity. The answer is no if war is an expedition of only the United States or anglo-America.

Contrary to the other place, where members of Parliament may be more afraid to discuss these issues, the Senate may be the right place to have at least a couple of hours of discussion. In that way, senators who have strong feelings in this regard, such as Senator Roche and many others, could express their views. Perhaps that suggestion could be considered before we adjourn?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, it is not up to me to consider such a suggestion. It is up to the chamber to make that determination. I am sure that Senator Rompkey would be delighted if a senator wanted to participate in such a debate. That is our usual custom. If a senator is not ready to speak to a motion, then the custom is to rise and inform the Speaker that you wish the adjournment to stay in the name of the senator who has the adjournment and put your words on the record. We have used this procedure many times, and I see no reason why it would not work in this instance.

## UNITED NATIONS

### IRAQ—WEAPONS INSPECTION PROGRAM— DOCUMENTS ON WEAPONS OF MASS DESTRUCTION

**Hon. A. Raynell Andreychuk:** Honourable senators, my understanding is that the United States has records given to it by Iraq through the United Nations and the Security Council.

More important, my understanding is that the decision to disclose these records for either copying purposes or analysis is taken through that route. Therefore, the process we have been discussing is within the UN ambit and does break what I thought was our position, and at least my position, that we work through the UN.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I do not see an inconsistency; perhaps the honourable senator does. I understand that the United States obtained that material directly through the United Nations. They did not get it directly from Iraq. The material went to the United Nations and was then distributed. A copy was given to the United States because the United States has been the only country to make a considerable number of statements about the presence of weapons of mass destruction. Mr. Annan was quite clear yesterday when he said that it was necessary for them to produce the proof.

• (1500)

**The Hon. the Speaker:** Honourable senators, I regret to advise that the time for Question Period has expired.

## QUESTIONS ON THE ORDER PAPER

### REQUEST FOR ANSWERS

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, I wish to ask the Leader of the Government or the Deputy Leader of the Government if answers to the questions that I have had on the Order Paper for over two months will be forthcoming before we break for Christmas.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I thank Senator Lynch-Staunton for that question. I made inquiries immediately upon his asking that question last week. I have not received any information, so I will make another inquiry today.

I will need to check the procedure. It seems that it is possible for me to distribute those questions to senators during the break, even though they would not have been tabled. If that is the correct procedure, it would be my intention to do so if the answers have not arrived by the time we rise.

## BUSINESS OF THE SENATE

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I have a question in relation to the order of government business. Could either the Leader of the Government or the Deputy Leader of the Government inform us whether there is any truth to the rumour on Parliament Hill, today, that in the other place the government has withdrawn Bill C-10A? If that is not the case, then I have no further question. If it is the case, I have subsequent questions as to government business.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, Bill C-10A has not been withdrawn.

[Translation]

## OFFICIAL REPORT

## POINT OF ORDER

**Hon. Jean-Robert Gauthier:** Honourable senators, on three occasions recently, the Senate Hansard has not faithfully recorded the debates in which I have taken part.

Yesterday, I made a statement in the Senate on the need for safety messages in airplanes. In the French version, all of the text appears, but the English version contains only half of the text. I find it troubling that Hansard is supposed to produce reports of the Senate debates, yet they are incomplete.

Approximately two weeks ago, Senator Joyal asked me a question, to which I responded. Hansard did not even mention that I had responded. Before that, the same thing happened in the table of contents. Is there cause for concern regarding the veracity of Hansard, which reports on our debates? I would like a correction made to yesterday's Hansard, and I would like it noted in today's Hansard that I raised the issue in the Senate. Our comments must be reported; otherwise, there is no way to account to the Canadian public for the work we do.

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I believe it is very important that debates be reported as they occur here in the Senate, and that this be done in both official languages. We must ensure that all senators' privileges are respected.

Certainly, there is cause to wonder why this happened. I am sure that there was no malicious intent on the part of anybody. However, we must ensure that the work is done properly.

**Senator Gauthier:** Honourable senators, I would like to clarify the problem. The mistake is on page 595 of yesterday's official report. The French text is complete, but the English version only contains three paragraphs, where there should be six. I would ask the Deputy Leader of the Government to do something to solve this problem.

**Senator Robichaud:** Honourable senators, I do not believe that this is a specific responsibility of the Deputy Leader, but rather that it is up to the Senate in general to ensure that Hansard reports faithfully the work of the Senate. We can consult with those responsible for the publication of the debates in order to ensure that the mistake is corrected.

[English]

**The Hon. the Speaker:** Honourable senators, I agree that Senator Gauthier's point of order is important in that the proceedings of this place should be faithfully reflected in the *Debates of the Senate*.

However, I have no other suggestion to make than that we request a correction of the deficiencies that have been identified. If this matter arises again, then the point of order will be that much more serious. That will be the point at which some further action will have to be taken.

[Translation]

## ORDERS OF THE DAY

## BUSINESS OF THE SENATE

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I would like us to address, under Government Business, Item No. 3 under Bills, before resuming the order proposed in the Order Paper.

[English]

## APPROPRIATION BILL NO. 3, 2002-03

## SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Phalen, for the second reading of Bill C-21, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2003.

**The Hon. the Speaker:** Honourable senators, I would remind Honourable Senator Murray that he has 20 minutes of his time left.

**Hon. Lowell Murray:** Honourable senators, I will do my best.

When I sat down, yesterday, I was talking about the report entitled: "Trends in Higher Education," issued by the Association of Universities and Colleges in Canada, in October.

I have mailed a copy to the Honourable Senator Moore. By all accounts, including that of Senator Oliver and others, Senator Moore is recovering well from not one, but two surgeries. Let me express the hope that is generally held here, that we will not only see him but also hear from him on this very subject early in the new year.

Honourable senators, for the benefit of the beady-eyed guardians of the "fisc" in the Department of Finance, the trends report points out that 15 per cent of the population over 18 years of age are university graduates. However, they account for one third of all income tax collected in this country.

The report points out that there was an enrolment slowdown in the mid-1990s that they say was,

...caused, in large part, by the deep cuts in government operating grants to universities, which in turn necessitated cuts to faculty and other university services and hampered universities' responsiveness to enrolment demand.

Enrolment has picked up again in the last four years. The report notes that university enrolment increased five times faster than population growth in the past four years.

The rather challenging news that the report brings is that government operating support for universities is 17 per cent lower than it was in 1992-93 and 30 per cent lower, almost \$4,000 less per student, than the \$12,000 per student that governments provided at the start of the 1980s. Against that, we should look at the coming needs in the university sector. This report by the AUCC indicates that, by 2011, universities may need to accommodate 200,000 more students and hire as many as 40,000 full-time faculty.

• (1510)

As honourable senators are aware, the Senate has a long-standing interest in this subject. It is not too many years ago that the Standing Senate Committee on Social Affairs, Science and Technology produced a study under the chairmanship of Senator Bonnell about the federal role in the financing of post-secondary education. We also had the study by our own National Finance Committee a couple of years ago, at the initiative of Senator Moore, to consider accumulated deferred maintenance costs at Canadian universities.

I wish to say, as I may have said yesterday, that post-secondary education cannot be an afterthought, in federal and provincial preoccupation, with social policy and preoccupation with health care in particular. Nor, I believe, can social assistance needs be allowed to fade from view. In fact, the need for more innovation in this field increases as the forces of globalization and technology change the world in which we live and change the economies in which we work.

The financing of health care, a subject that has taken so much time and captured so much interest on the part of politicians, media and the public, cannot be considered in isolation from the overall responsibilities of the government and, in particular, from its responsibilities in the social policy field.

I believe that we need a thorough examination of federal-provincial fiscal relations, including equalization, with particular attention to major areas of social policy. There are plenty of precedents for this, as honourable senators are aware, and there are various models for such an examination. The Rowell-Sirois commission, a royal commission appointed by the federal government, produced a landmark report on the matter in the 1940's. In the 1960s, we had the Federal-Provincial Tax Structure Committee, consisting of one minister from each province and three from the federal government. That committee reported twice, once under the Pearson government and once under the Trudeau government. This committee looked into the projected revenue growth at provincial, federal and municipal levels, as well as the projected growth of spending responsibilities at all three levels of government. It made a very useful contribution to public policy at the time. I may return to that some time in the New Year, perhaps if we have another set of Supplementary Estimates where I can intervene.

In the early 1980s, we had a House of Commons committee headed by the MP Herb Breau, whose vice-chairman was Don Blenkarn. The only member of that committee still in the House

of Commons is Bill Blaikie, who is now a candidate for the leadership of the NDP. The Breau committee produced a most interesting and thorough report on fiscal federalism in the 1980s.

I believe it is rather obtuse of the present Minister of Intergovernmental Affairs, Minister Dion, to dismiss the idea that there is a vertical fiscal imbalance in this country as if it were utterly without merit. Just a few months ago, we saw the famous Séguin report which deals with Quebec. That report was commissioned by the Quebec government. Since that time, the Conference Board of Canada has done a study of the 10 provinces with respect to this matter. The Institute for Research on Public Policy has produced a report authored by Professor Thomas Courchesne. I understand that Minister Dion and others may question the methodology and so forth, but all of these reports project that the growth of federal revenues will outpace the increase in federal expenditures over the medium term, and that the growth in provincial spending responsibilities will outpace their revenues in the medium term. We need to look at this more dispassionately and not dismiss it out of hand, as Mr. Dion and the federal government seem prepared to do.

This has been done before, notably by the Federal-Provincial Tax Structure Committee in the 1960s. It can and should be done again.

Finally, honourable senators, I should like to take a few minutes of your time to discuss the firearms registry. This issue has become such a matter of public controversy in the last few days with the report of the Auditor General. As the Leader of the Government said yesterday, the Auditor General has had some criticism, implicit or explicit, of parliamentarians, in particular those in the House of Commons, for not staying on top of this issue.

For the record, I should point out that the Standing Senate Committee on National Finance has been tracking the financing and the financial problems associated with this agency for more than five and a half years, beginning in March of 1997.

For the information and further reference of honourable senators, in October I asked the Library of Parliament to prepare a document entitled: "References to the Federal Firearms Registry Program in the Proceedings of the Senate National Finance Committee." That document took us up to November of 2001. Yesterday, I asked for that document to be brought up to date and that has been done. It now takes us up to Tuesday, November 26, 2002. Both of those documents are available from the Library of Parliament and I offer them for the edification of honourable senators.

I will not take honourable senators through this entire document. It began for us, as I said, in March of 1997, when the Treasury Board officials told us that, with anticipated registration revenues of \$116 million, the net cost to the government was estimated to be \$2.2 million over that same period. They told us that those costs and revenue projections were still incomplete. We were also told that it was in the formative stage and that a more substantial financial framework for the program was expected soon.

We then move to March 10, 1999, where the same official, Mr. Neville of the Treasury Board, made the following remark:

...\$120 million is forecast to set up the registration system, but we have a maximum ceiling of \$133 million for 1998-99 for the Firearms Control Program, which, for example, includes the costs of operating the system.

Moving along to November 23, 1999, the same official told us:

I shall provide you with total costs, as we know them. They are: 1995-96, \$12.6 million; 1996-97, \$25.7 million; 1997-98, \$51.2 million; 1998-99, \$172.1 million, plus estimated for 1999-2000, \$87.9 million. That is a total, not spent, but planned, \$309.7 million.

We then come to March 13, 2001. Asked what the total spent to date has been, Mr. Lieff, a director and official of the Treasury Board, said: "Including these Supplementary Estimates, I believe that the number is \$489 million. I will just double-check that."

• (1520)

Later, on November 21, 2001, we were told by Mr. Neville that a major restructuring of the Canadian Firearms Program was presented to cabinet in February 2001. Cabinet approval was received, he said, on the basis that this would generate savings, mostly due to the redesign of the IT systems and business processes.

He told us:

...the resource profile...if you care to jot this down — before the beginning of fiscal year, it was \$541,216,000. In the Main Estimates — that is, the Main Estimates for this year, 2001-02 — there was a planned additional \$34,611,000. The amount in these Supplementary Estimates, as I have already explained, is \$113,866,000. The total at this point is \$689,760,000.

That was on November 21, 2001.

On November 26, 2002, at a National Finance Committee, further information was placed on the record during a discussion between Senator Comeau and Mr. Neville. Senator Comeau asked, in part:

If we are to assume that there will probably be supplementaries, and judging by the past, that would be a fair assumption, we will probably hit the \$1 billion mark by March 2005. Am I being overly generous there?

Mr. Neville answered in this way:

I believe that what is in the RPP is factual. If you add up all of those components, there is a strong possibility that the final costs may be in that range.

All this, of course, was confirmed. I will not take honourable senators through the comments made by members of the committee as we went along, over a five and a half year period.

However, I do make the point strongly that members of the Senate and the Senate committee noted this in our reports that we made over that entire period — December 1999, June 20, 2000, March 22, 2001, December 4, 2001, and so on. Our reports testify to the concern of honourable senators about the matter. I assure honourable senators that the members of that committee showed more than due diligence in tracking what was happening with the firearms registry.

We knew what was going on, the officials knew what was going on, and I cannot believe for a moment that ministers did not know what was going on with this extraordinary, almost unprecedented expense overrun.

How could this have happened over a period of five and a half years? Why is everyone on the other side feigning such surprise? Who is in charge? Where are the internal checks and balances that are supposed to exist in the cabinet system, the Privy Council and the Department of Justice?

This past weekend, a newspaper column written by Douglas Fisher suggested that the Department of Justice, far from trying to restrain some of the more extravagant impulses and enthusiasms of ministers, was egging them on and that the Department of Justice itself has been taken over by zealots. If that is true, it is a very worrisome development, because the Department of Justice traditionally has had a stabilizing and moderating effect on governments and on the enthusiasms of some ministers. Sometimes it is the job of advisers to save ministers from themselves.

This program was badly conceived from the beginning. The Honourable Allan Rock arrived here, a rookie minister, a rookie member of Parliament, with too much political ambition and not enough political experience. It was someone's job to save him from himself. He was an easy mark, in 1993, for a powerful, skilled lobby operating in the aftermath of the emotional response to the tragedy at l'École Polytechnique. There had been corrections to gun laws brought in, in 1992, by the previous government with Kim Campbell as Justice Minister. Those new changes were never given a fair trial. The lobby got on Mr. Rock's case. They persuaded him that he had to go all the way, that he had to do the things that Ms. Campbell and the previous government had not done or had declined to do.

With the lobby group egging him on, with no apparent checks and balances in the system, Mr. Rock went ahead and presented the provinces and the country with a *fait accompli*. Now we have members of the Liberal caucus — it may be 20/20 hindsight — saying that they warned him that he was going too far, that the program would not work and that a multitude of problems would arise.

Honourable senators, the problem, it seems to me, is somehow systemic. The government is making, as I said the other day, the same mistakes with Kyoto, bulling ahead when a bit more deliberation and consultation and a determination to negotiate an agreement with the provinces and the private sector to try to achieve some kind of consensus and *modus vivendi* would produce better results.

One matter I wish to flag before I sit down refers to something I said yesterday about codes of ethics. I forgot to mention, as I did not have my notes with me, that in the United Kingdom, where parliamentarians are required to declare their interests, there is a similar, if not identical, regime that applies to members of the parliamentary press gallery at Westminster. Holders of passes as lobby journalists accredited to the parliamentary press gallery or for parliamentary broadcasting are required to register any occupation or employment for which they receive over 550 pounds from the same source in the course of a calendar year if that occupation or employment is, in any way, advantaged by the privileged access to Parliament afforded by their passes. I looked up the list of —

**The Hon. the Speaker *pro tempore*:** Honourable Senator Murray, your time for speaking has expired. Are you asking for leave to continue?

**Senator Murray:** Sixty seconds will do the trick.

**Hon. Senators:** Agreed.

**Senator Murray:** I looked up the list of journalists. Sure enough, they declare extra income from reviews or part-time teaching or speech writing, and so on. This register is usually updated and published each month, except during months when the House is not sitting.

The point I wish to make here is that whatever regime we decide upon for ourselves, for parliamentarians, one matter that ought to be considered is whether that regime ought to be adapted and applied to members of the parliamentary press gallery and, perhaps, to their spouses.

I am sure that that will be the occasion for a lively and fruitful debate both in the media and in Parliament. Meanwhile, I wish them and you a happy holiday.

[Translation]

**Hon. Roch Bolduc:** Honourable senators, I should like to start by congratulating Senator Murray for having shared his opinion on the report. He took advantage of the opportunity to also offer his point of view on various government policies. I agree with his views. I should like to modestly make a couple of comments on our report. We produced an excellent report of which I am very proud. It was produced in cooperation with representatives of the other party.

My remarks will address two points. First, we indicated the manner in which the ministers report on their activities. It is better than it was, but there is still room for improvement.

• (1530)

In her latest report, the Auditor General proposes an improved definition of accountability. She stressed the importance of the means used and the results obtained. She included the obligations of all parties. She stressed the point that managers and Parliament must examine performance and determine what the appropriate consequences ought to be.

I would like to specifically address improvement of the budget process and its overview by Parliament. As we know, there are improvements already. We now receive plans and priorities as

first documents from 86 government bodies. This is a marked improvement.

The drawback of this process is that each one is 25 to 30 pages long, for a total of 4,000 pages of text simply to tell us what the government's intentions are. That is a lot of documents to read for a layperson like me, even though I think I am somewhat informed. After this first step of the process, you have the estimates, which is normal. Finally, you have the departmental performance reports. We are talking 25 to 30 pages here, sometimes up to 80 pages, and we are dealing with 86 agencies. We end up with 4,000 or 5,000 pages of text to explain what they have done in relation to their projections. That is a lot. I am very much interested in the nature of the texts.

Priorities are expressed as objectives rather than quantitative targets. There are no precise definitions, the general direction to be taken is described in vague terms. This generally makes sense. Departmental officials endorse motherhood, chastity — good things, in other words!

In terms of performance, meeting the objectives strikes me. Efforts are made to meet objectives. When the report states that the objective was this or that, in general terms, and that it has been met, it seems to me that the true impact should be felt and corrective measures made along the way. In other words, are we getting our money's worth? That is the big question.

We must not simply highlight the good points. Public servants outline plans and priorities, and then they assess performance. They have a built-in interest in the system, in ensuring that their recommendations were right, as well as their actions. The system is a bit flawed: they are evaluating themselves. As a result, it is only when the Auditor General mentions it that we realize that things are not so good. When Ministers Rock and McLellan received the proposals for this bill, everything seemed wonderful. Today, we realize that it is not quite true.

That was part of what struck me. The performance analysis is not designed to be understood by ordinary people. This is important. It is impossible to be an expert on reports for 86 departments. Public policy issues are so varied that it is difficult for everyone to know everything about every subject.

When it comes to health, a man such as Senator Morin knows this subject better than most senators. It is essential to be careful. The Auditor General concluded that accountability must be improved.

The report calls attention to this issue. It is important for senators interested in public policy to study the plans and priorities, and the performance analysis conducted. The Auditor General states that the situation has improved but there is still much to be done.

For 20 years now we have been waiting for progress. Every year, we are told that it is difficult. It makes sense. If it is difficult to analyze performance, how is it possible to give out performance bonuses? Everyone gets them. Apparently, 95 per cent of senior

[ Senator Murray ]



public employees in Crown corporations and elsewhere get performance bonuses. I can understand that those who have sources of revenue would get them. I can imagine that, with financial statements, it is possible to know if it is worthwhile or not, so performance can be measured to some extent.

In other cases, I do not know what will be given to the Deputy Minister of Justice who was in charge of the firearms registry program, as well as to his assistants. There is a group at the Department of Justice that was responsible for firearms registration. So far, no one has lost his or her job.

I was serious when I asked the question. The ministers are still in place. Officials were promoted, even though they committed blunders. Something is not right somewhere. This needs to be looked into. Senator Lapointe looks as though he agrees with me.

As for the increasing importance of international commitments being made by the government and their impact on domestic policy, the government does not consult Parliament under the pretext of the royal tradition, whereby international relations, treaties and agreements are the prerogative of the executive branch.

As a result, the government is undertaking more international commitments, both in number and in importance. They then say, "It has been signed by the government." Between you and me, we can discuss the Kyoto Protocol all we want, but it will not make any difference. The vote will change nothing. The government is already committed and the case is closed. They are asking us to vote to hide this fact. In the end, it has all been settled.

This is having a growing impact on domestic policy. Since we have no say, because it is considered a prerogative of the executive, there is relative absence of parliamentary involvement in decisions and monitoring these decisions. Yet that is why we are here. If there was ever an institution of the federal government that was supposed to serve as a system of checks and balances for the executive, it is the Senate.

This system exists because we are not the United States. We have a system of checks and balances. That is the role of the Senate. Senator Joyal made a brilliant speech on this in the Senate. The Senate must bring its wisdom to bear on government action, not only in terms of domestic policy — it is our role — but also in terms of foreign policy.

In the 21st century, we can no longer allow ourselves to say that it is the government's prerogative and that the rest is unimportant; that the government has decided and that is it. No, in the 21st century, in a democracy, officials, regardless of how they are appointed — I am not very pleased with our process, but that is the way it is — must absolutely attach greater importance to the impact and commitments of the government regarding Canada's foreign policy.

In the document before us today, there is an additional \$200 million for CIDA. I am not opposed to it. We could have been more generous in the past regarding foreign aid. Investing more funds will not make things better. There is no direct link

between a higher standard of living in Africa and governments' participation in the system. We provided less assistance to Asia and it bounced back more quickly. Perhaps there are other methods that we have not yet examined.

I want to stress that, in both of these cases, we are watching the train go by and it is going by quickly. It is not satisfactory in the 21st century to behave in such fashion as a Parliament, particularly in the Senate.

Our system is based on a constitution. There are checks and balances within the system. Under this system, Parliament partly controls the government, not enough, in my opinion, but that is the way the system is devised. Parliament does not control the system very well in the other place. The government enjoys a majority and the majority rules. In the Senate, we can tell the government what we want; we can tell it to be careful, to check something. There is an internal constitutionalism in the government, through the committees.

• (1540)

A minister proposes a bill and sets off on a crusade. His departmental staff support him instead of telling him to take it easy, so as not to run into problems. They play their role badly. I am not saying they need to be at loggerheads with their minister all the time. I am saying that they need to forewarn him about this or that aspect of a situation before making a decision, because it might be dangerous.

According to the system, the minister is the one who makes the proposal. Then, in cabinet committee, the ministers study the proposal and recommend that it be followed up on, or not. After a lengthy debate, often four or five months — I had fun with this process in Quebec because the ministers wanted to start using it again in the provincial cabinet, but I was opposed to that, telling them to settle their problems in committee and come back with an agreement — the minister makes the proposal, then the committee makes its recommendation, and then the government decides. That is the system or regime of internal constitutionalism.

It would appear not to be working very well. Mr. Rock and Ms. McLellan have had a lot of nonsense fed to them about firearm registration. There is a weakness in our system. I do not want to criticize anyone or start getting involved in partisan politics.

Care must be taken. Within the internal workings of the government there appear to be some weaknesses from the point of view of internal constitutionalism. I am cautioning the government on this and telling it to take care.

I had a long public service career. Often the generation of decision-makers is the same generation as the senior public servants. These are people around 45 years of age, who are anxious to make good career moves. They need to be kept an eye on. It takes some older heads to calm them down. Because of the age bracket of these senior public servants, it is important that they have some independence, but not as much as in France. In that country, they are like magistrates. I met a lot of them during my career in Quebec and asked them what they did. They replied that they worked at home. This would be hard to imagine in Canada.

**Senator Prud'homme:** If they have been put on the shelf!

**Senator Bolduc:** That is all I wanted to say.

[English]

**The Hon. the Speaker:** It was moved by the Honourable Senator Day, seconded by the Honourable Senator Phalen, that this bill be read the second time.

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

Motion agreed to and bill read second time.

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

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

### SPECIES AT RISK BILL

#### THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Banks, seconded by the Honourable Senator Corbin, for the third reading of Bill C-5, respecting the protection of wildlife species at risk in Canada.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, as one begins to follow with greater focus the debate around Bill C-5 and, in particular, when one reads the report from the committee, it begins to present many difficulties. The difficulties are of both substance and process. The problem of process, honourable senators, is that the report, as tabled, did not simply report the bill without amendment; rather, the report included observations. This speaks directly to the good procedure of the house, which is that if a committee is reporting a bill without amendment that is what it says and that is what it does. A report that includes comments and observations only serves to fudge the matter, and that is exactly what this committee has done with this report.

How does the committee fudge the matter? On the one hand, the committee states that it supports the bill but, on the other hand, it says that the bill has problems. It is for this reason that, as a matter of procedure, we do not accept reports in this house when they are accompanied by any counter statement. The committee report on Bill C-5 without amendment but with attached observations has breached the rules, which impels us to raise a point of order.

#### POINT OF ORDER

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, in his *Parliamentary Practice*, twenty-first edition, Erskine May, on page 644, states as follows:

...nor may the report be accompanied by any counter-statement, memorandum of dissent, or protest from any dissenting or non-assenting member or members...

Honourable senators, the wisdom of that practice and procedure is clear. At this point, when we should be debating

simply the third reading of the bill, we must contend with a report that has counter statements to the bill presented at third reading. The observations in the report contradict the bill. The observations contradict the report that says that the bill does not need amending; the observations in the report clearly state that future amendments to this legislation should address outstanding concerns and further strengthen the bill.

The Senate is in the unenviable position of getting something on the one hand from the committee, but something on the other hand from the committee. Therefore, I am arguing that the report before us is out of order and that what should be before us is simply the bill, without amendment, if that is what the committee is reporting to us. The committee cannot be reporting to us a bill without amendments and then turn around and make observations such as the following, for example:

Future amendments to this legislation should address outstanding concerns and further strengthen it.

In my reading of the report, the committee is obviously saying to us that the bill needs amending. Hence, it is incumbent upon me to ask the committee why it has not amended the bill. That is the responsibility we, in this chamber, gave to the committee when we referred the bill for study and analysis.

If that is not the way we are going to proceed, then third reading becomes an entirely new process for us. We will need to study a bill and then, perhaps, devolve ourselves into Committee of the Whole, to hear from some of the witnesses, so that we can assess whether an amendment would be appropriate and, if so, what kind of amendment would be appropriate. That is the work that is usually done in committee.

Honourable senators, at face value, on a prima facie look at the situation, it seems to me that we are faced with a report that includes observations that speak to the substance of the bill and that contradict the bill; therefore, in my view, that report is out of order.

[Translation]

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, if a point of order had to be raised regarding the report concerning Bill C-5, it should have been raised when the report was presented to the Senate. Usually, when a committee reports a bill without amendment, we move on to the next stage, which is third reading of the bill. This is precisely what we are doing here.

• (1550)

It is clearly indicated in the Order Paper that we would be resuming debate on the motion of the Honourable Senator Banks, seconded by the Honourable Senator Corbin, for the third reading of Bill C-5, respecting the protection of wildlife species at risk in Canada.

Speeches have already been made at this third reading stage. A point of order should have been raised before the speeches were delivered. I could stop here, but the committees recently adopted a practice that honourable senators are now following: they add to their report some comments or observations, which are sometimes called considerations. This is done normally and this is an accepted practice.

I do not see why, all of a sudden, this should no longer be the way to go about our business and why we should backtrack and start all over again. This is a practice that was accepted. If someone wanted to raise a point of order regarding this practice, he should have done so when the report was presented.

[English]

**Hon. Terry Stratton:** Honourable senators, I should like to refer to Erskine May's *Parliamentary Practice*, twenty-first edition, page 644, which states:

No signatures may, therefore, be attached to the report for the purpose of showing any difference of opinion in the committee or the absence thereof; nor may report be accompanied by any counter-statement, memorandum of dissent, or protest from any dissenting or non-assenting member or members; nor ought the committee to include in its report any observations...which are not subscribed to by the majority; —

I point that out for the consideration of honourable senators.

**Hon. A. Raynell Andreychuk:** Honourable senators, when is the most appropriate time to make a point of order? If this chamber has any validity, it is the fact that we can debate, discuss and, through that, form certain opinions. The report was first filed with observations. I am very mindful that in the first report, where I agreed to observations, it was quite correctly pointed out to me that observations were really not part of the process of reports. However, over the years that I have been here, it has become a practice to do so. These observations have become instructions to the government to review, to reflect on future issues and to reflect on points that should be dealt with administratively. It is a very valid point to stand up now having had the benefit not only of the report and the observations but also of the comments made by committee members and others who have spoken to this matter. It is only at this time that I think the point of order is in order and is timely because it is only when we put all the pieces together that we can figure out what the report and observations mean.

I went back to read the observations and determined that these are not observations. In reality, they run counter to the legislation. The legislation is going one way, and the observations clearly state that the committee members do not agree with the legislation. In fact, the observations point the government in the opposite direction. For example, the government has chosen to do things discretionarily. The committee is saying, no, that is inappropriate. It must be mandatory. That seems to be in total opposition of what the legislation intended.

Surely, observations are not to be comments that contradict the legislation. They should not be comments that go in the complete opposite direction of the government intention. That should be done by amendments and not by observations.

I do not believe that we properly discharge our duties in this place when we avoid taking hard decisions in the form of amendments or by voting against bills. I do not believe that we discharge our duties when we draft observations with pious invocations that the government change its legislation.

In my opinion, the point of order stands because the report, itself, approves the legislation and then goes on to disprove the legislation. The speeches of senators clearly point out that they do not concur with the legislation. Their speeches must be read in total to find out that they are not in agreement with the legislation.

I believe that there is a very valid point of order at this time.

[Translation]

**Senator Robichaud:** Honourable senators, the appropriate time to raise a point of order is when the report is presented, which was some time ago. This is a practice accepted by the senators who sit on committees, and it is a practice that allows them to convey a message, if they wish to do so. If a senator does not agree with what is proposed, he or she can present amendments.

If a point of order could be raised at any time, this would mean that we can go back a week or two and start the debates that have already taken place all over again, when the stage at which this should have been done is over and we have already moved on to the next stage.

We cannot support the idea that a point of order can be raised at any time. The rules are clear: a point of order must be raised at the earliest opportunity, but this was not done in the present case.

[English]

**Senator Kinsella:** Honourable senators, as I said when I led into this point of order, I first realized that there might be a breach of process of order when I read the report and began to prepare notes to participate in the debate at third reading.

I would draw the attention of His Honour to our rules, in particular rule 97(4), which states:

When a committee reports a bill without amendment, such report shall stand adopted without any motion, and the Senator in charge of the bill shall move that it be read a third time on a future day.

That all happened, honourable senators. We really did not have a debate on the report. Why? Because the report said the bill is being reported without amendment. It is only when we get into the debate at third reading that we begin to hear from members of the committee that they had difficulties with the bill. Some senators said, "If you had difficulties with the bill, why did you not make an amendment in committee?" Now we are saying that maybe we all should go ahead and read the transcript of what went on in the committee but, more particularly, that we should to read the report.

Honourable senators, we have been placed in a rather difficult situation. Why? Because they did not follow the rules of the Senate, rule 97 of which outlines the procedure to be followed when a bill is reported without amendment.

Senator Stratton has made reference to our *Companion to the Rules of the Senate*. At the top of page 304, we read that:

No signatures may, therefore, be attached to the report for the purpose of showing any difference of opinion in the committee or the absence thereof; nor may the report be accompanied by any counter-statement, memorandum of dissent, or protest from any dissenting or non-assenting member or members; nor ought the committee to include in its report any observations which the minority or any individual member desires to offer, but which are not subscribed to by the majority; nor may a draft report which has been submitted to the committee, but has not been entertained by it, be printed as an appendix to the report.

• (1600)

We looked very carefully at the report we received. I think that all honourable senators will find that there is some slippage as far as what rule 98 requires. The parliamentary jurisprudence behind that helps us to understand what that rule means. It is clear that there has been a breach of order. That is looking at this situation from a process standpoint.

This is a good rule because it keeps us from being in the very difficult situation of examining a bill, arguing that it should be amended but, in fact, proposing no amendment. In the future, honourable senators, it would be better for our standing committees to stick to the letter of our rules and present reports either with amendments or without amendments rather than trying to fudge it and have it both ways.

**Hon. Peter A. Stollery:** Honourable senators, this is a very important point of order. It shows you how sloppy procedure can get us into difficulties. There is a long-standing tradition that there should be no add-ons or commentaries when a committee chair reports back to the chamber. The Deputy Leader of the Opposition is absolutely correct in what he has said. Once a report has been presented in the Senate, if honourable senators start adding to it and making commentaries, what they are in fact doing is fudging the report. They are not being procedurally correct. This is a long-standing procedural process.

The committee members did not propose an amendment. We can talk about that until we are blue in the face, but if they did not amend the bill, then that is the end of the matter. That is a fact.

I must say that I am extremely sympathetic to the argument made by the Deputy Leader of the Opposition. This is something that honourable senators should stop doing. Honourable senators read the Hansard or the minutes of the proceedings of the committee and what is said in those documents is added to what is supposed to be a report from the committee.

We must remember that we refer a bill to a committee because the Senate does not have the time to conduct a detailed examination. Some 100 years ago, the House of Commons and the Senate did have time to perform that function. Now the Senate passes that task on to a committee of this house. The committees study the bills.

Procedurally, the committee either decides to amend the bill or not and returns it to the chamber. There is no place in this process for add-ons and commentaries. I have argued against this procedure in my own committee. It can become a very bad habit that will lead to time-wasting discussions. If no amendment is proposed, then that is the end of the matter.

The Deputy Leader of the Government is quite correct in saying that no amendment has been put forward. The bill was reported without amendment, and that is the end of it.

**Hon. Tommy Banks:** Honourable senators, to be clear, I am not making my concluding remarks now since I am the sponsor of the bill. I am speaking on the point of order and in response to Senator Stollery and the Honourable Deputy Leader of the Opposition.

I am the chair of this committee. I also happen to be the sponsor of the bill. Thus, I wear two hats, as I have throughout the process. I was not the sponsor of the bill when I was the chairman originally. However, I kept it when I was made the chairman of the committee. I wish to respond to the suggestions about the impropriety that is suggested here.

I am a servant of the committee. In reporting the bill to this house, I reported it as I was instructed by the committee. I would hope that Senator Stollery would be aware that no committee of which I am a member will be constrained, so long as it determines not to amend a bill, from attaching observations by way of instruction and, in some senses in relation to this bill, notice to the government. That is part of what we do.

It has been said that this is a relatively new habit, but it is a habit. It is certainly not the first time since my appointment two-and-a-half years ago that observations have been attached to committee reports on bills. This bill is a complicated one. It has been bootled around in this building for over eight years, as honourable senators have heard interminably. The bill affects many people in many different ways. It is a bill about which the committee had observations and members wished to have those observations attached to the report.

I would point out a number of things with respect to this point of order. The bill was reported unanimously by the committee without amendment. The committee voted unanimously to attach these observations to the bill. The committee was unanimous in its approval of these observations to the bill and in their intent. There was no dissent and there has been no fudging. These observations do not run counter to the bill.

I would refer, as I believe I must, to the matters that have been raised. We firmly believe that the passage of this bill will mark only one step in the work, and that future amendments to the legislation could address outstanding concerns and further strengthen it. We know that because the bill is a compromise, as are many bills. However, the committee was unanimous in wanting to pass the bill without amendment and in wanting to attach these observations to it.

The observations urge the government to ensure that the authority is invoked. That is the authority that is contained in the bill and, further, that it should establish and make public-specific criteria. Those will be in regulations that will attend to the bill, regulations that cannot be made unless the bill is passed. The observation is that there be detailed scrutiny of the operation during the mandated five-year review that is in the bill. None of those things can happen until the bill is passed.

The recommendation is that during the mandatory five-year review of this legislation, consideration be given to other matters that have arisen with regard to the bill. However, it does not demure from the point of the bill. None of these observations demure from the fact that the bill should be passed now, without amendment, and that these considerations should be attached to it.

These observations urge the minister to use the provisions of the bill to ensure that these species receive attention. Nothing in these observations suggests that the bill is wrong, or that the bill ought not to be passed now, or that the bill ought to be amended now. These are the observations of the committee.

• (1610)

They are unanimous; they are not fudging. There is no dissent from either the motion to pass this bill, which was unanimous, or authoring these observations, which was unanimous and in which every member of the committee participated. There was no dissent as to their being attached to the bill as observations to alert the government to concerns the committee had in the ongoing implementation of the bill, many of which arise from the fact that there is a mandated five-year review. There is a review for a reason. It is because this bill is breaking new ground. It is breaking ice. It will do things that have never been done before. The bill contains a mandatory provision that it be re-examined in five years. Our committee is saying, unanimously and without dissent, that when that is done, pay attention to these things.

**Hon. Mira Spivak:** Honourable senators, I want to talk about procedure. It cannot be true at one and the same time that this procedure is sloppy and yet, in the rules, that the observations contradict the intent of the bill.

In my time here, there have been many, many reports. I also must say, as I said when I spoke yesterday, that the observations reflect the uneasiness of the members about this bill. There is no question about that.

Since I was the senator who presented the report, I must take some responsibility. However, while there was no dissent in the discussion in committee on the observations, members were also unanimous and quite strong in pointing out all of the things in the observations.

**Hon. Lorna Milne:** Honourable senators, following my arrival in this place seven years ago, many bills have been reported back to the chamber without amendment, but with attached observations. Most notably, that happens regularly with the Standing Senate Committee on Legal and Constitutional Affairs. It is a common practice within this place, at least in the last seven years. I do not think that this practice is at all unusual or irregular.

The feeling in the committee was strongly in favour of reporting this bill without amendment. I do want to point out that the observations and my own speech in this place at third reading were intended as a guide for the regulations that will be drawn up and as an urging for future legislation that will build on this bill. There is no point of order involved here whatsoever.

**Hon. George Baker:** Honourable senators, I did not attend all of the committee meetings. I attended the first day.

**Senator Spivak:** That is an understatement.

**Senator Baker:** I was going to commend Senator Spivak when I rose.

Honourable senators, the members of the committee, from what I saw in the couple of meetings with witnesses that I attended, were concerned about certain provisions of the bill. Two senators, Senator Watt and Senator Adams, are very concerned that no compensation is included in the bill for someone who would have their livelihood taken away.

Honourable senators, Senator Spivak expressed her opposition in committee to the fact that there was no protection for the habitat of migratory birds. What I saw happen, which probably caused the committee to do what it did to have Senator Spivak agree to pass the bill without amendment, was as follows. One of the first two witnesses who came before the committee was the former executive assistant to the former Minister of the Environment, whose name was McMillan, as I recall. That was either under Joe Clark's administration or the beginning of the Mulroney administration.

**Senator Spivak:** It was Elizabeth May.

**Senator Baker:** That was it, Elizabeth May. Three groups appeared at that moment. Following that, another group of people appeared.

Honourable senators, I am sure committee members will recall that, on questioning by Senator Milne, two of the witnesses said this: "We believe that if you amend the bill, it will not see the light of day."

**Senator Spivak:** I was not there.

**Senator Baker:** Those were witnesses, and Senator Spivak is nodding her head.

**Senator Spivak:** I was not there!

**Senator Baker:** Oh, I see. The chairman of the committee did an excellent job.

**Senator Stratton:** Was the chair there?

**Senator Baker:** On balance, when the committee drafted its report, it did an honest report.

**Senator Spivak:** But you were not there.

**Senator Baker:** I am trying to give a good excuse for you.

That is, perhaps, what happened.

The point is, honourable senators, nothing prevents amendments at third reading. As far as the procedural point is concerned, I would submit that the time to raise a procedural argument is at the time it first occurs or it first comes to the attention of the senator raising it.

However, honourable senators, under our rules, that amendment should have been made when the bill was reported.

**Senator Kinsella:** What rule is that?

**Hon. Bill Rompkey:** I wish to support Senator Banks and make two points. With regard to comments on any bill, this is a chamber of sober second thought. To suggest that senators have no ideas and should just accept government legislation as it is without thinking about it or commenting on it seems to fly in the face of what this chamber is all about. To say that there should be no comments at all is not in keeping with what we are supposed to be doing in this chamber.

There is a saying: Let not the perfect be the enemy of the good. This is not a perfect bill, but it is a new bill that breaks new ground, as Senator Banks has said. With all its imperfections, it is necessary. It is necessary to pass the bill now. As Senator Baker has said, there was testimony to the effect that if this bill did not pass now, then the aims and objectives of the bill, which are laudable, would not be fulfilled.

Those are two points to consider.

**Hon. Charlie Watt:** Honourable senators, I believe that I am speaking to the point of order and that I may still speak to Bill C-5 later.

Honourable senators, I have listened with great interest to what Senator Banks said because he is our chairman. I also listened with great interest to what the deputy leader had to say.

Let me begin by saying that these observations are not reservations. Our chairman mentioned that. I also heard the deputy chairman refer to an uneasiness. What is uneasiness? I was involved and participated in the deliberations on Bill C-5. I do not believe I missed any of the committee meetings dealing with Bill C-5. From day one, I made it absolutely clear to the members of the committee what my intention was and what I felt was wrong with this particular bill in relation to the non-derogation clause. That non-derogation clause has been interpreted slightly differently from the way it reads in section 25 of the Constitution. After all this debate, I am beginning to wonder if this is unconstitutional.

• (1620)

I say that because I put forward a clear message to committee members, not only verbally but in writing, stating that I was having a great deal of difficulty with the three additional words that were added and that do not appear in section 25 of the British North America Act. Therefore, there is a slightly different interpretation between the two. Perhaps it was deliberate on the part of the Department of Justice. They have invented these three additional words that they have added to the non-derogation clause. I felt that that should be corrected in this bill, and I was absolutely clear about that to the members of the committee.

For that reason, perhaps the opportunity to amend the bill and to make that correction has not disappeared.

I, for one, did not fully participate when committee members were going through the observations. As honourable senators know, Senator Sibbeston walked out during the proceedings. I left shortly thereafter, which was before the observations, not reservations, were concluded, because I felt uneasy.

[ Senator Baker ]

**Senator Spivak:** Honourable senators, might I ask a question?

**The Hon. the Speaker:** No, Senator Spivak, you may not. We are on a point of order, not in debate.

I was about to observe to Senator Watt that when the bill is under third reading consideration he may speak to it and move amendments at that time, if he so wishes.

What we are now talking about is the point of order raised by Senator Kinsella, which, as I understand it, is that the report of the committee, without amendment, and its observations are contradictory and as such whether it is in order for us to proceed with the report in that form.

If he wishes, I should like to give Senator Kinsella time to respond. There have been a number of interventions. However, I should like to conclude this matter, if I can, fairly quickly.

Do other honourable senators wish to speak on the point of order?

**Senator Watt:** With all due respect, honourable senators, I feel that I need to get to my destination with as little interference as possible.

I realize, honourable senators, that this is a point of order. Before I began to elaborate on the matter, I clearly asked if we were dealing with a point of order. The answer was yes. Therefore, I am not speaking on the bill itself at third reading. I reserve my opportunity to speak at third reading.

I, too, made observations to the report, although not in the same text as the committee's. I forwarded my observations last week to the committee clerk and to the committee. I hope those observations form part of the report about which we are now speaking. If that is not the case, I can furnish those observations to honourable senators.

**The Hon. the Speaker:** If no other senator has an intervention, I should like to thank honourable senators. I wish to read the report and to consider the references to authorities that have been made in the course of these interventions. I shall bring back a ruling on the point of order tomorrow.

As this point of order speaks to Bill C-5, I do not believe we can now resume third reading debate.

## KYOTO PROTOCOL ON CLIMATE CHANGE

### MOTION TO RATIFY—MOTION IN AMENDMENT—DEBATE CONTINUED

On the Order:

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

That the Senate call on the government to ratify the Kyoto Protocol on Climate Change,

And on the motion in amendment of the Honourable Senator Lynch-Staunton, seconded by the Honourable Senator Murray, P.C., that the motion be amended by substituting for the period after the word "Change" the following:

"...but only if, after the Senate has heard in Committee of the Whole from all federal, provincial and territorial government representatives who wish to appear, the Senate determines that there is a substantial measure of federal-provincial agreement on an implementation plan."

**Hon. Mira Spivak:** Honourable senators, last June, in this chamber, I spoke in favour of the Kyoto Protocol. At that time, I was speaking on the motion introduced by our former colleague, the Honourable Senator Taylor.

In the intervening months, the fundamentals have not changed — the CO<sub>2</sub> emissions, their impact and the fact that delaying action only increases the costs. These basics are constant.

I sincerely wish that we had more provincial support for ratification. In recent months, it has weakened. There are three provinces, including my own Province of Manitoba, Quebec and Prince Edward Island, and three territories that want ratification, despite their reservations. Another three, or perhaps four, provinces accept it as inevitable. Recently, two provinces, British Columbia and Newfoundland, have crossed over to join Alberta, the only province to vehemently oppose it for many months and the province that until last May co-chaired the federal-provincial process.

With the greatest respect, to say we should not ratify the protocol until all provinces agree is tantamount to saying that we will, perhaps, never ratify it.

In this chamber, we have a particular responsibility for national considerations and to speak to the interests of the people of the provinces and territories we represent. Since my province supports the protocol, and has supported it from the beginning, I feel I am doing my duty in supporting ratification.

An impressive majority of Canadians want the protocol ratified. A poll last month put the number at 78 per cent. A more recent poll, although it is down from that number, shows that a majority still supports the Kyoto Protocol. That 78 per cent was the same percentage that supported ratification nine months ago, before the public relations war began. Yes, they would like the provinces in agreement, but even in Quebec 53 per cent of the people were supportive.

Last month, a poll found that only 26 per cent of Canadians agree with critics who say that implementing the protocol could mean major job losses. In Atlantic Canada, Central Canada and British Columbia, at least 40 per cent of the people think that Kyoto will boost employment. I believe they are not wrong. In Europe, generally, they started a long time ago, and they have found increased prosperity and increased jobs as a result of looking forward and putting in place and implementing certain measures that support the reduction of greenhouse gases.

Even under our own government plan over the next eight years, it is predicted that job growth will proceed at a healthy pace. This has been repeated many times.

I will not repeat the many points I raised last June that had to do with the science and impact of doing nothing, although I would point out that, most recently, scientists are suggesting that the glaciers will disappear within a very short time — in fact, within 10 years. As well, there have been some scientific studies that suggest that, while we think climate change might be incremental, it might indeed just suddenly tip over and we could have runaway inflation.

In any event, if we do nothing, we are definitely headed toward double the emissions of greenhouse gases. We cannot stop that, and that is very unfortunate. However, if we do nothing, we will be heading towards three times the number of greenhouse gas emissions that we have now, and that would truly be a disaster.

• (1630)

Honourable senators, I want to face the seeds of doubt that opponents have sown throughout the summer and fall. One of those weedy crops is labelled "uncertainty" — the nemesis of industry, business and governments alike. Opponents say that government has no implementation plan. No plan equals immense uncertainty and immense uncertainty equals economic disaster. The government, we are told, is pushing us into an uncertain future in blind haste. However, 10 years have passed since we signed the United Nations Framework Convention on Climate Change, 1992, under the government of former Prime Minister Mulroney. Five years have passed since we signed the Kyoto Protocol. In the last four years, the federal government alone has spent \$22.3 million on consultations — largely with the provinces and industry.

Provincial energy and environment ministers, in fact, called for ratification of the climate change convention within months of its signing more than 10 years ago. Then they sat down as the group that became known as the Joint Meeting of Ministers of Energy and Environment, JMM, to discuss implementation. After the Kyoto meeting, first ministers agreed to create the National Climate Change Process and directed their ministers to take part. In May 2000, the joint ministers agreed to the elements of a national implementation strategy, and they agreed that the federal government begin to work on a draft plan. Only last May, when it was apparent that the federal government was seriously working towards implementation, having revealed its four options, did the Alberta government withdraw as co-chair of the process. It proposed that we start from scratch. I am not complimenting this government on the speed and the intelligence with which they worked towards implementation, but I am addressing the argument that claims first ministers and energy ministers were not involved. That is patently not true. People could be highly critical of the implementation plan, as suggested now, because it will not do what the Kyoto Protocol was supposed to do. Rather, it will be a faint and timid step. I really do not understand the argument because I think the Kyoto accord now is a paper tiger. Nevertheless, I think it is important to have a beginning.

National Post columnist Andrew Coyne made an interesting observation a few weeks ago. He said that Kyoto Protocol critics are right that under the government plan, the costs of implementing the protocol are almost certain to be much higher than they need to be. The reason, he suggests, is that critics have been stampeding the government into a plan that:

...shifts much of the costs away from the industries that are responsible for most of the emissions and onto the general public. Who knows — that may even have been the point of the exercise?

The plan, released November 21, as Mr. Coyne predicted, is not the least-cost option among those laid out last spring — the cap-and-trade option for large industrial emitters of greenhouse gases. No, the current plan is to subsidize producers to reduce their emissions through government-industry cost-shared investments. As Mr. Coyne observed:

...subsidizing producers to reduce their emissions is a particularly inefficient approach — instead of making firms pay for every megaton they emit, the general public is forced to pay them for every megaton they do not emit.

In fact, the ratio will be about five to one. We will expect them to reduce 55 megatons on their own and pay them to reduce another 11 megatons with government dollars. While I may not agree with every part of the plan, I certainly do not agree with that. There are a few things that are worthwhile such as the proposal to increase ethanol-blending to 35 per cent of the gasoline supply; the proposal to produce 10 per cent of new electricity from such renewable energy sources as wind power. Instead of debating whether the plan exists, we should be debating its components, and I would suggest that be after ratification.

The second level of criticism holds that much of the plan is expressed as targets or goals. Therefore, we must wait until we have implementing legislation — if there is to be legislation — before we give our consent. Certainly, the devil is always in the details. That argument, however, did not prevent us from ratifying the Convention on Biodiversity, which we signed 10 years ago. We ratified that convention without an action plan, without prior notice of budget measures, without discussion papers, without more than \$23 million worth of consultations and without an implementation plan. Ten years later, we have implementing legislation on the biodiversity convention; it is Bill C-5, in respect of species at risk. We have examined the bill in our Energy, Environment and Natural Resources Committee. One could say that it is also a paper tiger.

Does Bill C-5 tread on the toes of the provinces and territories? Absolutely not. It protects endangered species on federal lands. For the rest of the species, there is the “safety net” of provincial and territorial action. The government reserves the right to act if a province fails to do the right thing. However, the reality is put before the committee. In environmental matters, the federal government almost never steps in when the action or the inaction of a province causes harm beyond its borders.

There are three or four statutes in the environmental field such as the Canadian Environmental Protection Act, CEPA, and the

Clean Air Act, CAA, for which the government has never used its authority in 31 years. The CEPA is particularly significant because it has been touted as best suited to do the job on climate change.

We will see legislation amending CEPA or other acts. I have no inside track but I do know, however, that the ratification of the biodiversity convention did not prevent a prolonged, fulsome and impassioned debate, including amendments, on the species bill, at least in the other place.

Another seed of doubt concerns potential sanctions and penalties. Opponents suggest that if we ratify the Kyoto Protocol then fail to meet our commitment, Canada will pay a heavy price. It is true that there will be a penalty for failing to reduce our greenhouse gas emissions to 6 per cent below our 1990 levels of emissions. It will not be easy precisely because we have wasted 10 years and allowed emissions to rise 19.6 per cent above the 1990 base line. If we do not realize our commitment as we ratify the treaty, what will happen? We will not have to pay millions to other parties to change our laws, in the way that NAFTA Chapter 11 has forced us to do; we will not be subject to trade sanctions that shut down our resource industries; and we will not even be drummed out of the Kyoto club.

The worst penalty for failing to meet our 2010 commitment would be our promise to try harder next time. Whatever shortfall we have, let us hope it will be as little as 10 megatons, must be made up in the reporting period, which begins in 2010, and then add 30 per cent. We would have, in that example, another 13 megatons to add to our next commitment. The other harsh penalty would be that Canada could not sell in an international emissions trading program, and that we must develop a plan for meeting the next commitment. Those are the so-called “teeth” of the protocol — baby teeth at best.

The third and final seeds of doubt are also the seeds of denial. The not-so-subtle message is, “don’t worry, be happy.” It makes no difference whether Canada ratifies the Kyoto Protocol. Canada accounts for only 3 per cent of the Kyoto emissions. If we ratify it but Russia does not commit to reduce its 17 per cent share of emissions, the protocol does not come into force. If Russia does ratify it, however, Canada could make the crucial difference. Our support could be the difference between a global agreement that has enough countries behind it to come into force and a protocol that stops dead. It is in our interests to have a protocol that also requires other countries to act. As a northern country, we bear a disproportionate share of the early impacts of climate change. We are already beginning to feel it, and our colleagues from the North have already told us many times what the impact is.

• (1640)

Let me speak only to the impact in my province. In western Hudson Bay, ice breakup is occurring two weeks earlier, on average, than it did just 20 years ago. Our polar bears are getting lighter and they are having fewer cubs. Our Red River flood of a few years ago was a warning of more natural disasters to come, if we hold with business-as-usual. Flooding in the spring, drought in the summer, that is what we can expect.



Last summer, as honourable senators know, Western Canada had a severe drought that cost billions of dollars and saw shipments of hay rolling west. Less rain in summer and higher temperatures will also mean less water for hydroelectricity, the key energy source in our province. That would have an impact on the glaciers: No glaciers means no runoff.

Our boreal forest will not march north as temperatures rise. Our northern regions lack the soil. Our people in the North will face thawing permafrost that puts buildings, roads, railways and pipelines at risk. Already, they face problems in maintaining winter roads.

**The Hon. the Speaker:** Senator Spivak, I rise to advise you that your 15 minutes have expired.

**Senator Spivak:** Can I have just two minutes?

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

**Hon. Senators:** Agreed.

**Senator Spivak:** Honourable senators, either we alter our impact on the atmosphere or the atmosphere will alter its impact on us. That is the choice. We can make the affordable adjustments now, or we can pay the immensely higher costs of huge impacts in the not too distant future.

As I said last June, it is time to ratify Kyoto. For the sake of today's generation, not just future generations, it is the time to make a national effort to reduce our greenhouse gas emissions. It is time to stop the federal-provincial discord, to bury bogus arguments and to begin our energy future.

**The Hon. the Speaker:** Would you take a question, Senator Spivak?

**Senator Spivak:** Yes.

**Hon. Wilbert J. Keon:** Honourable senators, let me congratulate Senator Spivak on the enormous effort she has poured into this whole field. I fully support the initiatives of the Kyoto Protocol. However, I have a major concern that this is not properly balanced with an investment in science. For example, we do not have any research in Canada into cold fusion. If cold fusion came along the way some people suggest it could come along, fossil fuels would be obsolete in 10 years. We would not pay to take gas or oil out of the ground, and the only effluent in cold fusion is helium, which is harmless. That is just one example. There are other endeavours that we are not pursuing.

In our enthusiasm to ban fossil fuels, we are losing sight of some of the more important things we should be doing. Let me ask you this: In the deliberations that you have been so enthusiastically a part of, has there been any balance injected into the discussions about this?

**Senator Spivak:** Honourable senators, I have not heard about cold fusion. Let me say that I think we have wasted a lot of time. I cannot congratulate this government on what it has done so far; however, I think that it is important to ratify the protocol.

As to alternative energy sources, the Pembina Institute for Appropriate Development, for example, has a detailed list of

what should be done in terms of looking at alternative energies and what is actually possible. It is a practical kind of plan.

The Standing Senate Committee on Energy, the Environment and Natural Resources went to Paris. There we were told that the world consensus is that fossil fuels are on the decline. However, it is always said that we will find new sources. Nonetheless, they were quite emphatic that we have a 50-year horizon. Companies such as Shell Canada and TransAlta have already taken steps, going back some years, to look at alternative sources of energy. In many ways, some industries, though not all, are ahead of the game.

I must also say that we are not in favour of banning fossil fuels — far from it. Based on the government's plans, it appears that we will not be banning fossil fuels. It is unclear what the end result will be.

I have not heard any discussion of cold fusion. Our committee, as Senator Banks knows, will be looking at the Kyoto Protocol, and that is a subject we will enthusiastically take up.

**Hon. A. Raynell Andreychuk:** Honourable senators, I appreciate that Senator Spivak is very committed to the environment and to the Kyoto Protocol, as I think are most Canadians. The dilemma is whether, in fact, it will help or, indeed, save the environment.

Does Senator Spivak know why the European Community, and now the Russians, are so insistent that Canada maintain not the negotiations leading to the Kyoto Protocol but the integrity of the final words that were hammered out on the final day?

**Senator Spivak:** Honourable senators, I do not know what those words are; therefore, I cannot comment on that.

I do not think that the Kyoto Protocol will save the environment. The Kyoto Protocol is a minor first step. It is important, because it is symbolic in that it means that the countries of the world will work towards something. However, according to most scientists, emissions will have to be reduced by 50 per cent to make a real difference. I do not know what those words are. I am not familiar with them.

**Senator Andreychuk:** Is the honourable senator aware that the reason the European Community is committed to this credit system and to the targets afforded them is that, in fact, they were already in a position to have to close down all of the industrial complexes of the former Soviet Union and, particularly, in East Germany? Consequently, the actual effect on their economy and resources will be much less than it will be in Canada, because they were going to avail themselves of the poor economic and industrial structures of the former Soviet Union and the satellite countries along the border.

Already, the European Community has had the benefit of Margaret Thatcher's closing of all of the coal plants, so they were in a good position to accept their targets with all the preplanning they did.

As well, an inordinate amount of aid will be going to Russia from Europe, and this will now be factored into this credit system.

Is the honourable senator aware that that puts Canada at a disadvantage and really does not help the environment?

**Senator Spivak:** Honourable senators, I am aware of all the facts that the honourable senator mentioned. However, under the Kyoto Protocol, there are a number of things that every country can do, and Canada can set its own course. There is no doubt, however, that the Europeans were much smarter about this, I guess, than the Canadians, because they had this advantage. However, Canada can set its own course. There is nothing in the Kyoto Protocol that specifies that Canada must do certain things. Canada, in fact, under the Kyoto Protocol, can have a made-in-Canada solution.

**Hon. Herbert O. Sparrow:** Honourable senators, I have a couple of questions. First, the Minister of the Environment has stated publicly that there would be no cost to the consuming public.

**Senator Spivak:** I do not think he said that.

**Senator Sparrow:** He said that in front of me, in fact.

Since then, in the last few days, they have been discussing the implementation of caps, and so on. However, that was a statement by the Minister of the Environment. I would like the honourable senator's comment on whether there is any validity to her belief regarding that.

Second, the honourable senator did say there would be an increase in employment or jobs. There is a belief out there that there will be a decrease in employment. That is a rather crucial point. I cannot decide whose side I am on, or who I believe in this regard.

My last question relates to the fact that the government can enter into the Kyoto Protocol without coming to Parliament with an international treaty. The question for the honourable senator is: Why is this issue being raised in Parliament? Is it possible that this issue is being brought to Parliament so that when it is proven to be unsuccessful, the government will be in a position to blame Parliament for the action taken?

• (1650)

**Senator Spivak:** Honourable senators, I like the way that Senator Sparrow asks and answers his own questions. I am not privy to the inner secrets of the cabinet, so I cannot answer why they did this. However, there is no question that consumers will have to take their share. Much of that is in regulation.

We already have legislation to make cars, trucks and sports utility vehicles more energy efficient. I have said before that if SUVs could get three more miles per gallon, the United States would not have to import oil from Saudi Arabia.

Therefore, there are many smart things to be done. It just takes guts.

I have forgotten the third question.

**Hon. Roch Bolduc:** Honourable senators, I wish to ask a simple question as a guy who does not know much about these things. If

Canada ratifies the Kyoto Protocol, what will be the economic impact on Toronto as compared to Cleveland, Buffalo and Rochester, for example? The Americans will not approve the accord.

**Senator Spivak:** Forty-two states in the United States have all kinds of provisions. In fact, many of the states are ahead of us in terms of reducing emissions.

Toronto has reduced its emissions by 20 per cent already. I do not think that the impact on Toronto will be excessive because they are well on the road. In fact, the Association of Urban Municipalities has done all kinds of things in various cities, and they are quite resilient and open to all sorts of implementations. I sometimes think that we should cancel provincial governments and just have municipal and federal governments.

**Hon. Marcel Prud'homme:** Honourable senators, I will not speak about Kyoto, but if there is a vote, I will probably vote against it.

The honourable senator said in her speech that there comes a time when central government must act. I belong to another school of thought. Canada is a federation, and in order to function well as a federation, all the partners must be happy.

I come from the province of Quebec, and notice that I did not say that I am a Quebecer. I am a French Canadian from Quebec. I know that people in Quebec have profited highly in tough times thanks to the generosity of Alberta in the old days.

We were beneficiaries in Quebec, and we did not share our water with people who might have needed it. Is not sharing and listening to each other the essence of a federation?

I realize that one of our major economic partners, Alberta, with Mr. Klein, is happy at the moment for a number of reasons. Is it not the essence of a federation to ask for more patience with each other so that at the end of the day we may harmoniously come to what our hope was at the beginning of the day? In other words, the time has come to act because the federal government has spoken.

I am extremely patient, which is why I am a federalist. I can wait for the end of the day to have my say, but I will not refuse to take my responsibility. What is the honourable senator's definition of the Canadian federation?

**Senator Spivak:** Honourable senators, I absolutely agree with Senator Prud'homme that there must be cooperation and collaboration. That is what our country has been about.

However, the honourable senator must remember that Alberta is experiencing the worst drought in their history. They are aware of the problems of climate change. They are worried about their oil industry. Those issues will have to be ironed out when the implementation legislation is actually adopted.

Honourable senators, Alberta has been the co-chair of the consultation process for the past five years. They have been at the table. They will have to come to an agreement eventually, because that is the Canadian way. We compromise.

**Hon. Francis William Mahovlich:** Honourable senators, I have a question for Senator Spivak. I read somewhere that Professor Oppenheimer, one of the great science professors in America, stated that the longer America waits to get on board, the more it will cost. Does the honourable senator think that it will take another catastrophe to get them on board? Is that why they are waiting?

**Senator Spivak:** Honourable senators, it depends on which level of government is being examined. California, for example, has been on this case for a long time, as have many other states. Unfortunately, the administration of the United States seems to be largely composed of retired oil executives.

Honourable senators, I now remember the question of Senator Sparrow regarding jobs. I did not say that there was an increase in jobs; I said that Europe has experienced a huge increase in jobs. The government predicted in one of its statements — perhaps its view is now different — that there would be an increase in jobs.

**Hon. David Tkachuk:** Honourable senators, could Senator Spivak inform the chamber of the position of the Democratic Party in the United States on Kyoto?

**Senator Spivak:** Honourable senators, I am not sure what the Democrats' position is. I am aware that the potential leadership candidates, former Vice-President Al Gore and Senator Joseph Lieberman, are staunch environmentalists. I would suggest that they probably hold the same point of view as the previous administration. Honourable senators will remember that Vice-President Gore saved the Kyoto accord.

**Senator Tkachuk:** Honourable senators, is it not true that even though Vice-President Gore and President Clinton supported the concept of Kyoto, they also knew that in Congress all but one senator would vote for the accord and that probably two thirds of the House of Representatives would vote against the accord? Honourable senators should be aware of that. It is not just the oil executives who oppose the accord. The Democratic Party and everyone else in the United States opposes the accord.

**Hon. Lorna Milne:** Honourable senators, I rise this afternoon to spend a few minutes urging all senators to vote in support of the motion calling for the ratification of the Kyoto Protocol. As honourable senators heard, if you were listening to my speech in reply to the Speech from the Throne, I genuinely believe that this is one of the most important issues facing Canadians today. Climate change is real and measurable. It is having effects on Canada right now. This is a fact, and I urge each honourable senator to understand how I have come to this conclusion and why we need to act now.

• (1700)

It is important that honourable senators understand my personal perspective on this issue. I do not like to talk about myself, but in a previous incarnation I was a scientist. That was my background and my education. Not only did I lecture in the Department of Physics at the University of Guelph once upon a time, but also I taught a course on meteorology, the climate. I understand all too well both the strengths and weaknesses of the scientific method, and I understand how scientists can argue about various hypotheses.

As a scientist, I can tell honourable senators that the earth is warming and humans are part of the cause. That issue has been debated for years in the scientific community and a consensus has been reached. In the scientific community, there is always someone who can argue for or against a position. You can find a scientist to argue for or against a scientific position as easily as you can find lawyer to argue both sides of a point of law. However, in the mainstream scientific community, there is no debate. Honourable senators have probably seen the ads that list Nobel laureates and scientific organizations that say global warming is real; it will have destructive effects; and it will take a long time to fix the problem.

The time for action, as Senator Spivak has pointed out, is now.

What will some of the effects be? If we look, we will find the effects of global warming everywhere. Measurements of the polar ice cap, taken this September, show it is both the smallest in area and the shallowest ever reported. In the last 24 years, the polar ice cap has shrunk by 400,000 square miles. In Greenland, there are peaks 6,500 feet high where the ice is melting. This is the first summer ever that ice has melted in these areas.

If honourable senators wish to see Canada's glaciers, do it soon, for they are vanishing. The United Nations Intergovernmental Panel on Climate Change has predicted that the mean surface temperature of Earth will rise between 1.4 and 5.8 degrees Celsius by the year 2100 and sea levels may rise by two feet or more in some areas. These are almost catastrophic changes. As Dr. Richard Alley, former chair of the American National Research Council's panel on abrupt climate change noted this weekend: "If there is one thing we are almost positive of, it is that nature never does anything smoothly."

Last week, the Agriculture Committee heard a presentation of what will happen in this country as a result. Scientists from Laurentian University in Sudbury outlined how the treeline will move northward. The climate will warm up and new species will migrate northward in Canada. They are already doing that.

That all sounds great until you understand what it means. Potential predators of Canada's northern species will also creep north. This will cause chaos for a time in our ecosystem of the North, in particular, as the old species die off due to increased predation and a less favourable climate. New dominant species will eventually merge after what can only be described as a Darwinian struggle. No one can predict the consequences that this will have on life in this country. It will likely result in the extinction or extirpation of many Canadian species.

One of the biggest changes in our climate will be increased precipitation in this country. Again, I will draw on some ideas that were presented by the professors from Laurentian University. They note that precipitation will decrease overall in Canada as the climate warms up. They also note that what precipitation does fall will likely come in shorter bursts of greater intensity. There will also be less groundwater due to greater and faster surface evaporation. Snow will, on average, come later in the year and will leave earlier. Again, this might not be too bad on a theoretical level, but what does it mean practically?

In Southern Ontario, my own area, temperatures in the winter now average or hover just below the freezing mark, at around minus 2 to minus 4 degrees. As time goes on, however, more of our daylight hours will be spent with temperatures around plus 2 to minus 1 degree. This will be combined with precipitation that comes less frequently but with more intensity, in the form of snow, ice, sleet, slush and freezing rain as temperatures hover above the freezing mark. If that is not a recipe for the kind of ice storm that moved through this area in 1998, I do not know what is. Do we want to be faced with continuing disasters of that magnitude every year in Canada?

In addition, honourable senators, much of the groundwater that Canada's farmers rely on in the growing season falls as snow during the winter. I am sure I do not have to tell Senators Gustafson, Andreychuk or Sparrow how devastating it can be to farmers in Saskatchewan when there is insufficient snowfall. Global warming is a perfect recipe for short winters that will create dust-bowl conditions on our Prairies. Once again, I am compelled to ask: What are we willing to risk? What risks are Canadians willing to take? Winters that are one week shorter, or two or three? When will we cross the climate change line that will eliminate our freshwater sources that are dependent on snowfall?

Honourable senators, the effects of global warming on Canadian agriculture will be disastrous, particularly in the West. I have heard predictions that agriculture in central Alberta is doomed, that it will be a thing of the past. The amount of irrigation necessary to grow a crop in central Alberta will cost more than the market value of that crop.

I remind honourable senators that agriculture is the second largest sector of Canada's economy. One in seven jobs in Canada is based on agriculture. It is vital to our economic well-being.

We must, as a society, admit that the concerns are real, the science is sound and there will be repercussions to inaction. Each and every person who says the science is not sound must be willing to accept the consequences when they come. They must be willing to admit that they are a risk-taker and are ready to gamble Canada's ecosystem on science that does not successfully withstand peer review.

The key decision we must make is what to do about carbon dioxide emissions that are contributing to global warming. I remind honourable senators, as Senator Spivak did, that CO<sub>2</sub> emissions are just a part of the greenhouse gases that are contributing to global warming.

At this point, I will address Senator Lynch-Staunton's amendment that the Senate not proceed until it has heard from provincial and territorial representatives. In Senator Lynch-Staunton's opinion, the provinces and territories have not been sufficiently consulted on the issue. Along with Senator Spivak, I believe that the provinces and territories have already been extensively consulted. There is already broad agreement on potential solutions to 9 of the 12 points raised by the provinces.

This year alone, the federal government has heard from 186 representatives of provincial governments in stakeholder meetings leading up to this debate in both Houses of Parliament.

The Minister of the Environment has met both collectively and individually with all of his provincial counterparts. On at least two occasions in November, Minister Anderson was fully prepared to sit down and further negotiate with them and the provinces cancelled both of those meetings.

All of this is in addition to the hundreds of meetings that the government has had with leaders of industry, business and NGOs across the country. To say that there has been insufficient consultation is absurd.

Honourable senators, the motion that is being proffered by Senator Lynch-Staunton seems to contemplate that, if this motion were to be adopted by the Senate, all consultation with industry groups and provinces would cease. That is not true. Let me be clear about what the government has decided to do. The government is stating that there has been sufficient debate in the country on this subject. We must start to tackle the global warming problem and reduce the CO<sub>2</sub> emissions to 1990 levels, less 6 per cent.

The Kyoto commitment binds Canada to a goal, not to a specific course of action. The government has indicated on innumerable occasions that it will be necessary for further legislation to implement a scheme to take us to that goal. We have 10 years to get there. The details of how to achieve it will come before Parliament for full debate. The Leader of the Government in the Senate has stood in her place here in this chamber and said exactly that. By ratifying the accord, we will put pressure on all Canadians to get the job done. I like pressure and deadlines. It forces people to think and to act. We need that kind of motivation on climate change because the voluntary approach has not worked.

To be fair, I cannot blame honourable senators for wanting more information on how this will affect the day-to-day lives of Canadians before signing on to the accord. Concern about our economy is certainly a justifiable position.

• (1710)

Honourable senators, I have looked at the original estimates of the costs, and I believe they are manageable. I believe the Canadian economy will still continue to grow through this time and may even grow more quickly as we achieve the Kyoto targets.

On the other hand, there may be some bumps along the road. The oil and gas sector may not grow as rapidly as it otherwise would, but it will still grow. We will certainly see some short-term fluctuation in the spot prices for oil, natural gas, steel and other commodities. However, in the long run, upward pressure on these prices from Kyoto will not be anywhere nearly as large as the normal economic pressures that are present in the world today.

The potential impact on Canada's economy is small enough that it is less than the margin of error of the long-term predictions for our economy. In other words, implementing the Kyoto accord will have less negative effect on the Canadian economy than American monetary policy now does. A downturn in the Asian markets or another currency crisis like they had in Mexico and Brazil in recent years has far more potential for negative

economic effects. Kyoto will become just one more pressure among many. It will certainly not be the dominant economic force some are predicting. Most models show that it will affect less than half of 1 per cent of our potential economic growth in total, spread out over 10 years.

I believe that those who are screaming about the negative consequences to Canada's economy if Kyoto is implemented are presenting Canadians with a false set of opinions. Kyoto's opponents are trying to tell us that our choice is between unfettered economic growth and the sacrifices that need to be made to implement the Kyoto Protocol. That is not the choice we are faced with.

I opened my remarks on this issue by outlining the impact of continued global warming on our planet. The real choice we are facing is this: Do we wish to implement Kyoto and, perhaps, slightly slow down economic growth, or do we want to roll the dice and hope we do not face what the scientists agree will be disastrous ecological consequences? That is the real choice.

As I told honourable senators at the outset, the science on this matter is sound. I truly believe that we are facing devastating ecological consequences. Kyoto may not, as a first baby step, be able to stop that process, but we must try.

Honourable senators, we are just stewards of this planet. It is not our right to roll the dice on our planet's ecology. I urge us all to understand the real choice we are making on this issue. I urge all honourable senators to realize that greater damage can be done by destroying our ecology than by slightly slowing the growth of a red-hot economy.

I believe we must get on with implementing Kyoto now. I remind honourable senators that this protocol only covers one small issue, that is, CO<sub>2</sub> emissions, one of the many gases causing global warming. It is a major one. We have a lot of work to do to save our planet, and CO<sub>2</sub> emissions are just the tip of a rapidly melting iceberg. I urge all honourable senators to support this protocol for the sake of our children and grandchildren. If we do not, they will curse us.

**The Hon. the Speaker *pro tempore*:** Will the honourable senator accept questions?

**Senator Milne:** I will.

**Hon. Leonard J. Gustafson:** Honourable senators, I have listened to the speech. On my farm, I had oil producers looking at drilling a new site. I realize there are certain related problems. On the other hand, Western Canada will pay a big price on this.

I have not heard anything about personal sacrifice. North Americans are the worst abusers of energy. Just take a drive through any city. Granted, I have lights in my home. Also, look at how much gasoline is consumed to drive the many miles we all drive. I have heard nothing about these aspects.

One of the scientists who appeared before the Agriculture Committee told us that if we think we have problems now, wait until the lights go on in India and in other countries.

Would the honourable senator comment on the suggestion that, although Canadians may want to ratify the Kyoto Protocol, they do not want it to affect their day-to-day lives?

**The Hon. the Speaker *pro tempore*:** Senator Milne, I must inform you that your time for speaking has expired.

**Senator Milne:** Honourable senators, I would ask leave to answer this question.

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

**Hon. Senators:** Agreed.

**Senator Milne:** I thank Senator Gustafson for his question. We will all have to look around our houses for ways to improve energy efficiency. Many of us will have to insulate our houses better than they are now. Many of us will have to replace our windows and doors. Many Canadians may replace their automobiles. Senator Spivak pointed out that just three miles more to the gallon in the United States would allow the country to be able to get away without importing any oil whatsoever from Saudi Arabia. Small changes made by a large number of people can make an enormous difference and have an enormous effect.

In agriculture, which is the second largest economic driver of Canada's economy, the negative effects of not doing anything will be far worse. If everyone makes small sacrifices, it will make a vast improvement.

I have a lot of respect for Canadian ingenuity. I know that many of the oil companies are already working on energy-saving approaches. Putting alcohol in gas, which burns to create water rather than the various and assorted chemical soups that add to the atmosphere, particularly around Toronto, will make a tremendous difference. That also will help agriculture.

I see a climate change that has started. Unless that is reversed somewhere down the road, we will find ourselves in big trouble. One of the problems with carbon dioxide, of course, is that the molecules are so light they stay in the air for maybe 100 years. It is not like sulphur emissions, which wash out of the sky with the next rain or two because they are large, heavy molecules. Carbon dioxide is light and stays in the atmosphere for a long, long time. It will take a long time to get rid of it.

Senator Keon talked about cold fusion. Cold fusion would be a wonderful thing, whenever and if ever it does happen. Thus far, it is a shimmer on the horizon that constantly recedes as we draw closer.

**Senator Gustafson:** Scientists have us confused. On the one hand, Monsanto is telling us that we should use genetically modified grain and Roundup, which kills weeds, thereby leaving the moisture in the soil for the plants. Other scientists tell us that that is a bad direction in which to go and that we must not go there. Certainly, the community at large is very concerned and somewhat confused as to what to do.

**Senator Milne:** Senator Gustafson is quite right. The agricultural community hears opposing views as to whether to use Roundup-ready crops and, therefore, not have to spray. Doing so would save all the chemicals that go into those sprays from being used, in addition to preventing weeds from using moisture out of the ground. On the other hand, market forces are making genetically modified crops more and more unsaleable. Agriculture is in a real dilemma about this, and I do not have the answers.

**Senator Tkachuk:** Honourable senators, I am happy that we have a scientist here, because I need a significant amount of help with Kyoto. I am sure that the climatologists and scientists are talking about the effects, or the alleged effects, as I like to call them, of CO<sub>2</sub> on the climate of the earth.

• (1720)

Perhaps the honourable senator could tell us if there have been any studies done on the effect this will have on the automobile industry. We hear about sports utility vehicles being bad, which is not true at all. An SUV uses the same amount of gas as a minivan, with the exception of the huge ones rich people drive.

What will this mean to industry? Have any scientific studies been done as to what degree carbon dioxide will be reduced? How will it affect the oil industry? We do not have any of this information in front of us. The government has not tabled any of it. We are acting with very bad information.

On the information the government has provided us to date, would the honourable senator make a scientific deduction on Kyoto?

**Senator Milne:** Honourable senators, I have made my deduction. I have listened. I have heard. I believe that Kyoto is absolutely necessary. It may even be too little, too late, but we must start somewhere.

As to the other points the honourable senator mentioned, certainly the car manufacturers are way ahead of us. In an effort to reduce the amount of gas used, many car manufacturers are going to dual-drive vehicles that operate on electricity when they stop at a stoplight and then the gas kicks in when they go down the highway.

As I said to Senator Gustafson, adding alcohol to the gas that is burned in SUVs will probably do the difference.

**Senator Tkachuk:** I understand what the honourable senator is saying. Senator Milne is a scientist.

**Senator Milne:** I was.

**Senator Tkachuk:** She has the ability to understand the material. We are here as representatives of the people and have listened to experts before. I remember all the experts on the GST. I remember all the experts on the firearms bill. I remember the experts who told us, "You should listen to us because we are the experts and we are smarter than all you people." We have an expert in the Leader of the Government in the Senate, who tells us that no one should own guns.

Does the honourable senator believe that we are adequately prepared to make this decision? I am not referring just to Senator Milne herself. Does she believe that all honourable senators are prepared? Has the government provided the scientific, economic and technological information that parliamentarians need to vote on this matter in a knowledgeable way? Does the honourable senator think that the government has provided the same information to the House of Commons, or is it just a whip vote we will see tomorrow?

**Senator Milne:** I should inform Senator Tkachuk that the vote has already happened in the House of Commons, and the Kyoto Protocol passed by over 190 votes for to 77 votes against.

**Some Hon. Senators:** Hear, hear!

**Senator Milne:** If the honourable senator had received the same amount of material across his desk as I have received across mine — it is a pile 10 inches high — and if he had read it, he would know far more than I.

[Translation]

**Hon. Joan Fraser:** Honourable senators, I have already talked about the Kyoto Protocol during the debate on the Speech from the Throne. I will not try your patience by repeating what I have already said.

[English]

I wanted the record of this truly historic debate on this motion to show that I am strongly in favour of the speedy ratification of the Kyoto Protocol and that I am, therefore, strongly in favour of the passage, unamended, of the motion proposed by the Leader of the Government.

[Translation]

**Hon. Laurier L. LaPierre:** Honourable senators, it is with great honour that I rise to support the ratification of the Kyoto Protocol, which is the most important instrument on which I have voted in my two or three years in the Senate.

The Kyoto Protocol is a national blueprint, like Confederation in 1867, like our participation in World War I in 1914 — like the Depression in 1930 — and also like the events that took place in 1945.

In other words, there were times in the Canadian history when we took great risks to fulfil the dream of our founding fathers, the dream of those who created our country or who, over a period of 130 years, supported it and developed it.

Confederation is not perfect. It must be worked on every day. Compromises must be made every day. It is by making compromises that we will reconcile all the elements of this nation and be able to pursue what we must pursue to give mankind, our planet, our children and grandchildren the respect that they deserve.

I have polluted this planet. I have put my children and grandchildren at risk. Today, I am turning over a new leaf.

[English]

In my youth, when we were environmentalists, without knowing exactly what that meant, we used to say, "Think globally, but act locally." Therefore, the battle for cleaner air or climate warming disasters ends essentially with our capacity to act locally.

I advise honourable senators to look at my magnificent and glorious Web site in about two weeks to receive a statement on how we can individually contribute. I will see to it that my magnificent newsletter is distributed amply amongst honourable senators for further discussion.

[Translation]

This is an important point.

[English]

I am very nice because it is Christmas. I am very fond of Christmas. Therefore, at Christmas, I will give by voting in favour of this protocol. This is my gift to my nation, to the nations of the world and to the children of the world. Let it be the gift of other honourable senators as well, and let us deal with this matter as quickly as possible. If we could ratify the Kyoto Protocol today, I would be very happy, and it would be the greatest gift I could possibly be given.

**The Hon. the Speaker:** I have Senator Andreychuk as the next speaker on my list.

**Senator LaPierre:** She should have been here.

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

On motion of Senator Kinsella, for Senator Andreychuk, debate adjourned, on division.

### POINT OF ORDER

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I rise on a point of order. It has been a long-held practice in parliamentary procedure in both Houses, well-recorded in procedural literature, that the presence or absence of a senator is not mentioned.

**Hon. Laurier L. LaPierre:** I withdraw the remark.

**The Hon. the Speaker:** I appreciate Senator LaPierre's withdrawal of the remark.

### CODE OF CONDUCT AND ETHICS GUIDELINES

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

On the Order:

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

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

And on the motion in amendment of the Honourable Senator Joyal, P.C., seconded by the Honourable Senator Losier-Cool, that the motion be amended by adding the following:

"That the Committee, in conjunction with this review, also take into consideration at the same time the code of conduct in use in the United Kingdom Parliament at Westminster, and consider rules that might embody standards appropriate for appointed members of a House of Parliament who can only be removed for cause; and

That the Committee make recommendations, if required, for the adoption and implementation of a code of conduct for Senators, and concerning such resources as may be needed to administer it, including consequential changes to statute law that may be appropriate."

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I can rise and raise several issues, but I know that the issues will be canvassed with much greater precision and research by my colleague Senator Beaudoin, who will speak on this topic tomorrow.

• (1730)

Honourable senators, I am confident that one of the issues Senator Beaudoin will canvass is the right to privacy, which is guaranteed by the Canadian Charter of Rights and Freedoms to all Canadians, including those who serve in this distinguished house. Therefore, it is a serious human rights issue. The rights of Parliament are collective, and there are individual rights that speak to the rights of individual members who have the honour and privilege to serve in this chamber. We do not forgo our Charter rights when we become a member of this house. I believe serious reflection must be given to the right of privacy of senators and, if necessary, we ought to exert that right.

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

### NUCLEAR SAFETY AND CONTROL ACT

#### BILL TO AMEND—FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-4, to amend the Nuclear Safety and Control Act.

Bill read first time.

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

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

### **ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES**

#### **BUDGET—REPORT OF COMMITTEE ADOPTED**

The Senate proceeded to consideration of the fourth report of the Standing Senate Committee on Energy, the Environment and Natural Resources (budget—study on emerging issues related to its mandate—power to travel and hire staff) presented in the Senate on December 5, 2002.—(*Honourable Senator Banks*).

**Hon. Tommy Banks** moved adoption of the report.

Motion agreed to and report adopted.

### **AGRICULTURE AND FORESTRY**

#### **BUDGET—REPORT OF COMMITTEE ADOPTED**

The Senate proceeded to consideration of the second report of the Standing Senate Committee on Agriculture and Forestry (budget—study on climate change—power to travel and hire staff) presented in the Senate on December 5, 2002.—(*Honourable Senator Oliver*).

**Hon. Donald H. Oliver** moved the adoption of the report.

Motion agreed to and report adopted.

### **TRANSPORT AND COMMUNICATIONS**

#### **BUDGET—REPORT OF COMMITTEE ADOPTED**

The Senate proceeded to consideration of the second report of the Standing Senate Committee on Transport and Communications (budget—study on issues facing the intercity bus industry—power to hire staff) presented in the Senate on December 5, 2002.—(*Honourable Senator Fraser*).

**Hon. Joan Fraser** moved the adoption of the report.

Motion agreed to and report adopted.

### **FOREIGN AFFAIRS**

#### **BUDGET—REPORT OF COMMITTEE ADOPTED**

The Senate proceeded to consideration of the second report of the Standing Senate Committee on Foreign Affairs (budget—study on Canada-United States and Canada-Mexico trade relationships—power to travel and hire staff) presented in the Senate on December 5, 2002.—(*Honourable Senator Stollery*).

**Hon. Peter A. Stollery** moved the adoption of the report.

Motion agreed to and report adopted.

### **NATIONAL SECURITY AND DEFENCE**

#### **BUDGET—REPORT OF COMMITTEE ADOPTED**

The Senate proceeded to consideration of the third report of the Standing Senate Committee on National Security and Defence (budget—study on the need for a national security policy for Canada—power to travel and hire staff) presented in the Senate on December 5, 2002.—(*Honourable Senator Kenny*).

**Hon. Colin Kenny** moved the adoption of the report.

Motion agreed to and report adopted.

### **ABORIGINAL PEOPLES**

#### **BUDGET—REPORT OF COMMITTEE ADOPTED**

The Senate proceeded to consideration of the second report of the Standing Senate Committee on Aboriginal Peoples (budget—study of issues affecting urban Aboriginal youth—power to travel and hire staff) presented in the Senate on December 5, 2002.—(*Honourable Senator Chalifoux*).

**Hon. Landon Pearson** moved the adoption of the report.

Motion agreed to and report adopted.

### **STUDY ON NEED FOR NATIONAL SECURITY POLICY**

#### **INTERIM REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE—DEBATE ADJOURNED**

The Senate proceeded to consideration of the second report (interim) of the Standing Senate Committee on National Security and Defence, entitled: "For an Extra 130 Bucks... Update on Canada's Military Financial Crisis, A View from the Bottom Up," deposited with the Clerk of the Senate on November 12, 2002.—(*Honourable Senator Kenny*).

**Hon. Colin Kenny** moved the adoption of the report.

On motion of Senator Robichaud, debate adjourned.

### **STUDY ON STATE OF HEALTH CARE SYSTEM**

#### **FINAL REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE—DEBATE CONTINUED**

On the Order:

Resuming debate on the motion of the Honourable Senator Kirby, seconded by the Honourable Senator Cook, for the adoption of the third report (final) of the Standing Senate Committee on Social Affairs, Science and Technology, entitled: "The Health of Canadians — The Federal Role, Volume Six: Recommendations for Reform," tabled in the Senate on October 25, 2002.—(*Honourable Senator LeBreton*).



**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I believe the Honourable Senator Keon had intended to speak, but we are all conscious of the time and we know that our colleagues opposite have a busy evening as well.

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

## RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

### FIFTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the fifth report of the Standing Committee on Rules, Procedures and the Rights of Parliament (amendment to Rule 95(3) — committee meetings during adjournments of the Senate) presented in the Senate on December 3, 2002.—(*Honourable Senator Milne*).

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

Motion agreed to and report adopted.

## BUSINESS OF THE SENATE

**Hon. Mira Spivak:** Honourable senators, may I ask leave to revert to Order No. 6?

**The Hon. the Speaker:** It is passed, Senator Spivak.

**Senator Spivak:** It went to committee?

**Senator Milne:** It passed.

• (1740)

**The Hon. the Speaker:** With the help of the Table, Senator Spivak, I can advise that Order No. 6 was the second report of the Standing Senate Committee on Aboriginal Peoples, and it was adopted earlier today.

We will continue with the Order Paper and you can rise, Senator Spivak, and request leave. However, I would point out that it is not Order No. 6 on our Order Paper.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** To be helpful, I think Senator Spivak is referring to No. 6 not under Committee Reports but, rather, under Senate Public Bills.

**Senator Spivak:** I believe it is under Other Business.

**Senator Kinsella:** I would refer to page 9 of the scroll. There you will see the item dealing with Bill S-3.

**Senator Spivak:** Have we dealt with that already?

**The Hon. the Speaker:** We dealt with it by standing it. Senator Spivak is requesting leave to return to debate on second reading of Bill S-3; is that correct?

**Senator Spivak:** That is correct.

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

**Some Hon. Senators:** No.

**The Hon. the Speaker:** I hear a dissenting voice.

## TRANSPORT AND COMMUNICATIONS

### MOTION TO AUTHORIZE COMMITTEE TO STUDY MEDIA INDUSTRIES—ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Gauthier:

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.—(*Honourable Senator Stratton*).

**Hon. Laurier L. LaPierre:** Honourable senators, the hour is late, and I am in great need of a scotch. There is a party of the Liberal caucus. However, I do want to return to this important question and speak for my entire 15 minutes. I realize I will not be able to do that unless you get angry with me, and most of you are already angry with me. Consequently, it being Christmas, I will give you the gift of my silence for the moment, but I shall return to this order.

Order stands.

[Translation]

## BUSINESS OF THE SENATE

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, perhaps we were a little too quick in asking that this item stand, because I think Senator Morin wanted to say a few words, and I see that Senator Roche also wishes to rise on this issue.

**Hon. Yves Morin:** Honourable senators, since it is getting late, I will rise on another day.

[English]

**The Hon. the Speaker:** Does Senator Roche share that feeling? No. I am calling Item No. 4, the inquiry of Senator Oliver relating to AIDS-HIV. Why are you rising, Senator Roche?

**Hon. Douglas Roche:** I am well aware of the hour, honourable senators, but I just want to say that that it has been two months to the day that this item has been stood. I raised the point earlier publicly, as I have done privately. It is time to dispose of this issue. I should like to have the opportunity, if you will grant it to me, to speak last and close the debate.

**The Hon. the Speaker:** We are still on Item No. 4.

**Hon. Senators:** There are two items No. 4.

**The Hon. the Speaker:** To clarify the proceedings in the chamber, honourable senators, we have stood item No. 6, the motion of Senator Oliver on Canadian farmers at risk, and we are currently on Item No. 4, the motion dealing with AIDS-HIV. There was to be a speaker, but I believe Senator Morin has forgone that opportunity today and will speak another day. Accordingly, this matter will stand, if I understand the will of the chamber.

Senator Roche has commented on Item No. 4, but perhaps some senators may wish to speak.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, the Speaker did not warn the house that, should Senator Roche speak, it would have the effect of closing the debate, and we do not want to have the debate closed.

**The Hon. the Speaker:** We should hear from the whips.

**Hon. Bill Rompkey:** The motion stands in my name, and I have agreed to defer to Senator LaPierre, but I would suggest that, in view of the hour, we stand it until Senator LaPierre has a chance to speak at the next sitting of the Senate, if that is agreeable.

**The Hon. the Speaker:** Just to clarify, I do not consider Senator Roche as having spoken. I appreciate it being drawn to the house's attention that if he did speak, it would have the effect of closing the debate, which has always constituted a warning so that other senators wishing to speak could do so. Senator LaPierre wishes to speak, as does Senator Morin.

Do you wish to speak now, Senator LaPierre?

**Senator LaPierre:** No, sir. I always obey the whip.

[Translation]

## ILLEGAL DRUGS

### REPORT OF SPECIAL COMMITTEE— INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Nolin calling the attention of the Senate to the findings contained in the Report of the Special Committee of the Senate on Illegal Drugs entitled "Cannabis: Our Position for a Canadian Public Policy", tabled with the Clerk of the Senate in the First Session of the Thirty-seventh Parliament, on September 3, 2002.—(*Honourable Senator Prud'homme, P.C.*)

**Hon. Marcel Prud'homme:** Honourable senators, I rise today to comment on the excellent report of the Special Committee of the Senate on Illegal Drugs, chaired by the Honourable Senator Nolin.

I must begin by pointing out that the committee has carried out an analysis of the cannabis problem in Canada that was painstaking and objective, and thorough as well, thus doing away with the prejudices and moralizing that have too often coloured the discussions around adoption or reform of a national policy on this issue for close to a century. Over the past three months, the committee's recommendations, which were both

audacious and intelligent, have had the merit of stirring up a healthy debate within Canadian society.

Honourable senators, I wanted to give you some context for the work of the special committee, having been involved in the Le Dain commission's work more than 30 years ago. That royal commission of inquiry was created on May 29, 1969, in response to the sudden and precipitous rise in cannabis use by young people in the mid-1960s. For example, in 1964, there were 78 charges for cannabis use or dealing, and 28 convictions. By 1973, these figures had risen to 37,668 and 19,929 respectively!

Given such alarming statistics, the mandate of the commission was to propose a reform of our national policy on drugs, since the one and only course of action available, police crackdowns and criminal law, was no longer sufficient to eradicate the use of illegal drugs in Canada. In order to carry out its mandate, the commission had the difficult and tricky job of determining the factors that lead to drug use and assessing the psychological and physiological effects of these substances based on epidemiological and scientific research.

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I believe that the stenographers are having problems keeping up with Senator Prud'homme. I am prepared to give him the time he needs to finish his speech so that we can all understand him.

• (1750)

**Senator Prud'homme:** Honourable senators, I wittingly put the emphasis on the tricky nature of the work of the Le Dain commission because, unlike the committee chaired by Senator Nolin, the commission did not have access to the large number of scientific studies on cannabis or other drugs produced in Canada, the United States or Europe during the last 15 years. At the outset, the commission was up against a restrictive drug policy that had been in place since 1908, when the Opium Act was passed.

Indeed, because of this, the commission had to distance itself from the moralist and alarmist attitudes that advocated prohibition. These attitudes were rampant in the federal bureaucracy, the media, temperance movements and the police, and they were broadly disseminated across civil society throughout the first half of the 20th century.

Initially, prohibition was essentially intended to protect society from the criminality and moral or socio-economic consequences of the terrible scourge of drug use, even if it meant incarceration of users. The purpose of this punishment was to attain lofty moral and social objectives in order to save the virtue of the users, particularly young people from good white families. This policy would in the end be beneficial to society, because it reinforced public safety, productivity and respect for conservative moral values.

For example, in 1922, Emily Murphy wrote the following on the crime-inducing and immoral qualities of cannabis in her book *The Black Candle*:

Persons using this narcotic smoke the dried leaves of the plant, which has the effect of driving them completely insane. The addict loses all sense of moral responsibility ... While in this condition they become raving maniacs and are liable to kill or indulge in any form of violence to other persons, using methods of the most savage cruelty without, as said before, any sense of moral responsibility.

In other cases, racism, the survival of the white and Anglo-Saxon race in certain regions of the country, the influence of the United States or the concern for Canada's prestige in the eyes of the world constituted the elements that allowed prohibition to acquire a degree of legitimacy with Canadians.

To tell the truth, until the Le Dain commission started its work, considerations of public health, ethics or reference to serious scientific research in support of legislators' choices were utterly ignored by public authorities. Not having ready access to sources of information not connected to the government or the media, Canadians accepted prohibitionist arguments unquestioningly until the mid-sixties.

This situation also enabled the federal Parliament to impose, more often than not without debate, severe sentences for simple possession of cannabis and, in certain cases, the lash. This situation also made it easy for police forces to be given extraordinary powers of investigation or of criminal procedure as far as shadowing, search and evidence were concerned.

So, when this prohibition took effect in Canada, there was a serious violation of the fundamental liberties of Canadians and indiscriminate police crackdowns on cannabis users.

Some of you may find my comments exaggerated, demagogic even. If so, I strongly recommend that you read chapter 12 of the report produced by Senator Nolin's committee. You will see that federal parliamentarians, both in the Senate and in the other place, have, for close to a century now, frequently referred to the factors I mentioned when we were considering legislative amendments to our drug policy. Here are some examples.

In 1922, during a debate on an amendment to the Opium and Narcotic Drug Act, to deport any immigrant found guilty of an offence under the act, the Honourable Simon Tolmie, M.P., said:

— it might be impossible to get rid of these orientals and foreigners who have become naturalized, but if we deport those who have been convicted of taking part in this traffic ... we are moving in the direction of solving this oriental question.

One year later, in 1923, cannabis was listed in the schedule to the Opium and Narcotic Drug Act, no reason being given by the Minister of Health of the day, the Honourable Henri-Séverin Béland. In spite of everything, cannabis was now considered as dangerous as heroin and cocaine on the one hand, and subject to the most compelling provisions of the act on the other hand.

In June 1955, a report by the Senate committee on drug trafficking refused to reduce the criminal penalties for drug users, under the pretext that drug addiction was:

— a symptom or manifestation of character weaknesses or personality defects in the individual. The addict is usually an emotionally insecure and unstable person who derives support from narcotic drugs.

On June 28, 1955, Senator R.B. Horner, whom I had the honour of knowing and with whom I sat, pushed this reasoning further by saying that most drug addicts:

...come from homes where there is too much idleness and where there is no useful work to be done.

I suggest that idleness is one of the chief causes of drug addictions.

In order to counter this anachronistic attitude and to provoke a real societal debate on our national policy on cannabis and other drugs for the first time, the Le Dain commission heard from 639 individuals and groups. In all, hearings were held in 27 cities, including Ottawa and all of the provincial capitals, and the commission travelled some 50,000 miles across the country. Despite commission staff having produced a series of scientific studies demonstrating the pressing need for reform, old myths were still clearly present in the minds of many who took part in the commission's work.

As evidence of this, I myself had to intervene between two groups of individuals who came to blows during one of the public hearings.

On many levels, honourable senators, I can confirm today that the commission fulfilled its mandate brilliantly, thanks to a serious research plan. As well, the intellectual rigour and the perseverance with which the members of the commission carried out their work led to the publication of four reports, including a special report on cannabis, in 1972; and a final report in 1973.

In the case of cannabis, the recommendations made by the Le Dain commission, while they were not unanimous, did lead many Canadians to confront their prejudices about the use of such a drug with the new realities and modern values of Canadian society. I am referring here to tolerance, compassion and respect for individual rights. They also discovered that cannabis was no more dangerous than tobacco or alcohol. As a result, during the years that followed, proposals for decriminalization or legislation controlling the use of cannabis came to be viewed as viable alternatives to prohibition. In 1974, the Senate considered Bill S-19, which leaned in this direction. Unfortunately, it was never passed.

Honourable senators, more than 30 long years have passed since the Le Dain commission completed its work, and its recommendations, innovative as they were, were never implemented.

• (1800)

Yet, despite the fact that billions of dollars have been spent in the war against drugs, which is impossible to win, despite the fact that there have been too many deaths caused by the excessive use of illicit drugs or the lack of proper prevention programs, despite the fact that over 500,000 Canadians have a criminal record for simple possession of cannabis, with all the consequences that it implies, the utopia of a drug-free Canada never became a reality, even though it may have been a beautiful dream.

[English]

**The Hon. the Speaker:** Senator Prud'homme, I regret to interrupt, but I must advise the house that it is six o'clock.

Is it your desire, honourable senators, not to see the clock?

**Hon. Senators:** Agreed.

[Translation]

**Senator Prud'homme:** Yet, in 1996, instead of showing leadership and imagination, the federal Parliament confirmed that prohibition remained the cornerstone of our national drug policy when it passed the Controlled Drugs and Substances Act.

In my opinion, since 1908, successive governments, regardless of their political stripes, displayed deliberate thoughtlessness and even hypocrisy when they proposed legislation that supported prohibition.

Honourable senators, this situation can no longer go on indefinitely. Our approach to the issue of cannabis must no longer be based on moral values, prejudice or anecdotal evidence, but on a series of objective guidelines that will define the role to be played by Parliament, criminal law, science and ethics in a public policy on cannabis. In that context, I support the recommendation of Senator Nolin to the effect that Canada must at the very least develop a true national strategy on psychoactive substances so that drug addiction can be considered and treated first and foremost as a public health issue.

Whether this strategy is to encourage decriminalization or merely regulation of cannabis use, the reaction of the United States, which worries me a good deal, as well as our obligations toward the international community have left me not yet prepared to reach a conclusion on this matter. I therefore plan to take an active part, over the coming months, in the major debate Senator Nolin has initiated.

In closing, I would like to pay tribute to the Leader of the Government in the Senate, Senator Carstairs, with her committee on palliative care, and to Senator Kirby, with his excellent study on the future of the Canadian health care system. I should point out that, once again, Senator Nolin has demonstrated how well equipped the Senate is to carry out studies on highly controversial issues in an atmosphere that is totally devoid of partisan politics.

[English]

**The Hon. the Speaker:** Senator Prud'homme, I regret to advise that your 15 minutes have expired.

**Senator Prud'homme:** I have only one paragraph left.

**The Hon. the Speaker:** Senator Prud'homme is asking for leave. Is leave granted?

**Hon. Senators:** Agreed.

[Translation]

**Senator Prud'homme:** I sincerely believe that all Senate standing committees should take their inspiration from these successful experiences in order to enable this chamber to more effectively fulfil its role as a chamber of sober second thought and to meet the true aspirations of Canadians in all parts of this country.

On motion by Senator Morin, debate adjourned.

[English]

## FOREIGN AFFAIRS

### COMMITTEE AUTHORIZED TO STUDY THE EUROPEAN UNION

**Hon. Peter A. Stollery,** pursuant to notice of December 5, 2002, moved:

That Standing Senate Committee on Foreign Affairs be authorized to examine the consequences for Canada of the evolving European Union and on other related political, economic and security matters;

That the papers and evidence received and taken during the First Session of the Thirty-seventh Parliament be referred to the committee; and

That the Committee report to the Senate no later than March 31, 2004.

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

[Translation]

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, is the purpose of this motion to continue work that has already begun and simply to complete it?

[English]

**Senator Stollery:** Honourable senators, the motions standing in my name on the Notice Paper are traditional motions of the Standing Senate Committee on Foreign Affairs. There is no cost to the Senate. Adopting these motions will allow the committee to continue to keep a watch on the subject matter that the committee has traditionally followed.

**Some Hon. Senators:** Question!

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

Motion agreed to.

### COMMITTEE AUTHORIZED TO STUDY EMERGING DEVELOPMENTS IN RUSSIA AND UKRAINE

**Hon. Peter A. Stollery,** pursuant to notice of December 5, 2002, moved:

That Standing Senate Committee on Foreign Affairs be authorized to examine emerging political, social, economic and security developments in Russia and Ukraine; Canada's policy and interests in the region; and other related matters;

That the papers and evidence received and taken during the First Session of the Thirty-seventh Parliament be referred to the Committee; and

That the Committee report to the Senate no later than March 31, 2004.

Motion agreed to.

COMMITTEE AUTHORIZED TO STUDY ISSUES  
RELATED TO FOREIGN RELATIONS

**Hon. Peter A. Stollery**, pursuant to notice of December 5, 2002, moved:

That Standing Senate Committee on Foreign Affairs, in accordance with rule 86(1)(h), be authorized to examine such issues as may arise from time to time relating to foreign relations generally;

That the papers and evidence received and taken during the First Session of the Thirty-seventh Parliament be referred to the Committee; and

That the Committee report to the Senate no later than March 31, 2004.

Motion agreed to.

NATIONAL SECURITY AND DEFENCE

COMMITTEE AUTHORIZED TO DEPOSIT REPORT WITH  
CLERK DURING ADJOURNMENT OF THE SENATE

**Hon. Colin Kenny**, pursuant to notice of December 5, 2002, moved:

That the Standing Senate Committee on National Security and Defence be permitted, notwithstanding usual practices, to deposit its interim report on national security with the Clerk of the Senate during the Christmas adjournment, and that the report be deemed to have been tabled in the Chamber; and

That copies of the report will made available to all Senators in their offices and by e-mail at the time of tabling.

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

**Hon. Eymard G. Corbin:** Honourable senators, I stood the debate on the fourth report of the Standing Committee on Rules, Procedure and the Rights of Parliament respecting matters of this nature.

I wish to say, first, that I am all in favour of the work that Senator Kenny is doing. That is not my question at this time. In fact, I spoke in favour of these initiatives last year.

One thing bothers me: Why is the honourable senator planning to deposit this report with the Table during a period of adjournment? That is where I have a problem with the fourth report. In keeping with the traditions of Parliament, committees are creatures of the Senate. Committees have a duty to report back to the house first and foremost. When I say "to the house," I mean the house while it is sitting or in session.

I am not too keen on the current trend of tabling reports for this or that reason, for PR reasons, matters of urgency, and so forth, when the principal onus of the committee is to report back to honourable senators in attendance in the Senate. That has been a long-standing practice.

• (1810)

Will we take second place to the press in a public relations exercise? Is there any meaning left in the institution, which entails an obligation for committees to report to the whole house, first and foremost, and to have the debate here and not on the television screens of the nation, on the Internet of the world and what have you?

If the Senate authorizes the committee to undertake this kind of study and provides for generous budgets, basic courtesy would be to report here, to the honourable senators who made the study possible.

These studies are not hobbies. They are not lone-ranger exercises, if I may use a colourful expression. These studies belong to the Senate.

Perhaps the honourable senator could explain why he has chosen to request permission to table the committee's report at a time when we all know the Senate will not be sitting. What is behind this motion?

If the honourable senator is able to provide me with an appropriate answer, I may be able to debate the fourth report of the Standing Committee on Rules, Procedure and the Rights of Parliament and move things along.

I warn honourable senators that I am a traditionalist. There are some things that I do not accept lightly. I have read and heard a number of my colleagues, especially newer colleagues, call for a reform of the Senate from within. If we were to do that, there may be tendency to throw out some well-established traditions, which mean to me, first and foremost, respect for what this institution is all about.

I should like to hear the comments of the Honourable Senator Kenny.

**Senator Kenny:** Honourable senators, I wish to thank the Honourable Senator Corbin for his comments, which are apt, timely and appropriate. I apologize to honourable senators for being remiss in not following the rules more precisely. The rule calls on senators to rise and explain to the house why they are seeking this dispensation. I can only attribute my failure to do so to the hour of the day. I was asleep at the switch and did not rise to make the appropriate explanation at the time. I should have. The Honourable Senator Corbin has given me a chance to redeem myself, which I will endeavour to do now.

The Standing Senate Committee on National Security and Defence has been meeting on a fairly regular basis. A couple of days ago, we requested and received authority from the Senate to meet during the Christmas break between January 6 and 10. It is the intention of the committee to meet during the break and continue to work on the report, as it did this afternoon and yesterday.

The request is before the Senate because it is appropriate that the committee obtain authority from the Senate to meet during this time. The honourable senator's comment about the committee being the creature of the Senate is absolutely correct. It is up to honourable senators to determine when, if and how the report will be tabled. I accept that entirely. If it were not convenient for the Senate to have the report tabled with the clerk, then I would accept that with equanimity.

As to the reasons, it is fair to say that members of the committee feel that this report, which relates to the safety of airports and aircraft, is timely. The committee is, perhaps, being somewhat presumptuous, but we think some of the recommendations we will make are urgent and that they should be made public as soon as possible. It is for that reason that we are eager to have these views on the public record as quickly as we can.

The committee has determined that there are a significant number of problems that relate to the safety of aircraft and airports. It was with that in mind that it struck us as being unfortunate that, if we had completed a report, including one with recommendations, we should remain silent on it. It is not a question of timing. The committee did not ask itself how it could finish up the work early in January. The work was finished when the work was finished.

The committee met today with respect to the final recommendations that we would like to see in the report. We

expect to conclude our deliberation on recommendations at the beginning of January. The committee was of the view that the Senate would like to have those recommendations made public at the earliest possibility opportunity.

If that is not the case, then we will do whatever this chamber asks us to do.

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

**Some Hon. Senators:** Agreed.

**An Hon. Senator:** On division.

Motion agreed to, on division.

The Senate adjourned until Wednesday, December 11, 2002, at 1:30 p.m.

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