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OFFICIAL REPORT
(HANSARD)

Thursday, December 12, 2002

THE HONOURABLE DAN HAYS
SPEAKER

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THE SENATE

Thursday, December 12, 2002

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

Prayers.

[*Translation*]

ROYAL ASSENT

NOTICE

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL

December 12, 2002

Mr. Speaker,

I have the honour to inform you that the Right Honourable Adrienne Clarkson, Governor General of Canada, will proceed to the Senate Chamber today, the 12th day of December, 2002, at 5 p.m., for the purpose of giving Royal Assent to certain bills of law.

Yours sincerely,

Barbara Uteck
Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

[*English*]

SENATORS' STATEMENTS

QUESTION OF PRIVILEGE

NOTICE

Hon. E. Leo Kolber: Honourable senators, pursuant to rule 43, I give oral notice that I wish to raise a question of privilege, written notice of which I gave to the clerk's office this morning.

[*Translation*]

COMMONWEALTH GAMES

SWIMMING CANADA—ADMONISHMENT OF COMPETITOR FOR WAVING QUEBEC FLAG

Hon. Jean Lapointe: Honourable senators, I rise to speak today out of indignation about the hue and cry stirred up by Swimming Canada when Montreal swimmer Jennifer Carroll waved a Quebec fleur-de-lis flag at the last Commonwealth Games.

I am delighted that several ministers have pointed out how ridiculous the situation was and have spoken out in her favour. It is obvious that Jennifer Carroll's intentions were not political in the least, but merely a gesture of gratitude toward her sponsors, her friends, her family and everyone who had supported her.

As for Canadian swimming coach Dave Johnson, it seems he may have had an acute over-reaction in calling for the young athlete's suspension for six months for what she did. Is Jennifer Carroll not a Canadian from Quebec, after all?

Furthermore, we did not get all up in arms when Catriona Lemay-Doan waved the flag of Saskatchewan at the Salt Lake City Winter Olympics. Why should so much significance be attached to the actions of this athlete from Quebec? I am just asking.

Honourable senators, as far as I can see, Dave Johnson has three options. First, he could resign and make way for a coach who would focus on athletic performance rather than political propaganda. Second, he should perhaps run for the Canadian Alliance. Or, third, he could simply go jump in the lake, or rather in an Olympic-sized pool!

[*English*]

CANADA COUNCIL FOR THE ARTS

RETIREMENT OF SHIRLEY THOMSON, DIRECTOR

Hon. Laurier L. LaPierre: Honourable senators, at the end of this month, Ms. Shirley Thomson will retire as Director of the Canada Council for the Arts, a post she has held for the past five years, and a remarkable five years it has been.

Ms. Thomson admits it took her a long time to discover a career, one that began in 1981 when she received her Ph.D. in art history at McGill University. After directing the destinies of the McCord Museum in Montreal, the Canadian Commission of UNESCO and the National Gallery, she finally came to the Canada Council for the Arts.

Since beginning her career, she has devoted her time to helping Canadians, and the world, I might add, to grasp the value and the possibilities of art in the life of a nation and of individuals. With dynamism and intensity she pursued the difficult but attainable goal of excellence, while encouraging the birth of new institutions devoted to creative purposes. She managed her portfolio with great skill, demanding of others the maximum of themselves, as she gave of herself every day.

• (1340)

She is the main founder of the International Federation of Arts Councils and Culture Agencies and she will continue in her role there. We shall all be the better for it.

Mr. Jean-Louis Roux, the great actor and Chairman of the Canada Council for the Arts, said:

> She has devotion, conviction, generosity and moreover, she has faith....She believes in what she is doing and she believes in the importance of arts and culture in our society and she is constantly fighting for the politicians to be convinced of that importance.

Her successor, we are told, will be John Hobday, the Executive Director of the Samuel and Saidye Bronfman Family Foundation in Montreal. If that is the case, then it will be a magnificent gift to Ms. Thomson.

As for this chamber, honourable senators, the Senate should give her the gift of creating a standing committee on arts and culture and dedicating it to her.

I do not know whether this is possible, but I believe in the possibility of miracles.

NUNAVUT

COURT RULING GRANTING INTERIM INJUNCTION AGAINST CERTAIN SECTIONS OF FIREARMS ACT

Hon. Charlie Watt: Honourable senators, I should like to add to my remarks yesterday concerning the ruling on firearms that came down from the Nunavut Court of Justice. It is only proper for me to read from a news release that I have which, in relation to that ruling, states:

> Justice Browne's decision granting an interim injunction until the hearing of the stay motion temporarily exempts the Inuit of Nunavut from the application of:
>
> Section 112(1) of the Firearms Act, which makes it an offence to not register a firearm, and
>
> Section 91 and 92 of the Criminal Code, which makes it an offence to use a firearm that is not registered.

Nunavimmiut have a temporary injunction. In other words, registration will not apply until the matter is heard.

Some Hon. Senators: Hear, hear!

ROUTINE PROCEEDINGS

PARLIAMENTARY DELEGATION TO PEOPLE'S REPUBLIC OF CHINA

OCTOBER 13-18, 2001—REPORT TABLED

Hon. Dan Hays: Honourable senators, I rise to table reports of delegations that I, as Speaker, led to China last fall, and to France, Italy and the Vatican this spring.

Honourable senators, with leave of the Senate, pursuant to rule 28(4), I have the honour to table a report of a Joint Parliamentary Delegation to the People's Republic of China from October 13 to 18, 2001, as part of the ongoing parliamentary exchanges between China and Canada.

SENATE DELEGATION TO FRANCE, ITALY AND THE VATICAN

MARCH 5-7, 2002—REPORT TABLED

Hon. Dan Hays: Honourable senators, with leave of the Senate, pursuant to rule 28(4), I have the honour to table a report of the Senate Parliamentary Delegation led by me, that visited France, Italy and the Vatican, from March 5 to 7 and beyond, in the year 2002.

[*Translation*]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SEVENTH REPORT OF COMMITTEE PRESENTED

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

Thursday, December 12, 2002

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

SEVENTH REPORT

Your Committee recommends that the following funds be released for fiscal year 2002-2003.

Legal and Constitutional Affairs (Legislation)		
Professional and Other Services	$	11,600
Transport and Communications	$	3,270
Other Expenditures	$	1,000
Total	**$**	**15,870**

Respectfully submitted,

LISE BACON
Chair

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

On motion of Senator Bacon, notwithstanding rule 58(1)(g), report placed on the Orders of the Day for consideration later this day.

[*English*]

STUDY ON PUBLIC INTEREST IMPLICATIONS OF BANK MERGERS

REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE TABLED

Hon. E. Leo Kolber: Honourable senators, I have the honour to table the sixth report of the Standing Senate Committee on Banking, Trade and Commerce, concerning its special study into the public interest implications for large bank mergers.

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

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

HUMAN RIGHTS

BUDGET—REPORT OF COMMITTEE PRESENTED

Hon. Shirley Maheu, Chair of the Standing Senate Committee on Human Rights, presented the following report:

Thursday, December 12, 2002

The Standing Senate Committee on Human Rights has the honour to present its

SECOND REPORT

Your Committee, which was authorized by the Senate on Thursday, November 21, 2002, to examine and report upon Canada's possible adherence to the American Convention on Human Rights, 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.

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,

SHIRLEY MAHEU
Chair

(*For text of budget, see today's* Journals of the Senate, *Appendix "A", p. 437*.)

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

On motion of Senator Maheu, with leave of the Senate and notwithstanding rule 58(1)(g), report placed on the Orders of the Day for consideration later this day.

[*Translation*]

OFFICIAL LANGUAGES

BUDGET—REPORT OF COMMITTEE PRESENTED

Hon. Rose-Marie Losier-Cool, Chair of the Standing Senate Committee on Official Languages, presented the following report:

Thursday, December 12, 2002

The Standing Senate Committee on Official Languages has the honour to present its

FIRST REPORT

Your Committee, which was authorized by the Senate on December 5, 2002, to study and report from time to time upon the operation of the Official Languages Act, and of regulations and directives made thereunder, within those institutions subject to the Act, as well as upon the reports of the Commissioner of Official Languages, the President of the Treasury Board and the Minister of Canadian Heritage, 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.

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,

ROSE-MARIE LOSIER-COOL
Chair

(*For text of budget, see today's* Journals of the Senate, *Appendix "B", p. 443*.)

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

On the motion of Senator Losier-Cool, with leave of the Senate and notwithstanding rule 58(1)(*g*), report placed on the Orders of the Day for consideration later this day.

STUDY ON DOCUMENT ENTITLED "SANTÉ EN FRANÇAIS—POUR UN MEILLEUR ACCÈS À DES SERVICES DE SANTÉ EN FRANÇAIS"

REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE TABLED

Hon. Yves Morin: Honourable senators, I have the honour to table the seventh report of the Senate Committee on Social Affairs, Science and Technology, on the document entitled "Santé en français — Pour un meilleur accès à des services de santé en français."

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

• (1350)

Motion agreed to.

[*English*]

STUDY ON PROPOSAL OF VALIANTS GROUP

REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE TABLED

Hon. Norman K. Atkins: Honourable senators, I have the honour to table the fourth report of the Standing Senate Committee on National Security and Defence, which deals with the proposal of the Valiants Group for the erection of statues in downtown Ottawa.

Honourable senators, I move that the report be placed on the Orders of the Day for consideration at the next sitting of the Senate and that a copy be forwarded to the Minister of Canadian Heritage.

Motion agreed to.

GREECE

NOTICE OF MOTION TO ENCOURAGE THE UNITED KINGDOM TO RETURN PARTHENON MARBLES

Hon. Shirley Maheu: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That the Senate calls on the Government of Canada to encourage the Government of the United Kingdom to cause the return of the Parthenon Marbles to Greece in time for the Opening Ceremony of the 2004 Olympic Games in Athens.

UKRAINIAN FAMINE/GENOCIDE

NOTICE OF MOTION REQUESTING GOVERNMENT RECOGNITION

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

> That this house calls upon the Government of Canada:
>
> (*a*) to recognize the Ukrainian Famine/Genocide of 1932-33 and to condemn any attempt to deny or distort this historical truth as being anything less than a genocide;
>
> (*b*) to designate the fourth Saturday in November of every year throughout Canada as a day of remembrance of the more than seven million Ukrainians who fell victim to the Ukrainian Famine/Genocide of 1932-33; and
>
> (*c*) to call on all Canadians, particularly historians, educators and parliamentarians, to include the true facts of the Ukrainian Famine/Genocide of 1932-33 in the records of Canada and in future educational material.
>
> Given that the genocide of Ukrainians (now commonly referred to as the Ukrainian Famine/Genocide of 1932-33 and referred to as such in this Motion) engineered and executed by the Soviet regime under Stalin to destroy all opposition to its imperialist policies, caused the deaths of over seven million Ukrainians in 1932 and 1933;
>
> That on November 26, 1998, the President of Ukraine issued a Presidential Decree establishing that the fourth Saturday in November be a National Day of Remembrance for the victims of this mass atrocity;
>
> That the fourth Saturday in November has been recognized by Ukrainian communities throughout the world as a day to remember the victims of the Ukrainian Famine/Genocide of 1932-33 and to promote the fundamental freedoms of a democratic society;
>
> That it is recognized that information about the Ukrainian Famine/Genocide of 1932-33 was suppressed, distorted, or wiped out by Soviet authorities;
>
> That it is only now that some proper and accurate information is emerging from the former Soviet Union about the Ukrainian Famine/Genocide of 1932-33;
>
> That many survivors of the Ukrainian Famine/Genocide of 1932-33 have immigrated to Canada and contributed to its positive development;
>
> That Canada condemns all war crimes, crimes against humanity and genocides and;
>
> That Canadians cherish and defend human rights, and value the diversity and multicultural nature of Canadian society.

[*Translation*]

SENATE

NOTICE OF MOTION TO CREATE SPECIAL COMMITTEE TO OVERSEE IMPLEMENTATION OF BROADCASTING PROCEEDINGS

Hon. Jean-Robert Gauthier: Honourable senators, I give notice that, on Tuesday next, December 17, 2002, I will move:

> That the Senate approve the radio and television broadcasting of its proceedings and those of its committees, with closed-captioning in real time, on principles analogous to those regulating the publication of the official record of its deliberations; and
>
> That a special committee, composed of five Senators, be appointed to oversee the implementation of this resolution.

ROLE OF CULTURE IN CANADA

NOTICE OF INQUIRY

Hon. Jean-Robert Gauthier: Honourable senators, I give notice that on Tuesday next, December 17, 2002:

> I will call the attention of the Senate to the important role of culture in Canada and the image that we project abroad.

[*English*]

QUESTION PERIOD

SOLICITOR GENERAL

LISTING OF HEZBOLLAH AS TERRORIST ORGANIZATION

Hon. David Tkachuk: Honourable senators, I have a question for the Leader of the Government in the Senate, and it concerns the current government position with respect to banning Hezbollah. The formal announcement has been made. However, my understanding is, and I wish to clarify it, that while the paramilitary organization and the social and cultural organization have been placed on the terrorist list, it is still legal to be a member of Hezbollah in Canada.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I thank the honourable senator for his question. As he knows, the designation was determined through the process that was passed in Bill C-36, which is now the Anti-terrorism Act. My understanding of that bill is that, in fact, it is not legal to be a member of Hezbollah.

Senator Tkachuk: Honourable senators, this particular issue took a long time to be resolved. The Liberal government seems to be caught in a situation similar to one when Paul Martin attended a fund-raising dinner for the Tamil Tigers. I would like to know if that was the reason for the delay, or was the reason for the delay the fact that the United States has asked Canada to continue to be a haven for known terrorists, as it created an opportune place for intelligence organizations to watch them?

Can the Leader of the Government in the Senate tell me whether, as has been suggested in some newspaper reports, this was a political problem? It has also been suggested that there may be links between the Hezbollah and some organizations within the Liberal Party that could have caused this delay.

Senator Carstairs: Honourable senators, absolutely not.

• (1400)

Senator Tkachuk: Honourable senators, was there consideration by the cabinet, or people responsible, that the Hezbollah had influence on some seats that the government wished to hold and that that has caused a delay in this question?

Senator Carstairs: Absolutely not.

FOREIGN AFFAIRS

LISTING OF HEZBOLLAH AS TERRORIST ORGANIZATION—EFFECT ON RELATIONS WITH LEBANON

Hon. A. Raynell Andreychuk: Honourable senators, now that Hezbollah has been ruled to be a terrorist organization within Canada — and, incidentally, I believe that it is appropriate that this action was taken at this time in light of the statements made by the leader of Hezbollah — what will be Canada's foreign policy position toward Lebanon? Will we continue to trade with Lebanon in exactly the same way we do now? Will we continue to provide aid to Lebanon in the same way, given the fact that Hezbollah is part of the Parliament of Lebanon and part of a government system in Lebanon? Finally, how will we now assess refugee claimants who come to Canada and claim to have links to the Hezbollah? Will we indicate that it does not matter what arm of an organization a person is associated with? Will they be tainted by that organization if they belong to and know about the activities of that organization?

I appreciate the leader might not have the answers to those questions today, but I would appreciate receiving them at some time.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I thank the honourable senator for her questions. The foreign policy arrangement with Lebanon continues in the way that it did before in terms of potential refugee claimants who have links to Hezbollah, since it is illegal to be a member of the organization. Obviously, those would be refugee claimants whose claims would be considered invalid.

FOREIGN AFFAIRS
NATIONAL DEFENCE

POLICY REVIEWS

Hon. Douglas Roche: Honourable senators, since this is the last opportunity we will have to speak to the Leader of the Government in the Senate for a little while, I should like to extend to her the compliments of the season and wish her and her family all the best. In the spirit of today, I wish to ask an easy question, and I do not think there will be a supplementary.

What has happened to the famous defence and foreign policy reviews that were promised in the Speech from the Throne about 12 weeks ago and that have been referred to in several exchanges over the course of the fall session? Perhaps the minister would like me to stop asking questions about the review if nothing is to happen.

Would the minister agree that the world is going through a defining moment in relation to the security agenda that affects every person on the planet, not to mention every single Canadian? The issues of arms control development, human rights and environmental protection are at the core of the security of every Canadian and must be examined in an organized, profound and public way. I content myself for the moment by asking the minister if she could advise the Senate as to what, if anything, is happening with the promised foreign policy and defence reviews?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, unfortunately, I cannot give any further information to the honourable senator than I have given him in the past. It is my understanding that this matter is under active discussion, but beyond that, I cannot give any further information.

Honourable Senator Roche is quite right. The world is at a very difficult stage, I think, on a number of fronts. I will again carry his representations forward, as well as my own, to see if we can get some clarity on this issue. I also return his compliments of the season.

JUSTICE

ENFORCEMENT OF FIREARMS ACT

Hon. Lowell Murray: Honourable senators, yesterday, I asked the Leader of the Government a question concerning the apparent readiness of federal officials to contemplate a checkerboard approach to the enforcement of the gun registry laws in this country. In reply to that question, the minister reminded us of the reality that marijuana possession laws are also enforced unevenly across the country.

I was intrigued by that reply and I have been reflecting on it for the past 24 hours. My reflections give rise to the following: The reasons for the uneven enforcement of marijuana possession laws across the country are two, and they are related. First, the law is virtually unenforceable, unless one wanted to contemplate an army of police using the most intrusive methods imaginable. Second, the marijuana possession laws do not have a consensus of support in the country. Public opinion is divided. It may be a regional or a generational thing but, in any case, public opinion is divided on those marijuana possession laws.

Therefore, since it is the Honourable Leader of the Government who brought the subject up, let me ask her to confirm whether those same two circumstances apply to the gun registry law?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the gun law is highly enforceable. I would agree with Senator Murray that, because there is a clearly divided view about marijuana, that consensus would not be easily found. However, if one is to judge by public opinion polls, and one never knows how absolutely accurate they are, there is a consensus on gun control and gun registration.

SOLICITOR GENERAL

ARREST OF SUSPECTED TERRORIST

Hon. J. Michael Forrestall: Honourable senators, I will come back to a general area of terrorism and questions asked earlier. I will ask a question based upon a story in *The Ottawa Sun*, today, about the arrest of a suspected terrorist. Can the minister tell the chamber if she has been briefed on this issue and whether it involved a threat against a target here in the National Capital Region?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I can confirm for the honourable senator what I am sure he knows already, that indeed an arrest took place. However, since the matter is now within the justice system and prosecution will take place in due course, I cannot comment any further.

Senator Forrestall: Did the minister say prosecution or deportation would take place?

Senator Carstairs: A security certificate was signed in this particular case based on the fact that the government believes that the individual is inadmissible to Canada. However, that has to be proven, which will require the appropriate court action.

JUSTICE

CHANGES TO FIREARMS REGULATIONS— EXTENSION OF GRANDFATHERING PROVISIONS

Hon. Gerry St. Germain: Honourable senators, my question is to the Leader of the Government in the Senate. It is a sort of slow pitch to clean up. The leader has done a great job answering our questions over the year.

Hon. Senators: Hear, hear!

Senator St. Germain: The honourable leader has not always given us the answers we want, but she has been forthright and she has done a great job.

Yesterday, in regard to Bill C-10A, the Leader of the Government in the Senate said:

> Obviously, if the legislation is not passed, that grandfathering will not exist.

Has she had time to check with the Minister of Justice as to whether there will be an amnesty like there is on the other aspects of the enforcement of registration?

Hon. Sharon Carstairs (Leader of the Government): I have to say to the honourable senator that I can provide no additional information than what I gave him yesterday on this particular situation. It is still possible, although I would say probably unlikely, that the House of Commons could deal with this issue. It is not on their daily Order Paper for today, but it could be on their Order Paper for tomorrow. Beyond that, I cannot give any further information to the honourable senator.

• (1410)

Senator St. Germain: My question is not as to whether they will deal with it. I believe the minister himself granted the amnesty extension on the registration aspect. My question is this: Will the minister extend a similar type of amnesty respecting the grandfathering aspect of Bill C-10A — which will not be passed as a result of Bill C-10A not getting through the House of Commons?

Senator Carstairs: I suspect that no decision will be made on that until it is clear that it will not pass through the House of Commons.

[*Translation*]

UNIFORM ENFORCEMENT OF FIREARMS ACT

Hon. Pierre Claude Nolin: Honourable senators, to follow up on Senator Murray's questions, I would like to discuss the enforcement of the Firearms Act and the parallel the Leader of the Government in the Senate has drawn with the Controlled Drugs and Substances Act.

As you know, the Special Senate Committee on Illegal Drugs discovered that the Controlled Drugs and Substances Act was not enforced the same way by all the provinces. Worse yet, it was enforced differently within the same province. The committee discovered that police officers, who are also citizens, have different perceptions of their role with regard to the enforcement of criminal law.

The Firearms Act is also a penal law passed by the federal Parliament, and it is the provincial and police authorities that are responsible for its enforcement. That is how our Constitution works. What is the government doing to ensure that legislation that represents the wishes of the Parliament is enforced in a consistent, uniform fashion across the country? Inconsistent enforcement leads to non-compliance with the act by police officers and, consequently, the public.

[*English*]

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the honourable senator uses the words "respectful," "equal" and "uniform fashion." I believe it would be the desire of every Canadian that the Criminal Code be applied in a respectful, equal and uniform fashion.

Having said that, the police authorities are somewhat masters of their own policies, and their procedures are not within the direct control of the Government of Canada. Certainly, it would be the hope and desire of the government that it would be put into force and effect in exactly the way he has described it, that it would be respectful, equal and uniform.

[*Translation*]

Senator Nolin: Would it not be appropriate for the federal government, in addition to passing legislation, to draw up, in conjunction with its provincial and municipal partners, strategies based on the legislation that are required if the objectives of uniform enforcement and compliance with the law are to be met?

[*English*]

Senator Carstairs: Honourable senators, I would agree with the honourable senator that it is of value to have strategies and objectives. He is well aware that some provinces, his own being one of them, are supportive of this piece of legislation. There are other provinces, I think, regrettably, that have not been as supportive. In order to effect the strategies and objectives, it will take meetings of justice ministers across the country to get everyone, to use a phrase, singing from the same hymn book.

[*Translation*]

Senator Nolin: Provincial partners do not include only the provincial governments. As far as I know, social, economic and medical stakeholders have also defended the government's objectives on the firearms control issue. Would the government not think it worthwhile to go beyond the politicians — but not out of any lack of respect for these provincial partners — and to attempt to involve those stakeholders who are greatly concerned about compliance with these laws? That way, it would be assured of the greatest possible uniformity in enforcement and the greatest possible respect for the intention of Parliament, which enacted the legislation.

[*English*]

Senator Carstairs: Honourable senators, the most important stakeholders are Canadian citizens, the vast majority of whom support gun licensing and gun registration. It is important to engage all Canadians on this issue.

One of the criticisms of the firearms process is that of the enormous costs, one of which relates to advertising, in an effort to give people a better understanding of this law. We may find that more of that kind of public relations engagement is necessary. I also think we need to involve people like physicians who work in the emergency rooms of this country. Frankly, they are very strong in their support for this legislation.

The honourable senator is a member of the Legal and Constitutional Affairs Committee, as am I. I remember the testimony of one physician who said, "If you give me a young person who has attempted to commit suicide by something other than a gun, I probably can save that young person's life; unfortunately, I cannot save that young person's life if suicide has been attempted with a gun."

FOREIGN AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING ADJOURNMENT OF SENATE

Leave having been given to revert to Notices of Motions:

Hon. Peter A. Stollery: Honourable senators, with the leave of the Senate and notwithstanding rule 58(1)(a), I move:

> That the Standing Senate Committee on Foreign Affairs be empowered, in accordance with Rule 95(3), to hold meetings during the last week of January 2003.

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

Hon. John Lynch-Staunton (Leader of the Opposition): I have a question for the chairman. For those of us who may be in Ottawa and who like to attend meetings of that committee, will those meetings be held in Ottawa?

Senator Stollery: The meetings will be held in Ottawa, honourable senators. We are in the planning process at this point.

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

Motion agreed to.

• (1420)

QUESTION OF PRIVILEGE

Leave having been given to Proceed to Questions of Privilege:

Hon. E. Leo Kolber: Honourable senators, I rise to ask His Honour the Speaker to find that there is a prima facie case that the Senate's privilege has been breached.

Assuming that His Honour makes such a ruling, I will move that the matter of the premature disclosure of the Standing Senate Committee on Banking, Trade and Commerce's report on the public interest implications of large bank mergers be referred to the Standing Committee on Rules, Procedures and the Rights of Parliament.

I am aware of the provisions of Appendix IV of our rules that state that our committee should conduct its own investigation. I have consulted with other members of my steering committee, namely Deputy Chairman Senator David Tkachuk and Senator Richard Kroft. We are of the opinion that, given the apparent nature of the premature disclosures in at least two, and probably three, instances, it would be more appropriate for this matter to be dealt with directly by the Standing Committee on Rules, Procedures and the Rights of Parliament.

The facts of the situation are as follows: At approximately 3:48 p.m. yesterday, Wednesday, December 11, 2002, an article was published and distributed by the Reuters News Agency. This article dealt with the Banking Committee's report with respect to the public interest implications of large bank mergers, tabled earlier today, December 12, 2002.

The article dealt with the specifics of the report and includes comments from a senator on the banking committee. The senator is quoted as having said, "It's a unanimous report saying that the mergers are a legitimate business strategy for banks."

The article then goes on to quote the senator making another statement with respect to the report. The article states:

> "It's toned down a lot .... We (Conservatives) would highlight more clarity is needed,"... adding the committee members were "absolutely" unanimous on the importance of economies of scale to make the banks bigger global players.

Honourable senators, I submit that this alone constitutes a breach of the Senate's privilege as it publicly discusses conclusions of the committee's report prior to the report being tabled in this chamber.

In addition to this article, there are front-page stories — which I wish to add are very salutary and the publicity is good; however, they got there in the wrong way — in both *The Globe and Mail* and *National Post* which cite, in great detail, the contents of the committee's report, often using the same language as is found in our report.

It appears to me and other members of the committee that only someone actually seeing either a draft or a final copy of the committee's report could have achieved the level of detail and accuracy found in these stories.

Honourable senators, I want to stress that at no time was this report ever in the public realm prior to my tabling it earlier today. The committee met in camera on two occasions to consider draft reports. The report was never publicly discussed prior to the articles in question.

This is of great concern to the members of the Banking Committee and to me. This committee, when it obtained its terms of reference from the Senate, agreed to table its report in the chamber first. Our terms of reference do not give us the right to table a report when the Senate is not sitting.

Too many times in the past we have seen in this chamber and in the other place leaks of all or part of a committee's report. Frankly, such action is an insult to this chamber and to the members of this committee who put in many hours of work during five days when they heard from 39 witnesses.

I would therefore ask His Honour the Speaker to find that there is a prima facie case that the Senate's privilege has been breached.

Senator Lynch-Staunton: Hear, hear!

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, the honourable senator has indicated to us that the report in question that was tabled earlier today was in draft form and was considered at two earlier meetings. Could the senator tell us when those meetings were held?

While the honourable senator is on his feet, perhaps he could advise this chamber as to how many copies of the draft report were circulated, who was present and where the meetings were held. That would be helpful in assisting me to understand the facts.

The other concern I have is that the honourable senator has drawn our attention to a Reuters story from yesterday. I have a copy of it. In the second paragraph of that article, it reads:

> ...Sources in the government and in the Liberal Party said the report, due for release today, is likely to find a receptive audience in the party caucus and perhaps with Finance Minister John Manley and Junior Finance Minister Maurizio Bevilacqua, although that will depend on the merits of specific proposals.

Would the honourable senator care to comment on those sources in the government and the Liberal Party who have spoken of the report?

The other matter I wish to raise with honourable senators is the matter of procedure. I believe this procedure might be premature at this point. Our rules provide, in rule 43, as the honourable senator has done, for the raising of a question of privilege. It is for His Honour to determine whether or not a prima facie case of privilege exists.

I think our Rules Committee, some 15 or 18 months ago, brought in important amendments that honourable senators will find in Appendix IV of the *Rules of the Senate*. It would assist honourable senators if we all understood the process.

My understanding is that if His Honour finds there is no prima facie case of breach of privilege, then that is the end of the matter. However, if His Honour finds prima facie that there seems to be some impropriety, then, in respect of the motion to which the honourable senator referred, which he was prepared to make in the circumstances, Appendix IV(c) provides that the motion automatically stands adjourned, and that the matter must be considered by the committee in question. The committee must look into the circumstances surrounding the leak.

Honourable senators, I believe that, obviously, any issue of privilege affects all of us. All honourable senators have a responsibility to ensure that the privilege of the house is maintained. Honourable senators must understand the process they are following. I believe that to have the process held in abeyance or not followed would be an unsuitable way of approaching the problem.

Senator Kolber: The honourable senator has asked many questions.

The in camera meetings were held last Wednesday and this past Tuesday. On each occasion, a copy of the draft report was distributed to each senator. Staff members were present to assist honourable senators. Beyond that, I do not know what I can add.

Anyone could have gotten a copy of the draft report and sent it out. The only concrete question of privilege we are talking about is the Reuters story, because in it a senator is identified by name. It seems clear to me.

The honourable senator has asked many questions. I do have the story in front of me. When they cite "...Sources in the government and in the Liberal Party," I have not got a clue what they mean.

I would have no reason to say that Minister Manley or Junior Finance Minister Maurizio Bevilacqua will read our report; maybe they will, maybe they will not. Our report states: Get out of the process as much as possible. We understand there is a political element to all of these things. We are saying it should be kept to a minimum.

On the question of the Rules Committee, I am not au courant enough to answer that. I did say, in my remarks, that the committee and I are aware of the provisions of Appendix IV to our rules. I discussed it with my deputy chair, Senator Tkachuk, and the other member of the steering committee, Senator Kroft. We believe it would be more appropriate for it to be dealt with by the Rules Committee. If there are strong objections to that, I will not fight them. If it is the wish of the Senate that our committee consider this matter, then we will do that. However, I do not think we will be able to come up with any answers.

• (1430)

Hon. Richard H. Kroft: Honourable senators, I should like to address a couple of matters in regard to this question of privilege. First, in terms of the Reuters story, if one looks at the article, the Deputy Leader of the Opposition has raised a speculative comment that a receptive audience may be found, depending on what the document says. If the implication were that someone else might have knowledge of this report, there is nothing in that article to support this question.

I wish to address specifically the question of privilege, in particular in the context of Appendix IV. It is always up to the Speaker to determine a prima facie case. In my submission, the fact of an interview given by a named senator to the Reuters news service, quoting some essential facts from the report and the fact that the report is unanimous, which is an important fact in itself, is a strong prima facie case.

As honourable senators will be aware, when they have the report in front of them, the detail in the newspaper stories today provides the powerful implication that somebody had the report. It is impossible to conceive that, given the accuracy and thoroughness of the report, they did not have the report in front of them. However, that will be for an investigation for whatever committee to determine.

It seems clear that someone had the information before him or her, in particular, when a member of the committee in his own name gave an interview.

Finally, I turn to the issue of the rules and Appendix IV — and I am sensitive to this because I was part of the discussions that carefully addressed those rules. We contemplated exactly this kind of circumstance and what would be the most effective way for a committee to deal with such an event. Having been party to that discussion, I now have the obligation to stand here to explain why I agree with the motion to put the matter to the Standing Committee on Rules, Procedures and the Rights of Parliament.

The history and the unusual circumstances of this case are what compel me to speak. I have affection for the provisions of Appendix IV, because I contributed in some way to their creation. In terms of the interview with Reuters, we do not have a great mystery to solve, unless Reuters has dramatically misinformed the world. We have statements on the record by a named senator; that does not require much of an implication. That would directly put at least that element of the matter into the hands of the Rules Committee, because Appendix IV contemplates the committee to be the most effective agency for gathering the information, the details of the matter. There is little to gather in that particular case. Hence, in terms of the Reuters story, that matter would clearly go to the Standing Committee on Rules, Procedures and the Rights of Parliament.

The second point is that we have a history in the Banking Committee. This is not the first time such an event has happened. The report on capital gains taxes was revealed prematurely as well. We conducted an investigation. We were not able to arrive at a conclusive decision as to what happened. It is with the recollection of the frustration of that particular situation and the similarity of the circumstances that I find the suggestion of going to the Standing Committee on Rules, Procedures and the Rights of Parliament perhaps a useful route.

In the course of the debate on the capital gains report, and the point of order raised on that matter, we did have a discussion in this chamber. At that point, the report of the committee that led to Appendix IV was before the house but had not yet been approved. In speaking to the matter, and on the understanding that the report would be approved, Senator Murray observed that, as he understood the recommendations of the Rules Committee, the question of privilege could still be considered by the Rules Committee while the Banking Committee conducted an investigation on its own to determine where responsibility lay for the leak.

I agree with the opinion expressed by Senator Murray. We would do that in any case, but if it is the wish of the house, and as the chairman has said, the Banking Committee can and no doubt will do its best to find out what happened. Taking the suggestion of Senator Murray, and in the particular context that I have outlined here, we would most effectively take this matter to the Rules Committee.

The Hon. the Speaker: Senator Cools is rising, and I know that she considers it important to be recognized when she rises.

Hon. Anne C. Cools: Honourable senators, I was out of the chamber, trying to put my hand on the articles in question. I am still working on that. I guess I will have to pass.

Hon. Lowell Murray: Honourable senators, I wish to say a word on the question of the prima facie case of privilege. I have not read the Reuters report, either. However, what we have here is a statement on the authority of the chairman of the committee that there has been an unauthorized disclosure of a report before that report was tabled in the Senate. I do hope, regardless of the process we use and where that process takes us, that Your Honour will, in the first instance, declare that such an unauthorized disclosure of a report before it has been tabled in this chamber is clearly a prima facie breach of privilege.

This habit of leaking reports and draft reports and briefing journalists on the reports is all too common, notably, I may say, in the other place. Not only is leaking common with regard to committee reports, but also it is, unfortunately, the practice; indeed, I would say, part of a deliberate communications strategy on the part of ministers of the Crown and their advisers, to leak reports or government decisions that Parliament has a right to hear about first.

Hon. Jack Austin: This is a report of the committee.

Senator Murray: I would advise Senator Austin that I understand that this is a report of a committee. I am saying that it is an all too common occurrence here and in the other place that reports of committees are disclosed before they are tabled. It is also too common with government ministers and their advisers to disclose decisions and policies that Parliament should hear about first, to disclose them to selected journalists. It is equally a breach of the privileges of Parliament, and not just a breach of the privileges of the House of Commons.

There are cases where our privileges, as well as those of the House of Commons, are breached by these practices. I am waiting for one to occur, as it inevitably will, so that I may raise the appropriate question of our privileges in this place.

Senator Austin: Honourable senators, the first question that arises in this matter is the question of whether there is a prima facie breach of privilege. That is not a question that needs to be attached directly to the responsibility of any one individual; it is a question separate and apart. Do the facts indicate that a breach of privilege has taken place?

In the question that Senator Kolber, as Chair of the Banking Committee, has raised, he has mentioned a specific document and he has mentioned that a senator is specifically named in that document. I wish to ask Senator Kolber to establish the key causal connection, not seeking to have him name the senator but to tell the Senate whether that senator, to Senator Kolber's knowledge, had received a copy of that report.

Senator Kolber: Absolutely.

• (1440)

Senator Austin: In that case, I move to the issue that Senator Kinsella raised, that is, Appendix IV(c), which states:

> ...it would be expected that the substance of the question of privilege would not be dealt with by the Senate until the committee had completed its investigation.

That committee, in this case, would be the Banking Committee.

When I was chair of the Rules Committee, it was the unanimous opinion of that committee that, when a breach of privilege was alleged, the committee whose report was the subject of the breach had the best first opportunity to deal with the facts.

This occurred in the case of a report of the Standing Senate Committee on Transport and Communications, and a question of privilege was raised by Senator Bacon, who also came before the Rules Committee of the day to give evidence.

The question, which may not be directly before us at the moment, but which has been commented upon by Senator Kinsella, is whether there are any extraordinary circumstances that would lead the Standing Committee on Rules, Procedures and the Rights of Parliament to deal with the matter. I wish to ask Senator Kolber whether there is any special reason that it would be in the interests of best procedure for the Rules Committee to deal with the matter rather than the Banking Committee, which is assumed by the rules to be in possession of more of the facts and more of the circumstances, by definition, than a committee that had not dealt with any of these questions.

Senator Kolber: Honourable senators, I discussed this matter with members of our committee, and we concluded that the Rules Committee was far more capable of investigating than were we.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, when I first received a copy of Senator Kolber's question of privilege, I was quite chagrined because the word "disclosure" is used, and obviously that does undermine the privileges of this place. However, hearing the exchange and reading the article that has been quoted, I do not see anywhere that any part of the report has been disclosed. All I see is a quotation from Senator Angus saying that it is a unanimous report and that mergers are a legitimate business strategy for banks. There is nothing new in that observation. As I recall, even before the hearings started, Senator Kolber said he favoured bank mergers. The law allows mergers. As Senator Angus is quoted as saying, mergers of any sort are a legitimate part of any business, if they follow certain rules.

If someone can bring quotations that actually come from the draft report, I would be more impressed. All I see now is, perhaps, a mild indiscretion stating a conclusion that anyone who followed the hearings of the committee knew it would reach. The purpose of the committee was not to look into bank mergers as such but rather to define the term "public interest," at the request of the Minister of Finance.

What Senator Angus is quoted as saying cannot be called disclosure. He is also quoted as saying that the report was toned down a lot and that they wanted more clarity. I do not call that disclosure; I call it a comment or perhaps a mild indiscretion. Unless there are direct quotations from the report published in the press prior to the tabling of the report, I am not convinced that this is a question of privilege.

Senator Cools: Honourable senators, it is proving difficult to follow the debate. There has been frequent reference to a newspaper article provided by the Reuters news agency. It is difficult for most of us to follow the debate with intelligence because the article is not before us. How can we continue to have an intelligent debate absent the particular article?

Perhaps we could interrupt the debate and have the article circulated to senators. I do not think it is reasonable to proceed in the absence of knowledge, particularly in that this situation involves a senator who is not present in the chamber. It seems to me that that makes it even more difficult to follow this debate carefully. We should at least have the facts properly before us.

I do not know quite how to tell you to proceed, Your Honour, because your role in this matter is simply to make a ruling about whether there is the appearance of a breach of privilege. The judgment as to whether there is, in fact, a breach of privilege belongs to the chamber itself.

In addition, I hear much reference to the Standing Committee on Rules, Procedures and the Rights of Parliament. However, rule 44(1) allows a motion to be moved if Your Honour finds that there is a prima facie breach, and the debate would properly take place on that motion.

Most senators seem to think that they have a blind obligation to move a motion referring the matter to the Standing Committee on Rules, Procedures and the Rights of Parliament. However, in point of fact, that motion can be to refer the question to any committee the mover chooses, or it can even say that the mover has a particular remedy in mind.

However, since this issue involves a particular senator, I think we have a duty to proceed with greater care and caution. It is not that we do not normally proceed with great care and caution; it is only that this imposes a greater burden on us to do that.

I, for one, would like a copy of the article in order that I can read it and be able to speak with more intelligence to the matter. As honourable senators know, I am often willing to say that I believe there is a prima facie breach or that there is not. However, I am finding it very difficult to form such an opinion with absolutely nothing before me.

The Hon. the Speaker: Honourable senators, other senators wish to rise, and I will recognize them, but I wish to draw attention to the time that is passing. I have heard a lot and I think I am in a position to deal with this question. I do not want to cut anyone off, but I would ask senators to be fairly brief.

Senator Kroft: I believe the disclosure that the report is unanimous is, in itself, an essential fact. More to the point and of more significance to this argument is that the Reuters interview, which most of the comments have involved, is only one aspect of this situation. The front pages of today's papers are full of lengthy articles that could only have been produced by someone with the report. Taken together, that is the substance of the privilege. It is inconceivable, in my view, that anyone could have written those articles without either having the report or having very extensive knowledge of it.

Let us not get off on a tangent about that one interview.

Senator Kinsella: Honourable senators, it is for His Honour to ascertain when he has heard enough to determine whether there is a prima facie case of privilege. However, I simply wish to draw to His Honour's attention the fact that a particular senator now has been named in this discussion.

• (1450)

I am able to advise His Honour that a number of honourable senators, including this particular senator, are attending a memorial service for Senator Molson in Montreal. In the past, when this sort of situation presented itself, the opportunity was given to the senator involved, who was not present at the time, to be heard. I simply remind His Honour of that situation.

Senator Kolber: Honourable senators, there is not much left to say, except that I agree with Senator Kroft. There are two huge front-page stories that basically quote from our report. How they got there, I have no idea. The Leader of the Opposition says that the Reuters story is a minor indiscretion. I do not know if it is minor or major. I suppose, if someone robs a big bank, they go to jail. If they rob a little one, they get slapped on the fingers. I do not know. Whatever the situation, parts of the report were released. I do not know how one can argue with that.

I leave it to the house to decide what to do in this case.

SPEAKER'S RULING

The Hon. the Speaker: I thank honourable senators. I am prepared to give a decision on this question of privilege.

I have listened carefully. In the course of the interventions, I came to the conclusion that I should deal first with the procedure because it is important that I deal with it. It has been raised. A number of the interventions have illustrated the importance of the new procedure in that some of the interventions go to the very issue of whether there is not just a prima facie case but an actual breach of privilege. The new provisions of our rules, which have never before been used under these circumstances, have considerable merit, highlighted by the tendency to get into the specifics before setting forth the manner in which a decision will be made.

The rules as they are now, with the appendix from which Senator Austin quoted, Appendix C, would indicate that the substance of the question of privilege would not be dealt with by the Senate until the committee had completed its investigation. This answers the concerns of Senator Lynch-Staunton and Senator Cools. If we follow the rules, the Banking Committee will present a record to this place, which will be part of the debate because the motion to refer is a debatable motion that can be dealt with by all senators before the matter goes to the Standing Committee on Rules, Procedures and the Rights of Parliament. That is a wise procedure to follow.

The subject matter of the question of privilege is a Reuters newspaper article, which, if I am not mistaken, came out today. While the steering committee has a view on this matter, it may well be that discussion in the committee will produce a record that is important to the decision of the Senate as a whole, which it must make on the debatable motion, which, if the Speaker finds a prima facie case, goes to the whole chamber to then be referred to or not, on a vote of everyone here, to the Rules Committee.

I believe there is wisdom in following that approach. I am not sure what the Speaker's role is in that respect. The words of Appendix IV(c) are interesting: "...it would be expected." I thought I would make that point first.

It is fairly clear from the past practice of this place that the leak of a document constitutes a prima facie case of privilege. Accordingly, I so find. If we follow the procedures set out in Appendix IV of the *Rules of the Senate*, it would then fall to the Banking Committee to do an investigation and present a report, which would then be the subject matter of debate as part of the motion that comes back here, as it is adjourned until the Banking Committee does the report. It would come before all senators, who would then be asked to make a decision as to whether to refer it to the Rules Committee.

ORDERS OF THE DAY

PEST CONTROL PRODUCTS BILL

THIRD READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Morin, seconded by the Honourable Senator Hubley, for the third reading of Bill C-8, to protect human health and safety and the environment by regulating products used for the control of pests,
>
> And on the motion in amendment of the Honourable Senator Keon, seconded by the Honourable Senator Buchanan, P.C., that the Bill be not now read a third time but that it be amended:
>
> (*a*) in clause 2, on page 4, by replacing lines 36 and 37 with the following:
>
> "meets the requirements of subsection 43(4).";
>
> (*b*) in clause 43, on page 35,
>
> (i) by replacing lines 22 to 39 with the following:
>
> "(5) Information that contains the identity or concentration of an active ingredient, formulant or contaminant in a pest control product is not confidential business information for the purposes of this Act.", and
>
> (ii) by replacing line 41 with the following:
>
> "designated under subsection (4) does not"; and
>
> (*c*) in clause 67,
>
> (i) on page 53, by deleting lines 37 to 39, and
>
> (ii) on pages 53 to 55, by relettering paragraphs (*o*) to (*z*.5) as paragraphs (*n*) to (*z*.4) and any cross-references thereto accordingly.

Hon. Marjory LeBreton: Honourable senators, apropos the comments made by Dr. Keon yesterday, I should like to congratulate our colleague Dr. Morin for his steerage of this bill.

Bill C-8 replaces the old Pest Control Products Act, which has been on the books for 33 years. Obviously, given new technologies and new data, this legislation is urgently needed.

The PCPA is the primary federal legislation to control the import, manufacture, sale and use of all pesticides, including insecticides, herbicides and fungicides, in Canada. There has been some criticism of the government by advocacy groups for dithering on its intention to update Canada's 33-year-old pesticide legislation.

The federal Commissioner of the Environment and Sustainable Development also criticized the government for its approach to managing the regulation of toxic substances, including pesticides, in a section entitled "Managing Toxic Substances," comprising chapters 3 and 4 of its report issued in 1999.

This bill was introduced as Bill C-53 in the First Session of the Thirty-seventh Parliament. It died on the Order Paper after it was amended and passed by the House of Commons when Parliament was prorogued in September.

Among other issues, this bill outlines the health minister's mandate in administering this act, including the primary objective of preventing unacceptable risks to people and the environment from the use of pest control products. It allows for the creation by the minister of an advisory council to assist the minister in fulfilling his or her mandate. It spells out a number of prohibitions with respect to the manufacture, possession, handling, storage, transportation, importing, exporting, packaging, advertising and distribution of pest control products. It also spells out offences and punishments for those found guilty of contravening the prohibitions contained in the bill.

Bill C-8 provides for a fairly elaborate registration and evaluation regime for pest control products. The evaluation component of this process will be governed by three criteria: one, the health risks of the pest control product; two, the environmental risks of the product; and three, the value of the product's contribution or potential contribution to pest management.

Honourable senators, when this bill was before our committee, I was specifically concerned that there was not enough in the bill dealing with adverse effects and the public's knowledge of them. Specifically, I felt that information should be much more readily available.

It is my view that the general public or the consumers, as certainly I see myself to be in this case — I am certainly not an expert — are not sufficiently informed of active ingredients, formulants or contaminants in these products, and there are not sufficient guarantees that the public has easy access to this information, such as is the case in other OECD countries. I was particularly struck by the words of Ms. Jan Kasperski, Executive Director of the Ontario College of Family Physicians, who said in committee:

> Let me be clear: Pesticides are designed to kill. They do so by disrupting processes inside cells. Their ability to disrupt cellular processes in animals and in vegetation means that they can disrupt human cell processes as well.

It seems to me, therefore, honourable senators, that we would be well served if the legislation were strengthened to include mandatory reporting of adverse effects.

MOTION IN AMENDMENT

Hon. Marjory LeBreton: Honourable senators, I move:

> That Bill C-8 be not now read a third time but that it be amended:
>
> (*a*) in clause 13, on page 16, by replacing lines 21 to 28 with the following:
>
> "**13.** (1) An applicant for registration of a pest control product or a registrant shall report to the Minister, within the prescribed time and in the form and manner directed by the Minister, any new information that arises subsequent to registration of the product that relates to —

• (1500)

The Hon. the Speaker: I understand why Senator Robichaud is rising.

[*Translation*]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, Senator LeBreton is proposing a second amendment, while we are discussing another we should dispose of first. I am pointing this out so that she may propose her amendment according to our usual procedure.

[*English*]

The Hon. the Speaker: Senator Robichaud is correct. The only additional amendment we might consider would be a subamendment that dealt specifically with the amendment of Senator Keon.

We are in a situation where, before we can consider any further amendments, we must deal with Senator Keon's amendment unless there is leave to stack the amendments. I do not think that is available.

Senator Carstairs: No, there is no leave.

The Hon. the Speaker: Is it the wish of the chamber to deal with Senator Keon's amendment now?

Senator Carstairs: Question!

The Hon. the Speaker: If we do deal with it now, I could go back to Senator LeBreton and her amendment could be considered.

I have heard no dissenting voice to the suggestion that we deal with Senator Keon's amendment now. If we do that, I will return to debate on the main motion. Senator LeBreton, if she still has time, could then move her amendment.

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

Some Hon. Senators: No.

Some Hon. Senators: Yes.

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

Some Hon. Senators: Yea.

The Hon. the Speaker: Will all those opposed to the motion in amendment please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the "nays" have it.

I see no senators rising for division, and I declare the motion in amendment lost.

We return to the main motion and the Honourable Senator LeBreton.

Senator LeBreton: I have been asked to proceed, so I shall soldier on. I move:

> That Bill C-8 be not now read a third time but that it be amended:
>
> (*a*) in clause 13, on page 16, by replacing lines 21 to 28 with the following:
>
> "**13.**(1) An applicant for registration of a pest control product or a registrant shall report to the Minister, within the prescribed time and in the form and manner directed by the Minister, any new information that arises subsequent to registration of the product that relates to

(*a*) the health or environmental effects of the product;

(*b*) actual harm to human health or the environment caused by the product;

(*c*) maximum residue limits for the product or its components or derivatives; or

(*d*) the presence of residue in the environment.

(2) A person who makes an application under subsection 10(2) shall report to the Minister, within the prescribed time and in the form and manner directed by the Minister, any new information that arises subsequent to any specification of maximum residue limits made under subsection 10(1) pursuant to the application that relates to

(*a*) the health risks of the product or its components or derivatives;

(*b*) maximum residue limits for the product or its components or derivatives; or

(*c*) the presence of residue in the environment.

(3) In addition to reporting the information required under subsection (1) or (2), as the case may be, an applicant for registration of a pest control product, a registrant or a person who makes an application under subsection 10(2) shall report to the Minister, within the prescribed time and in the form and manner directed by the Minister,

(*a*) annually, information on the usage of the pest control product, including the crops on which the product has been used, the average number of treatments per crop at a specified application rate, and the total usage per crop;

(*b*) information respecting any effects of the pest control product on species or groups of species set out in Schedules 1 and 2 of the *Species at Risk Act*, or effects on indicator species, if there are reasonable grounds to suspect adverse effects are or might be occurring; and

(*c*) any prescribed information that relates to the health or environmental effects or the value of the pest control product.

(4) In evaluating or determining whether the health and environmental effects of a pest control product, or the health risks associated with maximum residue limits specified by the Minister under section 9 or 10, are acceptable, the Minister shall consider

(*a*) any information reported under subsections (1) to (3); and

(*b*) any other information respecting such health or environmental effects, or respecting the presence of residue of registered pest control products in the environment, that is reported to the Minister by any person.

(5) After considering the information referred to in subsection (4), the Minister shall make the information available to the public."; and

(*b*) in clause 29, on page 26, by replacing line 2 with the following:

"with subsection 13(1), (2) or (3) is guilty of an offence.".

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

Hon. Yves Morin: Honourable senators, I should like to thank the honourable senator for her interest in this important bill and for outlining in great detail the notion of disclosure and the procedure under which adverse effects would be reported.

What I would tell the honourable senator is that, in fact, Bill C-8 actually ensures, in less detail, the reporting of adverse effects, but regulations are there to give details of these reports.

Clause 13 of the bill, for example, requires that companies disclose adverse effects immediately under other information of the same type. The exact details of the report and the time that these reports must be made will be covered by the regulations.

Clause 14 requires that the minister must consider these adverse effects as quickly as possible and must decide whether a further review of the pesticide must be initiated.

Finally, as far as public disclosure is concerned, these adverse effects and other information in relation to the review must be placed on the register. This register is available to the public at all times. As a matter of fact, if an adverse effect is found to be serious, the minister may and will make this information public immediately through a news release, for example.

Honourable senators, as far as the disclosure of adverse effects and of other information is concerned, and as far as involving the public in the decision, this legislation is at the forefront of legislation of the same type in other OECD countries. I strongly urge the support of this bill.

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

Hon. Senators: Question!

Senator Robichaud: On the amendment.

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

Some Hon. Senators: No.

Some Hon. Senators: Yes.

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

Some Hon. Senators: Yea.

The Hon. the Speaker: Will all those in favour of the motion in amendment please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the "nays" have it.

Hon. Lowell Murray: On division.

The Hon. the Speaker: The motion in amendment is lost, on division. The question is now on the main motion.

• (1510)

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

Some Hon. Senators: Agreed.

The Hon. the Speaker: On division.

Motion agreed to and bill read third time and passed, on division.

NUCLEAR SAFETY AND CONTROL ACT

BILL TO AMEND—SECOND READING

Hon. Yves Morin moved the second reading of Bill C-4, to amend the Nuclear Safety and Control Act.

He said: Honourable senators, Bill C-4 is a one-clause bill, the purpose of which is to clarify the wording of subsection 46(3) of the Nuclear Safety and Control Act. Subsection 46(3), as currently worded, has had the consequence of extending the potential obligation for site remediation, in the unlikely event that contamination occurs, beyond the owners and managers to private-sector lending institutions. This has, in turn, deterred private-sector financial houses from lending to the nuclear industry. This is an anomaly that must be corrected.

Under the current wording of subsection 46(3), the Canada Nuclear Safety Commission has the authority to order the owner, occupant or any other person with a right or an interest to take prescribed measures to reduce the level of radioactive contamination on a site. The proposed amendment clarifies the subsection by deleting the words "person with a right or interest in" and replacing them with the words "person who has the management and control of..."

Honourable senators, the amendment serves to clarify the risk for institutions lending to companies in the nuclear industry. However, a lender who goes into management and control of a nuclear facility would be liable for measures that would be required to deal with radioactive contamination of a particular site.

[*Translation*]

The change being considered will simply put the nuclear industry on an equal footing with other industrial sectors, particularly the energy sector. Actually, no other sector is saddled with a federal legal provision that restricts access to bank loans. The nuclear industry must have access to commercial credit to finance its needs like any other sector. Without this amendment, it will be incapable of raising funds to update and modernize plants, thereby extending their useful life.

The regulatory regime for the nuclear industry in Canada was designed to protect people from radiation from nuclear material or atomic energy.

[*English*]

All the stringent mechanisms embodied in the Nuclear Safety Control Act and regulations, which are designed to ensure that nuclear facilities are managed in a safe and environmentally sound manner, are still in place and unaffected by this provision. The Canadian Nuclear Safety Commission monitors and inspects licence activities, and the licensing process requires licensees to prove that their operations are safe. The commission continues to have the authority to act to suspend the licence for any activity when it determines that the activity carried on poses an unreasonable risk to the environment, health, safety and security of the public. These examples show that the commission mandate to prevent unreasonable risk to the environment will continue to be fulfilled.

The Canadian nuclear industry provides many benefits to our environment, to our health and to our economy. Nuclear energy supplies 13 per cent of Canada's electricity — electricity that is produced without the emission of carbon dioxide, sulphur dioxide or nitrous oxides, which are all major contributors to air pollution, smog and acid rain. Canada's CANDU power plants are safe, with multiple independent safety systems to shut down the plant and maintain it safely in case of any malfunction or external event. In Canada, governments are encouraging more private-sector participation in the ownership and management of facilities in all energy sectors. Companies with nuclear operations need access to the same financial instruments available to other companies.

[*Translation*]

Every year, nuclear medicine improves the lives of millions of people. Safe and painless radioisotope radiation procedures provide physicians with data that is essential for quick diagnosis and for treatments to fight disease.

Without nuclear technology, the latest procedures to treat cancer and conduct research on AIDS would be virtually impossible. According to estimates, there are between 15 and 20 million imaging and medical treatments done each year around the world.

Every day, some 45,000 anti-cancer treatments are provided using Canadian Cobalt 60 therapy units. Canada produces easily 60 per cent of the world's supply of Cobalt 60, which is used to sterilize a wide range of single-use medical supplies and products used by the general public on a daily basis. In fact, this radioisotope has numerous industrial and agricultural applications.

[*English*]

Canada has an essential role in the production and supply of molybdenum-99, a versatile and important radioisotope used in nuclear medicine worldwide. It is widely used to diagnose illnesses like cancer, heart disease and brain disorders without the need for surgery. Globally, an estimated 50,000 people a day benefit from diagnostic procedures that rely on medical isotopes such as molybdenum-99. Radioisotopes in nuclear medicine are also used to determine blood clots in the lungs and to diagnose heart disorders. Canadian-made medical isotopes are exported to more

than 60 countries. In North America alone, some 5,000 hospitals rely on Canada's supply of medical isotopes. Radioisotopes also have an important application in the field of molecular biology, including the design of effective new drugs. Additionally, nuclear science has had an important role to play as part of Canada's science and technology program.

Honourable senators, in conclusion, this bill will improve the functioning of the nuclear industry in our country. I strongly urge you to support Bill C-4.

Hon. David Tkachuk: Honourable senators, Bill C-4, as you have heard, is a fairly uncomplicated bill, introduced to cover an oversight in legislation passed in 1997. Bill C-4 amends the Nuclear Safety and Control Act by eliminating the liability of lending institutions for remedial measures, which nuclear companies and operations must take when radioactive contamination occurs.

It should be noted that there are some 3,500 operations in Canada, so we are not talking only about nuclear reactors, but also power plants, refineries, hundreds of laboratories and most hospitals. Bill C-4 was first introduced as Bill C-57 in May 2002. However, because the government obviously did not see this as a priority, Bill C-57 was not passed before prorogation. The bill was reintroduced in the House of Commons on October 3, 2002, as Bill C-4, and was passed in the House on December 10, 2002.

I understand the rationale for this bill, but I have concerns about both the government's plans for the management of nuclear waste and the parliamentary process itself. I always become a little suspicious when I am told, "It is just a simple one-line bill, really. Just an oversight. Just pass it, and everyone will be happy."

• (1520)

As section 46 of the Nuclear Safety and Control Act is written, liability for contamination at any site extends not just to owners, occupants and managers of that site, but also to lenders like banks and other financial organizations. This is what Bill C-4 seeks to rectify. It is the government's contention that extending liability for nuclear contamination to lenders creates an unknown liability that translates into financial obligations far exceeding the commercial interests of these lenders. As a consequence, the government contends that this aspect of Bill C-46 acts as an impediment for Canadian Nuclear Safety Commission licensed companies in securing capital and equity to finance ongoing and future operations.

I believe we should use this amending legislation for our own purposes. The Senate is traditionally the chamber of sober second thought for all government legislation, especially that which is first tabled in the House of Commons. By amending the Nuclear and Safety Control Act, we have an opportunity to reinforce that the government must have a better long-term strategy as the use of nuclear power continues to proliferate. To date, the government still does not have an adequate solution to the long-term storage problems of nuclear waste.

While I support Bill C-4 and removing liability from lenders in principle, I would urge the Senate committee that will study this further to ask a number of questions. What are the government's plans for long-term storage of nuclear waste? When the original legislation was drafted and passed in 1997, was it written with the knowledge that nuclear facilities would be privately owned? I understand that the legislation underwent tremendous scrutiny and widespread public consultation. Why was the question of liability not a problem when nuclear facilities were not privately owned? More than five years have passed since that legislation was passed, and if this was a technical error why is it only being fixed now? Who are we protecting by removing this liability of financial institutions? What would the financial exposure be in the case of a problem, and to whom would it be related?

It seems that the government has contributed a great deal to this industry. One report I read indicated that the federal government alone gave over $5.1 billion to nuclear generation through public subsidies. I think this legislation is a harbinger, and perhaps an appropriate Senate committee might consider doing a special study on the future of nuclear energy in Canada and examine privatization, government exposure and private funding.

I believe that nuclear energy is a good solution to Canada's energy requirements, but I know that there still remains in the public a concern for the overall safety and soundness of nuclear power. It is government's job, our job, to respond to those concerns. I do not know the answers to my questions, and I hope that the Senate committee to which this bill is referred will consider the overarching issues of nuclear power carefully.

Hon. Rose-Marie Losier-Cool (The Hon. the Acting Speaker): Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Acting Speaker: When shall this bill be read the third time?

On motion of Senator Morin, bill referred to the Standing Senate Committee on Energy, the Environment and Natural Resources.

SPECIES AT RISK BILL

THIRD READING

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. John Lynch-Staunton (Leader of the Opposition): Honourable senators, yesterday I indicated some disenchantment at some of the sentiments expressed by Senator Watt. After reading carefully what Senator Carstairs said later on, I am somewhat reassured that this question of the non-derogation clause is on the way to being corrected and that we will have, hopefully in March, a debate regarding precise wording that could be applicable without amending legislation. That is what I take from reading Senator Carstairs' firm assurance.

My question is a rhetorical one, and it is: Once the wording has been confirmed and accepted, could it be made retroactive? I would hope that will be considered when the issue comes before us.

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

Motion agreed to and bill read third time and passed.

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. Gerald J. Comeau: Honourable senators, the motion before us is to consider a number of issues that come under the general heading of an ethics package for parliamentarians. In order to clarify the issues for myself, I decided to summarize the main issues that were part of this package. I will list them as I saw them. The issues are: to define a code of conduct; the appointment of an ethics commissioner and to empower the ethics commissioner to investigate allegations of breaches of the code of conduct; the creation of an information registry to deposit the personal and financial information of parliamentarians and their families; and the appointment of an official to oversee the registry and the public disclosure of registry information. These are the main ingredients that were part of the package.

The next question that came to my mind was why were we doing this. I became interested in the matter before us because I wanted to know what the motion and the proposed bill were trying to accomplish. In other words, what was the problem? My first rule of problem-solving is that one should never proceed to a cure without diagnosing or poking around for the root and determining the extent of a problem. One needs to know what is wrong before proposing a solution.

We would expect that a new ethics package would be meant to deal with instances of abuse and conflict of interest that are not currently addressed by the existing controls. I read through the material provided with the motion, and I followed the arguments of the supporters of the proposals. My conclusion is that there are no examples of abuse by backbenchers and senators. It would seem that the problem is that there is a public perception that there is a problem. We are told that the public supposedly wants this package and that we are responding to a public request for a code of conduct and public disclosure for backbenchers and parliamentarians rather than fixing what is the real problem.

I would like to go through a few of the speeches. Senator Carstairs provided no instances of conflict or abuse by parliamentarians, nor did she point out any direct problems with the current rules that control these items.

Senator Oliver spoke on November 20. I listened to his speech. He was a strong supporter and partisan of a new ethics package. He said:

> For years, I have felt a code of conduct for both Houses of Parliament would help to reassure the public that all parliamentarians are held to standards that place the public interest ahead of parliamentarians' private interests. It would also provide a transparent system by which the public may judge this to be the case.

In other words, the public would be the judge.

Like Senator Carstairs, however, Senator Oliver did not outline specific problems with the current rules and laws that address conflict of interest, nor was he helpful in providing examples of abuse. In fact, Senator Sparrow prefaced a direct question with reference to existing rules in which Senator Sparrow mentioned the Parliament Act, the *Rules of the Senate*, the Criminal Code and the Constitution. He said:

> Perhaps Senator Oliver could tell me now what conduct of senators is not covered in those four parameters.

Senator Oliver responded by saying, "... the Sinclair Stevens case would be a good example."

The problem with this response is that Mr. Stevens was a minister of the Crown and not a backbencher or a senator. I will have more to say on the differences between parliamentarians and ministers later on.

Senator Sparrow pressed further and went on to ask:

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

Senator Oliver's response was: "I do not have such an example."

• (1530)

I went on to the subject of disclosure. In response to a question by Senator Kroft on the issue of disclosure, Senator Oliver stated, and I quote:

> My chief source of information was the report of the Honourable Justice W.D. Parker who headed up the commission of inquiry into allegations of conflict of interest in the Sinclair Stevens case, wherein he referred to the Starr-Sharp report, the Aird report and many other major reports in Canada that have attempted to define, in a parliamentary way, what a conflict of interest is and how to overcome it. All of their conclusions were the same. In every case they said that to have a proper regime for public office holders...

Honourable senators, I will emphasize this next passage:

> ...for cabinet ministers — there must be a regime of disclosure.

Another strong supporter of the motion is Senator LaPierre, but he was equally unhelpful. I quote the honourable senator:

> There is a crisis of confidence in parliamentary institutions among Canadians...
>
> Therefore, the Canadian public does not want two codes of ethics; they want one code of ethics for the Parliament of Canada. We are responsible to them. It is not true that we live in this place completely devoid of politics. We belong to political parties. We belong to caucuses. It is not an exaggeration to say that we are ruled by party politics...
>
> The public does not know who we are and has hardly any idea as to what it is that honourable senators do.

If Senator LaPierre is right, I fail to comprehend how a different ethics regime responds to the problem he identifies. Senator LaPierre refused to respond to questions on the subject. This was unhelpful.

We were provided with an October 8, 2002, Library of Parliament researcher's arguments in favour of public disclosure applicable to spouses. I quote:

> Incidents involving Sinclair Stevens and his spouse in the 1980s come to mind as an example where the activities of the member's spouse were highly relevant to his conduct as a Member of Parliament.

This was equally unhelpful. If you recall, Sinclair Stevens was a minister of the Crown, and he is the only example being cited. He was not a lowly backbencher or senator, such as we are.

The parliamentary researcher referred to the Parliamentary Spouses Association presentation to the Oliver committee. Judith Manley, who incidentally happens to be the spouse of a cabinet minister, provided the testimony.

Ms. Manley noted that there was a wide divergence of views from those people she had conversations with and from the two lawyer members of her association. Even though the Parliamentary Spouses Association did not take a position, frankly, I question whether the Parliamentary Spouses Association and a minister's spouse are mandated to provide political statements on behalf of their spouses. However, that is a different story. Be that as it may, Ms. Manley's testimony did not support the public disclosure of their spouses' private business.

Senator Oliver's committee sought the advice of Mr. Howard Wilson, the Prime Minister's hand-picked ethics counsellor. Although I do not wish to appear rude, Mr. Wilson's track record on this subject does not inspire great confidence in many members on this side of the house, nor, I am sure, on the other side, if they were to really consider it. I do not think he inspires great confidence in the public. Senator Lynch-Staunton had more to say on this subject, so I will not expand.

One of Mr. Wilson's observations is worth noting. Mr. Wilson suggested that the Clerk of the Senate be appointed the administrator of the register, which now leads me to the subject of appointees. I should like to quote Senator Oliver again on this, and this is a direct quote:

> It seems that some of Senator Cools' suggestions concur with the eloquent suggestions made earlier by Senator Joyal, namely, that we have in this place already certain officers, such as the Clerk of the Senate, who could do the job that the code envisages.

I will be honest and frank about this matter. I have the highest regard for the present incumbent of the Clerk of the Senate's office. However, we have to separate the person from the position. The position is a Governor-in-Council appointment that serves at pleasure. We may not always be so fortunate to have an individual with the calibre and the integrity of the present office holder.

The idea of providing all my personal information, and the personal information of my spouse and dependants, to a cabinet appointee causes me concern. We may well be collegial and respectful; however, as Senator LaPierre pointed out in this chamber, this chamber is ruled by politics.

Senators on both sides should carefully reflect on the implications of compelling parliamentarians and their spouses to provide personal information to cabinet appointees. Senators on the government side should understand that they may someday find themselves on the opposition side of the house and be compelled to provide information to officials appointed by that party, the party opposed. As the saying goes, where you stand depends on where you sit.

On the subject of files of private information, what worries me somewhat is the security of the files. This can be tricky. Computers nowadays are interconnected. It is easy for a computer clerk to push the wrong button. This type of human error has happened to me in the Senate, not once, not twice, but three times surrounding the matter of telephones and e-mails. This is not to suggest that the lapses were ill-intentioned. All kinds of excuses were provided at the time; they did, however, amount to human error. "Oops!" It happens.

If we do proceed, be aware that the secure registry containing private, personal information on honourable senators' families may be costly; and, as noted earlier, no system is free of human errors.

We are also familiar with the notoriously bad estimation program spending and lack of accountability that has appeared in the last number of weeks. The firearms registry, which was supposed to cost $2 million after fees, is now nearing the $1-billion mark and counting.

On the question of appointments of an ethics counsellor and a private files registrar, we are left with the question of who appoints these people. Mr. Wilson's track record does not inspire great confidence that it should be the Prime Minister of Canada.

The Governor-in-Council appointment process is also problematic. Senators should be cautious of the executive branch of government managing the private files and the investigation of senators. It would be a major departure of separation of Parliament and the executive branch.

Most will also recall the abuse of power of former Justice Minister Allan Rock when he used his considerable powers of the state in our federal police force in a personal vendetta against a former prime minister. Thankfully, former Prime Minister Mulroney did not blink. The taxpayer ultimately paid the price for the Justice Minister's shameless abuse of power. However, I wonder if most of us would have had the courage and determination to withstand such abuse of the state's power by Canada's highest justice official of the land?

This abuse is in addition to the Lester P. Pearson Airport bill, where Minister Rock tried to remove the rights of citizens to their day in court, added to which are other transgressions. Minister Rock has yet to be held accountable for these abuses of power. He got away with these abuses of power while we in this chamber debate a code of conduct for parliamentarians who have no executive power and no insider information. Depending on the outcome of this ethics package, I wonder whether I should dare make statements such as those I am making today.

The Senate itself could appoint the office holder. The problem with this, however, is that the Liberals have an overwhelming majority and they might be tempted to appoint one of their own. The idea of a Liberal appointee mandated to keep the register of my private files and empowered to investigate me, and my spouse, is not very appealing. The litmus test here for members on the government side is that you may not always be on this side of the majority.

• (1540)

The question, then, is how to appoint a truly independent administrator whom both sides of this house can trust. This may turn out to be quite a challenge. It may be quite some time before we see the white puffs of smoke coming out of the parliamentary chimneys.

Turning to the question of private information, the new law will need to somehow compel senators, their spouses and dependants to disclose private financial information to the registry commissar. Obviously, the rules will need to have teeth to enforce compliance. The drafters must come up with some penalty provisions to compel reluctant spouses, common law and other live-in partners to disclose this information. What penalties are envisaged? Should such penalties be set out in the Criminal Code? What happens if parliamentarians are in a conjugal relationship that they do not wish to divulge? How do we drag the information out of these people? Will the state start snooping around the bedrooms of parliamentarians, to coin a phrase from a former prime minister?

We are told that the ethics commissioner must be independent, objective, non-partisan, and he or she must be the epitome of integrity. Like the Privacy Commissioner, it may be a challenge to find an appointment process that would be satisfactory to all sides.

Somehow, I do not feel reassured by a process whereby the prime minister of the day would appoint these people even though he or she may wish to consult with the leaders of the parties of the House of Commons. We are all familiar with consultations that turn out to be a token phone call consisting of, "Thank you, I have decided to make the appointment. I hope you like it. You can like it or lump it."

On the subject of the mandate for the investigations process, we should reflect on how allegations are to be investigated and adjudicated. What kind of qualifications and training will be required of the investigators? Should they have police training? What kind of powers will they be given?

The Hon. the Speaker: Senator Comeau, I regret to advise you that your 15 minutes have expired.

Senator Comeau: Honourable senators, I would seek leave to continue.

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

Hon. Senators: Agreed.

[*Translation*]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I am happy to give consent for Senator Comeau to finish his comments, but only up to a maximum of five minutes.

[*English*]

Senator Comeau: The proposal suggests that the ethics commissioner should be empowered to send for persons, papers and records.

What about search and seizure, powers of arrest or wire-tapping? How would the adjudication process work? Is there an appeal process? Will those charged be accorded legal counsel? Will the legal process be public? Will the ethics commissioner be given access to private files on the senator that are held by the registrar? Where do these files finally end up after adjudication?

Honourable senators, we must face certain realities. Unlike ministers and bureaucrats, senators and backbenchers are not privy to insider information. We do not have executive power. We do not have the power to appoint and reward our friends. We do not oversee federal police forces. Our every word and speech on subjects before Parliament are written down on the public record in both official languages ready to be examined under the microscope. Senators and backbenchers are under considerable and constant scrutiny by media, constituents and opposition politicians.

We routinely flagellate one another and ourselves as we debate party policy positions. While we are debating the merits of this package, we ignore the real power bases where the potential for abuse is very possible.

Compare our power with that of senior and powerful bureaucrats who carry on their jobs in obscurity. Have any honourable senators looked at the number of bureaucrats who routinely move back and forth between senior government positions and large corporations? These are the same corporations they dealt with in their government careers. Compare our powers with those of ministers. Compare our powers and insider information with ministers' staff. It may then start to become apparent who ought to be checked.

If there are any problems, look at the real source of power. When was the last time an honourable senator had a visit from a high-priced lobbyist? Follow the trail of the lobbyist and you will find the source of power. I do not even rate a Christmas card from most of those people.

This package is a red herring. It is designed to deflect attention from the mounting incidences of abuse by cabinet ministers who face a divided opposition in the House of Commons. Let us fix real problems.

Senator Joyal proposed a prudent course of action. He said that, if we try to consolidate all the books, including the *Rules of the Senate*, and all of the statutes, most of our questions might already be answered. However, we must do that in committee. As he said, we should review the various cases that have occurred in the past 100 years or so and draw lessons from the past. I could not agree more.

Hon. Herbert O. Sparrow: Honourable senators, I wish to adjourn the debate. However, before doing so, I should like to leave open the opportunity for anyone to ask questions. I might also ask a question before I adjourn the debate.

The honourable senator referred to the power of the ministers and the former Justice Minister, Mr. Rock. He also referred to the Pearson airport "fiasco," though I am not sure the honourable senator used that particular word, but he referred to those incidents. Against the wishes of the Minister of Justice, justice did prevail because of the actions of the Senate. I wanted to put that on the record. That was what happened. Is that what the honourable senator was referring to in his speech?

Senator Comeau: Indeed, honourable senators. I was referring to the Pearson airport deal where the Senate did an in-depth investigation and determined that there was no cause for the Minister of Justice to deny people their day in court, which is what the bill was proposing.

I was trying to recall whether we had killed the bill. I do not think we did. I believe it was delayed. I am being told that it was killed. The Senate did its job absolutely. Our role is to stop abuses of power.

The Hon. the Speaker: Senator Comeau, I regret to advise you that the additional time granted to you has expired.

Hon. Anne C. Cools: I wanted to ask a question, too. Is it possible to ask a question of the Honourable Senator Comeau?

Senator Robichaud: No.

Senator Sparrow: I would move the adjournment of the debate in my name.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

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

Some Hon. Senators: Nay.

The Hon. the Speaker: I will ask it again. I believe that honourable senators are opposing their own motion.

The motion before us — and it is not debatable, which is why I am not recognizing any senators — is to adjourn the debate. Senator Sparrow moved a motion to adjourn the debate and Senator Cools seconded that motion. We are on the ethics package motion.

For certainty, I will ask the question in a formal way. Will those honourable senators in favour of the motion to adjourn the debate please say "yea"?

Some Hon. Senators: Yea.

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

Senator Cools: Nay.

The Hon. the Speaker: The motion is passed.

On motion of Senator Sparrow, debate adjourned.

• (1550)

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. John Buchanan: Honourable senators, I find it necessary to say a few words on the Kyoto Protocol. There is no doubt, in the mind of anyone in this chamber, that this resolution will pass. I know it, other senators on this side of the chamber know it, and senators opposite know it. However, it is important for the record that we say a few things about the ratification of the Kyoto Protocol.

My comments will deal with economics, employment and federal-provincial relationships in this country. I will not get into a discussion on the science of climate change. We all know there are scientists on both sides of the issue. Some say that there are more on one side than the other. I do not know. We have all heard the arguments, but we may not have heard as many arguments by climatologists who say that the problem is not as described by the environmentalists who claim climate change is due to CO_2 emissions.

Without getting into the debate on the science of this issue, I wish to cite a very prominent man in Dartmouth, Dr. M.R. Morgan, B.Sc., Ph.D., fellow of the Royal Meteorological Society. He said that, as a professional climatologist with training in chemistry, complying with the Kyoto accord at this time was illogical. He said that it could be costly and ineffective. He tells us that it is not CO_2 and its questionable effects on climate that should be our primary objective, but the elimination of emissions that are health hazards. He also said that it was not logical, at this time, to be implementing Kyoto, particularly the global warming hypotheses, a subject which he has studied in some detail over the last decade. He finds the probability of a cooling cycle more likely than climate change from emissions.

That is all I will say about the science. We could discuss the science for a long time and get absolutely nowhere.

What is of great concern, as it should be, to legislators and people who have followed our Constitution, is the process we are now going through. In September of this year, the Prime Minister suddenly said, "I am going to ratify Kyoto by the end of this year." Why were implementation plans not discussed over the last number of years with the provinces? I do not know the answer to that other than that the Prime Minister decided he wanted to get it out of the way.

The Prime Minister and the federal government are telling us to trust them and there will be no difficulty. The federal government says that the cost of implementing Kyoto will not be great. The federal government and the Prime Minister are saying that some jobs may be lost, but that the net impact will be more jobs.

Who do we trust? Do we trust the people who say there could be a loss of over 400,000 jobs or the government that says there may be a couple of million jobs created?

Let us talk about trust of the government. In this very chamber we talked about the gun control bill.

Senator Milne: Carbon dioxide is a smoking gun.

Senator Buchanan: I am not saying it is not. As I said, I will not get into a discussion on the science of this. I will discuss the constitutionality of this and the economy, which I think is pretty important.

The federal government said, "Trust us. The gun control bill will cost a net of $2 million." Now we find that it will cost in excess of $1 billion.

Senator LaPierre: It is worth it.

Senator Buchanan: It is worth it? I see. With great respect, I learned long ago not to be distracted by rabbit tracks when I am after big game, and I am after the big game of the federal government.

Senator Graham: That is a Diefenbaker line.

Senator Buchanan: I have quoted John Diefenbaker many times, as Senator Graham knows.

The government says that we should not worry, that this will not cost much at all. Well, the gun control bill certainly cost a lot of money.

What happens with the provinces with regard to the Kyoto Protocol? We worked very hard in Nova Scotia and Newfoundland over the last two decades to ensure that we would have something in the future from oil and gas exploration, development and production. Our work has come to fruition in the last years. There is oil in the offshore of Newfoundland and Nova Scotia and natural gas in the offshore of Nova Scotia. It is being transported by pipelines and tankers and we are starting to see the benefits of it. However, as Senator Rompkey knows, we were supposed to get 100 per cent of all the benefits from gas and oil in our provinces. That has not happened, but we hope that, in the near future, it may. We will get a better deal on equalization, thanks to people like Senator Murray and others who issued a pretty good report on that subject.

Senator Rompkey and others know about what I am talking about. We are finally seeing some light at the end of the tunnel in our two small provinces.

Newfoundland and Nova Scotia senators should be very concerned about the Kyoto accord.

Let us consider the situation from the perspective of the provinces. Honourable senators hear the federal government saying that they have a moral obligation to proceed on this. That may be, but what about the economy, the jobs, and our provinces? Federal reports have indicated clearly that the economy of our provinces — energy-producing provinces, we are glad to be able to say — could now be in danger.

The provinces have not been involved in this process. Federal and provincial ministers have talked, but the premiers have not. There are former members of the House of Commons and former members of provincial legislatures here. I ask them whether they can recall any matters affecting federal and provincial jurisdiction over the last two decades that have not been solved by federal-provincial conferences.

The only such matter that I can recall occurred from 1978 to 1981. That was when former Prime Minister Trudeau decided that the provinces were irrelevant. He said that it was like going to a town hall meeting with the provincial premiers and he simply wanted to get the matter over with. He said that the federal government did not need the consent of the provinces to change the Constitution. He found out that that was wrong. He found that out because eight provinces took the federal government to the Supreme Court of Canada, which said that the provinces do have a position in the matter. The federal government cannot change the Constitution or interfere in federal-provincial jurisdictions without the consensus of the provinces.

• (1600)

In 1982, the Constitution Act came into being, with the consensus of the provinces.

With regard to free trade, some said, at the time, that it was irrelevant to bother with the provinces on that issue. They said the provinces were not needed. However, they were needed. Many a meeting was held here in the Conference Centre and the Langevin Block to ensure that the provinces were involved in the discussions and in the final Free Trade Agreement, because part of that Free Trade Agreement was provincial in nature.

The Meech Lake Accord was another instance. If you look at any matter affecting federal-provincial relationships, the provinces were involved. Back in September, or earlier, the Prime Minister said, "Oh, yes, we will involve the provincial premiers in any discussions on Kyoto. I will call federal-provincial conferences." He did not. There has not been a federal-provincial first minister's conference on the Kyoto accord.

Let us hear what some people are saying. I referred to offshore Nova Scotia and offshore Newfoundland. We are in the embryonic stage of helping our provinces. During a sometimes feisty news conference in Halifax, EnCana CEO, Gwyn Morgan, said that the proposed Deep Panuke project off Nova Scotia — that is the second big project — cannot stand any higher cost structures.

The agreement is intended to curb heat-trapping pollution some scientists say is causing an increase in average temperature. Preliminary federal studies suggest Canada's major energy-producing provinces — Alberta, Nova Scotia and Newfoundland — would suffer significant economic damage under the terms of the accord. Mr. Morgan said that, if Ottawa ratifies the treaty before the end of the year, oil and natural gas projects could be threatened.

I am not the only one saying this. The CEO of EnCana says that our projects offshore Newfoundland and Nova Scotia could be threatened if ratification goes ahead.

Take a look at what people like Premier John Hamm, the Minister of Energy of Nova Scotia, Gordon Balser, the Premier of Newfoundland, and certainly the Premier of Alberta are saying. This could have a dampening effect on further exploration and on production offshore in Nova Scotia and Newfoundland.

It is a backward step for development in these two provinces and a backward step for New Brunswick also. New Brunswick is now reaping the benefits of the natural gas from offshore Nova Scotia. There are more customers in New Brunswick for our natural gas than in Nova Scotia. The next big project off Nova Scotia, the Deep Panuke, will mean more natural gas for New Brunswick, and probably for the electrical generating stations in New Brunswick.

Why would you vote for a resolution on Kyoto when you know darn well that it could dampen offshore exploration and production off Nova Scotia and, therefore, hurt the people of New Brunswick, as well as Nova Scotia and Newfoundland?

Senator Cordy knows what I am talking about. So does Senator Phalen. That is why they will vote against this resolution, because, as good Cape Bretoners, they will not allow Cape Breton to suffer.

The Hon. the Speaker: Senator Buchanan, I am sorry to interrupt, but I must advise that your time has expired.

Senator Buchanan: May I have another two minutes?

[*Translation*]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, in keeping with the spirit of the holiday season, we could certainly give the Honourable Senator Buchanan five minutes to finish his remarks.

[*English*]

Senator Buchanan: Senator Carstairs knows what I am talking about. I know this: If her dear father were alive today, he would be saying, "Go to it, John. Help Nova Scotia, Newfoundland, New Brunswick and Prince Edward Island."

What about the Laurentian Trench off Cape Breton? What about Sydport? We built the roads from Highway 125 to Sydport to ensure that Sydport would become the base for oil and gas exploration in Cape Breton. What will happen now? What will happen now with the Kyoto accord dampening any further exploration? Glace Bay will suffer.

The late Hugh MacLennan corrected me once when I was presenting him with a literary award for Nova Scotia. My middle name is MacLennan. Like my mother, he was born in Glace Bay. After I gave the award, Hugh MacLennan got up and, in that wonderful voice of his, said, "I want to correct the premier. I will accept the award, but he is very wrong about our relationship." I thought, "Oh, my gosh. What was I wrong about?" He said, "Anybody who would say it was 'Glace Bay' can't be a MacLennan from Glace Bay because it is really called 'Glace Bay.'" That is the historic pronunciation of it.

It is important that we listen, not to the science of Kyoto but to the ramifications for the economy.

Officials of the Nova Scotia energy department, who are smart people — I should know; I appointed most of them — warned that consumers in the province will likely face higher electricity bills if the Kyoto Protocol is ratified.

Allan Parker, the province's manager of energy utilization, told the committee that higher power rates could have a ripple effect, driving some larger users like pulp and paper companies out of the province and out of Cape Breton.

Newfoundland expresses concerns about the uncertainty. There are too many uncertainties and unknowns associated with the draft federal plan on climate change in this province to support the ratification of the Kyoto Protocol, at this time.

Are all these people wrong?

Is the Canadian Manufacturers Association wrong? The uncertainty, the lack of detail, the absence of true consensus regarding the federal government's climate change proposal clearly do not yet provide the basis for a well-informed decision on ratification.

• (1610)

The Canadian Manufacturers Association and the Energy Council of Canada stated that, in their view, Canada will not be able to meet, on time, the initial target that is accepted, in principle, in Kyoto absent an economic collapse similar to those experienced in Eastern Europe following the demise of Soviet Communism.

The Energy Council of Canada said that Canada needs a strategy that recognizes that our most important trading partner, the United States, has expressly abandoned the targets initially agreed, in principle, in Kyoto. This has enormous implications for Canada's competitiveness and economic stability, the potential for emission trading, not to mention the prognosis for climate change. Canada is the only signatory in the Western Hemisphere.

Does it make any sense?

You can say "aye, hey." What about the jobs? Where do we go from here?

Given the changing global reality, we need to articulate a uniquely Canadian strategy that reflects our international commitments, addresses our economic and social priorities and draws on our collective strengths and successes.

[Senator Buchanan]

Here is another organization, the Canadian Chamber of Commerce:

The Hon. the Speaker: Senator Buchanan, your additional time has expired.

Hon. Senators: Hear, hear!

Senator Buchanan: I want everyone here to know I am voting against this resolution.

I am voting for the amendment to get the premiers in Canada involved.

Hon. Tommy Banks: Honourable senators, it is difficult to follow Senator Buchanan on any subject. I have the great pleasure in being able to assuage Senator Buchanan's fears in the respects that he has just enumerated to us because there is only one matter in which I have more experience than the honourable senator, and that is being a resident of a province in which the energy production that derives from petroleum has been an important part of the economy since 1905. If I were to invoke the style of the famous scene in Casablanca, I would say I am shocked to hear that the president of an oil company would suggest that he would take his ball and go home. It will not happen, honourable senators. I promise you.

The first time I got a handle on that was when my cousin, Don Hanson, from Oklahoma, who is in the oil and gas business, was visiting in the 1970s. He explained that his gas company at that time was embarked on a project in which they were trying to convince their customers to use less of their product. I had never heard of such a thing previously. He said the problem is this: "I have this great under supply and a huge over demand. There are three places from which I can meet commitments that I have to my customers. One, I can drill new wells, which is expensive and dangerous and risky. Second, I can build a new pipeline and import gas. That is not a good idea because it is too expensive and there is no security of supply. Third, I can go to my customers and find efficiencies in their use of energy, which they would never find or look for." He did that. He said: " I will do that because that is the least expensive way for me to meet my objective. It will look better on my bottom line." The result was that his company made double the money it would have otherwise, and his customers all saved a great amount of money. It was an unconventional view of how to do things.

Honourable senators, unconventional wisdom is not always right, but it often is. Conventional wisdom, on the other hand, is definitely not always right. When faced with innovation, conventional wisdom is almost always wrong. Ask Galileo and Columbus and ask ourselves. We remember when the idea that cigarette smoking actually caused cancer was regarded as preposterous. Conventional wisdom was wrong.

The world does change. The world is changing. The environment is changing. Our habits must change. Our willingness to contemplate change must change. We have to make, honourable senators, a leap of faith.

Most of the arguments we have been hearing from all sides about the Kyoto accord have, in my view, been exactly the wrong arguments, with respect. They have been all about numbers. I do not believe any of them. I do not believe anyone who says that the implementation that must follow the ratification of Kyoto will not cost any money. I do not believe that. I do not believe anyone who says that when we do this, it will be the end of life as we know it. They are both arguments of insupportable nonsense.

We should start at the beginning of the question about Kyoto.

Is there, with respect to climate change and CO2 emissions, anything to be concerned about? If the answer to that question is no, we should stop talking about this and get on with something that is important. However, no one believes that the answer to that question is no.

The next question is this: If there is something to be concerned about, is it urgent? Is there an emergency about it? The answer is there may be, as Senator Buchanan has pointed out. Most people think there is a certain urgency. Some are less certain. Some doubt it.

Given what we know for certain, doubting a degree of urgency is like a patient who has been told that he has high blood pressure and high cholesterol. There are two possible reactions: One, the patient can say: "Well, I think I will cut back on my smoking starting now, and maybe I will start doing a little exercise." That would be a prudent reaction. The other is: "Well, if I am at 190 over 95 now, exactly what is the safe level? Would I be okay at 175 over 90? If I do not get to that level, when will I have my heart attack? How serious will that heart attack be? More important, who will pay for it? How much will it cost? I will not do anything by way of a commitment until I have the exact, detailed answers to those questions."

There are some people who are saying, in respect of us being the patient, that unless the doctor can state with absolute certainty that the heart attack will occur within the next two weeks, then we ought not to do anything. We can keep on smoking and put off exercising for a few more months. No one takes them seriously any more. Not even those vehement opponents of action such as is contemplated in Kyoto. Even those opponents argue there is some concern, and we have to do something.

What we have to do, honourable senators, is the right thing. If we fail to do the right thing, then we will do the wrong thing. We will be part of the problem and not part of the solution. We often do the right thing in this country in the end. Often that right thing requires a leap of faith. We have taken great leaps of faith in this country.

Think of the passionate debates that took place in this Parliament when our first Prime Minister proposed that we should have a national railway that would span the country. We can look at the debates by the well-intentioned parliamentarians who questioned its value, and the good people who wondered whether we as a nation could afford to pay the price for the railway. History proved that the overarching imperative was more important than any other consideration, and it paid off.

We have heard that we are being asked to make this leap of faith too quickly; without notice, without sufficient consideration or deliberation.

Let me tell you how much of a hurry it is and how short the notice is by referring honourable senators to the 1993 report of the Standing Senate Committee on Energy, the Environment and Natural Resources, of which the Honourable Senator Hays was at the time the chair. The report was called the Energy Emissions Crisis, A Viable Alternative. One of its main recommendations was that the federal government, in conjunction with energy stakeholders, undertake and make public a detailed analysis of the feasibility of emission trading for CO2 and other greenhouse gases.

We have been at this for a while.

I will be happy to send Senator Buchanan the dates and times of nine meetings of the joint ministers from the provinces on this subject, dating back to the 1990s, who were designated by the premiers to do exactly that. We have been at this longer than the line of consultations to which honourable senators referred here yesterday. We are right, in Canada, about this question. We have many of the answers, as is so often the case.

• (1620)

In that respect, I commend the attention of honourable senators to a best-selling book by Satya Das, called *The Best Country*, as he refers to Canada. In his book, this distinguished Albertan makes the point that we have much to show the rest of the world, that it is time we started doing so, and that we should lead and stop hiding our collective light under a bushel. We have, he points out, not merely the opportunity but the duty to show the way when we are right. In this, honourable senators, Canada is right.

In Canada, we often achieve success in things that some conventional wisdom says are impossibly difficult. Take acid rain as an example. The short-sighted considerations of cost and everyone going away and losing businesses could not trump what was right, and we won. We won at a fraction of even the most optimistic cost predictions. Take the FTA and NAFTA as examples. I remember hearing about unprecedented economic chaos that was going to follow NAFTA, and it did not. The results speak for themselves.

Do honourable senators remember when we decided to take the lead out of gasoline? We were going to lose billions in capital and the evaporation of thousands of jobs. That did not happen. Gasoline is still being sold the last time I looked, and I hope that it is at a big profit.

When we decided to remove sulphur from gas, the gas companies all said: "That's it. We are capping the wells and going home. You have seen the last of our exploration and you will never see that level of investment again. Say goodbye to all those jobs." Honourable senators, they are still here, still pumping gas out of the ground and still making money. Some of them are now making more money selling sulphur than they are selling gas. By the way, as a not incidental result of that, we do not have a bunch of sulphur dioxide floating around in the air polluting our lakes and our rivers.

When it comes right down to it, and it has come down to it quite a few times in this country, we have always made the right choice in the end. It is exactly that inspiring character of Canada that has made us admired and envied the world round.

We have accomplished this with international agreements, too. When the danger was that CFCs would deplete the ozone layer, we signed the Montreal Protocol. To combat acid rain, we signed the Canada-U.S. Air Quality Agreement. We are still here and we are still doing pretty well — better than anyone else at the moment. Both of those agreements were projected to result in massive outflows of investment capital, large and unmanageable costs to business and consumers, and huge job losses. Both of them met their targets ahead of time and at substantially lower costs than anyone had dared to predict.

Let us look at the Kyoto accord. Kyoto's purpose is not to reverse climate change. It is not to fix the problem. It is not to be the solution. No one ever said that it was. Its opponents have set those things up as straw men to knock down. "It will not solve the problem," they say. No one ever said it would. "It will not, by itself, seriously reduce global emissions." No one ever said that it would. Those are not the goals of Kyoto. Kyoto is, to paraphrase the great man, not the beginning of the end, but it is perhaps the end of the beginning. It is a beginning. It is a tiny baby step in the process of changing our collective minds — not just our Canadian collective minds but also the world's collective minds — about how we make energy and how we use energy.

We can change our minds. Fifteen years ago — that is all it was — people sat smoking cigarettes on their hospital beds. It was not all that long before that time that women were not allowed to vote and they certainly were not allowed in this room. Those were conventional wisdoms. We now look back at those events and say, "Can you believe we actually used to do that?" We have to change our minds and we can change the way we think. We must change the way we think.

I have to think a little more carefully about what I burn in my car. In fact, maybe I have to get a different car, and there are some things that I should do to my house and things that we should all consider. Let us begin that process because Kyoto does not say a single word about how to do this — about implementation, about application or methodology. Kyoto sets out a target and a date.

When Japan figures out how to achieve their targets and their date, they will have a made-in-Japan solution. The same is true for Germany and Britain. What Germany and Britain do about it will be a made-in-Germany plan and a made-in-Britain plan. When we find out how we will achieve those ends, we will have a made-in-Canada plan.

Some Hon. Senators: Hear, hear!

Senator Banks: Honourable senators, we already have a good start to that plan because the provinces have been talking with the federal government about it since the 1990s. Senator Kinsella reminded us that in Halifax the provinces and territories submitted a list of 12 principles for a national plan. The Government of Canada has now agreed to 9 of those 12 points. I have been negotiating contracts for 50 years. When the result of negotiation is a 9-out-of-12-point agreement, that is a substantial agreement, and I refer to the amendment presently before us.

I want to talk specifics with honourable senators because the question was raised about the outstanding points, which are numbers 2, 3, and 7. I will read them because the authorship belongs to the provinces and the territories. The federal government has agreed to points 1, 3, 4, 5, 8, 9, 10, 11 and 12.

Point 2 contains three sentences. The first sentence reads:

> The plan must ensure that no region or jurisdiction shall be asked to bear an unreasonable share of the burden and no industry, sector or region shall be treated unfairly.

The Government of Canada agrees with that statement. The second sentence reads:

> The costs and impacts on individuals, businesses and industries must be clear, reasonable, achievable, and economically susstainable.

The Government of Canada agrees with that statement. The third sentence of the second point reads:

> The plan must incorporate appropriate federally funded mitigation of the adverse impacts of climate change initiatives.

The federal government thinks that is a question that should be discussed because it essentially says, "You guys pay; we do not pay."

Hon. Elizabeth Hubley (The Hon. the Acting Speaker): I am sorry to interrupt, Senator Banks, but I must advise that your time for speaking has expired.

Senator Banks: I would request a further five minutes.

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

Hon. Senators: Agreed.

Senator Banks: Honourable senators, I will read points 6 and 7. Point 6 states:

> The plan must ensure that no Province or Territory bears the financial risk of federal climate change commitments.

Again, the inference is, "You guys pay; we do not."

Point 7 states:

> The plan must recognize the benefits from assets such as forest and agricultural sinks must accrue to the Province and Territory which owns the assets.

"You pay, spread the risk around, we keep the benefits," is the view of the provinces and territories. In fact, Premier Eves of Ontario believes — and he is right in this, I think — that there is really only one issue, and it is money. To quote Mr. Eves from a CBC television interview on that subject, he said:

> The one stickler is that the federal government should be responsible for or assume the economic burden of any cost....

That, I suppose, sums up the Government of Ontario's view of cooperative federalism.

We hear that the decision of the United States not to ratify — although they are signatories to Kyoto — will bring the sky down on us. Many states in the United States and many businesses there have a different view. The State of Oregon introduced landmark legislation in 1997, and their Power Plant Offset Program will save 844,000 tons of CO_2. New York City's clean-fuelled bus program solves the problem of nearly 5 million gallons of diesel fuel a year, and over 19,000 tons of CO_2 a year.

The New England States and the Eastern Canadian premiers, as we have seen, have already signed an agreement in August 2001, in which they say they will jointly reduce their regional greenhouse gas emissions to 10 per cent below 1990 levels by 2010. The Dupont Corporation has reduced GHG emissions by 63 per cent. That corporation's output has gone up by 35 per cent since 1990, but their energy use is still at 1990 levels. IBM reduced its energy use by 6.92 per cent, which saved 220,000 tons of CO_2 and saved the company over $22.5 million in energy bills. The same is true for British Petroleum and Eastman Kodak.

I am very proud about a large Alberta power company called TransAlta Utilities. They have already reduced their GHG emissions to 1990 levels, and they plan, by 2024, to reduce their GHG emissions from their Canadian operations to zero, and they will do that. Businesses can do that. Businesses will do that. Businesses will make a buck. However, the Government of Canada must bear a responsibility to ensure that there are incentives to reward innovation, new thinking and new technologies.

• (1630)

In implementing our Canadian plan to achieve Canadian goals, we must ensure, as the government has already agreed, that no province, industrial sector or part of the country will bear an unfair portion of whatever costs are involved. We must ensure that those enterprises that have already achieved significant reductions in their emissions are credited with their demonstrable contributions on the right side of the ledger. We cannot say to them, "As of today, we will start talking about you doing good things." Good, far-sighted responsible management must not be punished.

I have faith, honourable senators, that we will do the right thing, that individual Canadians will do the right thing, that Canadian businesses and industry will do the right thing and that, as they have before in these urgently important matters that relate to our ecology, the Government of Canada will do the right thing. I have faith in Canadian innovation, in Canadian resilience, and in our ability to show the way to the world. We cannot escape that responsibility. We must not allow ourselves to lose this opportunity. We must now urge that the government ratify Kyoto and that we get on with it.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I proposed the amendment. I have not spoken to it, so I will take a few minutes to do so and to share with honourable senators some correspondence received from offices of premiers.

Before I do that, I was interested in Senator Banks' statements reminding us of the scaremongering that went on prior to the signing of the acid rain treaty and during the discussions on the FTA the NAFTA, and all the disasters that would ensue to this country after the signing of that agreement. I would remind the honourable senator that most of that scaremongering, if not all, emanated from his party. I assume that, by bringing it to our attention, it is a form of apology, and that is the way I take it.

Senator Carstairs: That is pushing it.

Senator Lynch-Staunton: I would also remind the honourable senator that he forgot to tell us that the threat was that the FTA would bring an end to Medicare. Somehow, that did not happen either.

Having raised that matter in jest, I raise my next point seriously: No one, so far, has challenged the purpose of Kyoto, the principle of Kyoto and the intent of Kyoto. No one, as far as I know, has indulged in that kind of scaremongering. Of course, there are anxieties about lost jobs and plants not being able to conform, et cetera. Those are natural. However, those points are not our arguments, honourable senators. Certainly, those arguments do not belong with this amendment.

If we are all in agreement that we must have a common climate action plan, it can only be done with the support of as many provinces as we can find; not unanimity, that is practically impossible, but certainly substantial agreement.

Senator Spivak is not here. Her commitment to Kyoto is as strong as that of anyone I know. However, on December 10, at page 639 of the *Debates of the Senate*, she made the following statement:

> I sincerely wish that we had more provincial support for ratification. In recent months, it has weakened.

Senator Spivak is quite right in that regard. She went on to list those provinces and territories that are on side, those that are not, and those, like Alberta, that are threatening court action.

If I may — and this is what I want to correct — she said:

> 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.

The amendment does not speak of unanimity; it speaks of substantial agreement.

Senator Buchanan: Consensus.

Senator Lynch-Staunton: Consensus, that is right.

We had unanimity for the acid rain treaty. When Prime Minister Mulroney and President Reagan signed it, Mr. Mulroney was able to say with pride that every territory and province was on side. As Senator Murray reminded us, when NAFTA was signed, when the FTA was signed, there were two provinces, Ontario being the most prominent one, that were offside; however, in time they came around. They amended legislation.

There was unanimity in one case and substantial agreement in the other. However, here there is no agreement — certainly no substantial agreement. Yes, there have been consultations and meetings, and there will continue to be meetings. However, there is no promise of substantial agreement after ratification. If you do not have that after ratification, then it is meaningless. Ratification is a formal commitment to the international community that Canada will be responsible for implementing the terms of the treaty that it has ratified. Yet, to ratify prior to the end of this year, Canada will be unable to say, "Now, everything is in place. We will meet the commitment for 2010." We cannot say that now.

There is no need for the Government of Canada to ratify before the end of the year. It is just to honour a commitment made by the Prime Minister in a moment of overenthusiasm in Johannesburg in September. It is only when he got home that he realized that a lot of his caucus and members of his cabinet, two from Alberta and others, were not on side. He realized that the premiers and territories had these 12 principles, which are still under discussion, and a number of provinces are still very anxious about the impact of the treaty on their jurisdictions.

We are just being too hasty. We are being asked to satisfy a commitment of one individual. Surely, that individual could now realize after debate here and elsewhere in the country, particularly on the part of his partners, to make this possible, that he should back off.

I cannot understand how the Prime Minister in the Speech from the Throne in September said that he would convene a meeting of premiers to talk about the Romanow report even before seeing the report. He confirmed the meeting after the report came out. Yet, Kyoto has been before Canadians for five years, and there has been no significant progress made to come to a general agreement, a substantial agreement. Yet, the Prime Minister maintains that he does not wish to meet with the premiers of the provinces and territories. He has already made up his mind. That is not the way international obligations are met.

I urge honourable senators to support the amendment.

Previously, honourable senators kindly granted me leave to table correspondence from offices of premiers, and I hope I will be granted that same leave today. First, I will provide the flavour of the correspondence I have received.

Prince Edward Island is appreciative of an invitation to appear if the amendment is passed, but does not wish to be present before the Senate at this time.

From the Province of British Columbia, Premier Campbell has neither said "yes" nor "no"; but he has sent along a copy of a letter that he addressed to all B.C. senators and MPs in which he outlines British Columbia's great concerns. I will just give honourable senators one line that will give the flavour of the entire text. That line is as follows:

> The federal plan that has been presented to provinces and territories is not only incomplete; it is inequitable.

Finally, Premier Grimes of Newfoundland welcomes the introduction of the amendment and goes on to say that a request to appear will be taken under consideration, should the Senate make the decision.

There is no firmness. However, there is interest. For the record, honourable senators, I would seek permission to table this correspondence.

The Hon. the Speaker: Is it agreed?

Hon. Senators: Agreed.

Senator Lynch-Staunton: That being said, that concludes my remarks. I hope I have convinced senators on the other side to, at least, reflect on the situation today, and to realize how rushing to ratification might provoke more discord rather than lead to the accord that we are seeking between the federal government and the provinces and the territories.

The Hon. the Speaker: Would the honourable senator respond to a question by Senator Banks?

Senator Lynch-Staunton: Yes.

Senator Banks: I think it likely that certain premiers may appear before the Senate.

• (1640)

Would the honourable senator tell us, in respect of the invitations that have been issued, how many premiers have said that they would come here to talk to us?

Second, if agreement on nine out of twelve points and two-thirds on the ten, were not substantial agreement, what would be? Would concurrence on ten out of the twelve points be considered substantial agreement?

Third, does the honourable senator not think that if there is a specific time, say 2010, that there would be a certain imperative to get down to the business of achieving that end and that every day that goes by before we have determined that we will achieve that end is a lost day?

We have lost five or six months of time since the announcement by the Prime Minister. We need the time to apply these matters to achieve the objectives in 2010. Is there not a time imperative?

Senator Lynch-Staunton: Honourable senators, the only way to achieve the objectives of 2010 is to get the provinces and territories on side with the federal government in a common general agreement. The government has wasted time in not convening the senior representatives of each province and territory to hammer out something. If that could not be done, I would then be on the side of the Prime Minister who, I would note, had seriously tried in a concentrated forum to come to an agreement. If one or two are holdouts, so be it.

The same happened during the discussions on free trade. There were sectorial tables. There were constant discussions among officials at all levels, including between ministers of every jurisdiction. It went on for years. That is not an exaggeration. However, in this case the government has wasted five years.

The Government of Canada has not taken the position of the territories and the provinces seriously. It is 1981-82 and the Constitution debate all over again. Patriate alone was the approach then. What did that do? It provoked a number of provinces into going to the Supreme Court. What did the Supreme Court say? They said that Mr. Trudeau was acting legally, but he was violating a convention. What did that force Mr. Trudeau to do? He was forced to bring the territories and the provinces together, which he should have done before engaging in patriation. I see the same pattern of unilateral behavior repeating itself.

Two premiers have accepted an invitation to meet. One is Premier Hamm, and the other is Alberta. The invitation was to the premier or a representative of the government. Mr. Halvar Johnson, Minister of International and Intergovernmental Relations, said, "...as such Alberta would be willing to make someone available to meet with members of the Senate to provide them with similar information."

You could say that is only an informal meeting over a cup of coffee. Alberta is interested in coming before the Senate, or certainly before senators. I take that as categorical support for the approach found in the amendment.

Let us say that all 12 principles are accepted. They will not be, as the honourable senator said, because two have to do with money where the provinces say that the federal government should pay everything. I agree that that is a bit excessive, but certainly that is negotiable. Everything is negotiable. Let us sit down and negotiate. Bring the premiers in to negotiate. We are not doing that. The government is just saying "no."

Some Hon. Senators: Question!

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

Hon. Senators: Question!

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

Some Hon. Senators: No.

Some Hon. Senators: Yes.

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the "nays" have it.

And two honourable senators having risen:

The Hon. the Speaker: Call in the senators.

Is there an agreement on the time for the vote?

Hon. Bill Rompkey: Honourable senators, there is an agreement to have the vote after Royal Assent with a 15-minute bell.

Hon. Terry Stratton: I agree.

The Hon. the Speaker: There is agreement. I would like to be more precise because when the bells start is important, and when the vote occurs is also important.

The Royal Assent would take place at 5 p.m. according to the letters. Her Excellency will be here at that time. The Royal Assent may take 15 minutes.

Accordingly, honourable senators, I will ask the Whips again when shall the bells ring?

Senator Rompkey: Honourable senators, the bells should start when Her Excellency, the Governor General has exited the chamber.

The Hon. the Speaker: When would the vote take place?

Senator Rompkey: The vote would take place after a 15-minute bell.

The Hon. the Speaker: Do you have a comment on that, Senator Stratton?

Senator Stratton: Is Your Honour saying that certainty of the time is needed?

The Hon. the Speaker: The bells will ring when the Governor General passes the bar of the chamber, and the vote will take place 15 minutes later.

[*Translation*]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SIXTH REPORT OF COMMITTEE ADOPTED

On the Order:

> Resuming debate on the motion of the Honourable Senator Bacon, seconded by the Honourable Senator Maheu, for the adoption of the Sixth Report of the Standing Committee on Internal Economy, Budgets and Administration (*Senate Estimates 2003-04*) presented in the Senate on December 10, 2002.—(*Honourable Senator LaPierre*).

Hon. Laurier L. LaPierre: Honourable senators, I will not talk about it. The chair of the committee is at liberty to spend the money allocated to her and, in the future, I will be asking her to find more. I move the adoption of this report. That is my Christmas present.

The Hon. the Speaker: Honourable senators, is it your pleasure to adopt the motion?

Motion agreed to, and report adopted.

FISHERIES AND OCEANS

BUDGET—REPORT OF COMMITTEE ON STUDY OF STRADDLING STOCKS AND FISH HABITAT ADOPTED

The Senate proceeded to consideration of the second report of the Standing Senate Committee on Fisheries and Oceans (Budget—Study of Straddling Stocks and Fish Habitat), presented in the Senate on December 10, 2002.—(*Honourable Senator Comeau*).

Hon. Gerald J. Comeau moved the adoption of the report.

Motion agreed to, and report adopted.

STUDY ON STATE OF HEALTH CARE SYSTEM

FINAL REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE—DEBATE SUSPENDED

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 Keon*).

Hon. Wilbert J. Keon: Honourable senators, it is a pleasure for me to rise today to make a few comments with regard to the final report of the Standing Senate Committee on Social Affairs, Science and Technology.

[*English*]

As a member of the Standing Senate Committee on Social Affairs, Science and Technology, I take this opportunity to congratulate the members of the committee for their assiduous commitment over the past two years in seeing this study to fruition. This could also not have been possible without the tremendous work accomplished by the committee staff and researchers. Special congratulations must go to Senator Kirby, who showed such tremendous leadership through this endeavour, and Senator LeBreton, as deputy chair. I must say that it was a pleasure to work with all members on the committee.

• (1650)

I should like at this time to highlight the major findings and recommendations of the report released in late October. Despite the complex ideological and political nature of health care, the 11 members of the Senate committee were able to reach unanimous consensus on a set of recommendations to reform, renew and expand Canada's publicly funded health care system.

The recommendations of the Senate committee can be grouped into six categories: one, restructuring the hospital and doctor system; two, implementing the health care guarantee; three, expanding public health care insurance coverage; four, strengthening the federal government's role in health care infrastructure; five, fostering federal investment in health research, health promotion and disease prevention; and six, raising additional federal revenue for health care.

At the onset, I wish to stress that all of the Senate committee's recommendations can be implemented without any change to the Canada Health Act. In its report, the committee expressed strong support for the five principles of the act. A major observation in the Senate committee report, however, is the need for clarification of the principle of public administration. It is important to understand that this principle refers to the funding of hospital and doctor services and not to the delivery of those publicly funded services.

With respect to restructuring of the hospital and doctor system, the Senate committee made several recommendations. First, we recommended that the current hospital-funding mechanisms, which are based primarily on funding inputs and not on final outcomes, be changed to service-based funding, a method that focuses on paying for the delivery of hospital services that meet specific performance criteria.

Second, we recommended that regional health authorities be given greater control over the full range of health care spending in their region, including the cost of physicians' services.

Third, we made a series of recommendations to reform primary health care. We believe that primary health care groups should be established. These groups should have multidisciplinary structures and provide care 24 hours a day, seven days a week. Such primary health care reforms require changing the current mode of remunerating physicians to capitation or some form of blended remuneration. Primary health care reform also requires reviewing the scope of practice rules to allow for the use of the best skills and competencies of health care providers.

One of the most pressing needs in health care relates to the supply of human resources. There is a shortage of health care providers across the country. The Senate committee believes that the federal government must play a stronger role than it has to date in coordinating the efforts to deal with the shortages of health care human resources. This should involve investment to enhance enrolment in medical colleges and nursing schools, as well as enrolment in other health care professions.

It is interesting that, 10 to 15 years ago, someone came up with the bright idea that the way to control health costs was to control the number of doctors and nurses. Hence, if you could not get to see a doctor or nurse, you could not use the system. Well, we are there now. We need more doctors and nurses.

A major recommendation to improve the delivery of care in the hospital and doctor system deals with the health care guarantee. I believe this is the Achilles heel of our report. I will dedicate myself to seeing that this is implemented. After all, if we cannot guarantee health care, we really have accomplished nothing.

I must tell honourable senators that, about 15 years ago, there was a crisis in Ontario for cardiac care. The then minister, Elinor Caplan, asked me to chair a committee to deal with that crisis. I recommended a health care guarantee for cardiac care in Ontario. I must say that that system, called the Cardiac Care Network of Ontario, still functions, and functions very well. People on the waiting list should be on the waiting list because the waiting list criteria are compiled by a peer review process. I believe this concept could be expanded across the country. It could apply, in particular, to primary care.

The Senate committee is very concerned that the failure to effectively address the problem of lack of access to timely care could lead, as a result of court decisions, to the establishment of a private hospital and doctor system. This concern should not be underestimated. Very credible legal people are now saying that a single-tiered system is unconstitutional if you cannot access it.

The Senate committee also recommended that public insurance be expanded to include coverage for catastrophic prescription drug costs, immediate post-hospital home care costs and costs of providing palliative care for patients who choose to spend the last weeks of their life at home.

Coverage for catastrophic prescription drugs would ensure that no Canadian would ever be obliged to pay out of pocket more than 3 per cent of the total family income for prescription drugs. There are places in Canada now where people can literally go bankrupt and indeed must use all of their financial resources, including their pensions, before they can draw government aid for catastrophic drug costs. Surely this is not the Canadian way.

The committee's proposed plan builds on, rather than replaces, current private and public insurance plans in order to ensure uniformity of coverage throughout the country and in order to be able to regulate which drugs are eligible under this program. It will be necessary to establish a national drug formulary, of course, to make this functional.

The post-acute home care program recommended by the Senate committee would be administered by hospitals and would cover the costs related to provision of home care for up to three months following hospital discharge. The palliative home care program would make palliative care available to Canadians in their homes. We also recommended that the federal government examine the feasibility of providing employment insurance benefits for a period of six weeks to employed Canadians who choose to leave their job to provide palliative care for their loved ones. We believe this would be a tremendous asset.

The Senate committee's recommendations with respect to health care infrastructure relate to health care technology, electronic health records and a national health care commissioner. The committee is seriously concerned that the availability of many new technologies is disproportionately low in Canada in comparison with other OECD countries. We believe that the federal government should provide funding to academic health science centres and community hospitals for the express purpose of purchasing and assessing health care technology.

The Senate committee has also concluded that both Canadians and their publicly funded health care system will benefit greatly if a national system of electronic health records is implemented. Accordingly, we recommend that the federal government provide funding to Canadian Health Infoway to develop, in collaboration with the provinces and territories, a national electronic health record system.

The Senate committee also proposes the creation of a national health care commissioner and an associated national health care council to improve the governance of health care in Canada. It is a very interesting subject, honourable senators. I remember as a young man, some time ago, at a national meeting when we were lamenting some of the ills of the system, saying, "What this country needs is a surgeon general who can provide an annual report on the state of the health of the nation, on the deficiencies and strengths and weaknesses, and come back the next year and tell the population what we have done about it." Well, that did not go over at all. The closest we thought we could come to this would be a national health care commissioner. Really, when you consider the number of commissioners we have in other areas, this is not an unreasonable undertaking.

The Hon. the Speaker: I am sorry to interrupt, Senator Keon; however, it is five o'clock.

Is it your pleasure, honourable senators, that the Senate do now adjourn during pleasure to await the arrival of Her Excellency the Governor General?

Hon. Senators: Agreed.

Debate suspended.

The Senate adjourned during pleasure.

[*Translation*]

ROYAL ASSENT

Her Excellency, the Governor General of Canada, having come and being seated on the Throne, and the House of Commons having been summoned, and being come with their Speaker, Her Excellency the Governor General was pleased to give the Royal Assent to the following bills:

An Act to implement an agreement, conventions and protocols concluded between Canada and Kuwait, Mongolia, the United Arab Emirates, Moldova, Norway, Belgium and Italy for the avoidance of double taxation and the prevention of fiscal evasion and to amend the enacted text of three tax treaties. (*Bill S-2*, *Chapter 24, 2002*)

An Act providing for controls on the export, import or transit across Canada of rough diamonds and for a certification scheme for the export of rough diamonds in order to meet Canada's obligations under the Kimberley Process. (*Bill C-14, Chapter 25, 2002*)

An Act to amend the Copyright Act. *(Bill C-11, Chapter 26, 2002)*

An Act to protect human health and safety and the environment by regulating products used for the control of pests. (*Bill C-8, Chapter 28, 2002*)

An Act respecting the protection of wildlife species at risk in Canada. **(***Bill C-5, Chapter 29, 2002*)

The Honourable Peter Milliken, Speaker of the House of Commons, then addressed her Excellency the Governor General as follows:

May it please Your Excellency.

The Commons of Canada have voted certain supplies required to enable the Government to defray the expenses of the public service.

In the name of the Commons, I present to your Excellency the following bill:

An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2003 (*Bill C-21, Chapter 27, 2002*),

To which bill I humbly request Your Excellency's assent.

Her Excellency the Governor General was pleased to give the Royal Assent to the said bill.

The House of Commons withdrew.

Her Excellency the Governor General was pleased to retire.

• (1720)

The sitting of the Senate was resumed.

[*English*]

KYOTO PROTOCOL ON CLIMATE CHANGE

MOTION TO RATIFY ADOPTED

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."

Motion in amendment negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk	LeBreton
Atkins	Lynch-Staunton
Beaudoin	Murray
Buchanan	Rivest
Cochrane	Roche
Comeau	Rossiter
Di Nino	St. Germain
Keon	Stratton
Kinsella	Tkachuk—18

NAYS
THE HONOURABLE SENATORS

Adams	Jaffer
Bacon	Joyal
Banks	Kroft
Biron	LaPierre
Callbeck	Lapointe
Carstairs	Léger
Christensen	Losier-Cool
Cook	Maheu
Corbin	Milne
Cordy	Morin
De Bané	Pearson
Ferretti Barth	Phalen
Finnerty	Poulin
Fitzpatrick	Poy
Fraser	Robichaud
Furey	Rompkey
Gauthier	Setlakwe
Gill	Sibbeston
Graham	Smith
Hervieux-Payette	Watt—41
Hubley	

ABSTENTIONS
THE HONOURABLE SENATORS

Cools	Spivak—2

The Hon. the Speaker: Honourable senators, we now return to the main motion.

• (1740)

Hon. Terry Stratton: Honourable senators, it is a pleasure to rise today to join in the debate on the motion that the Senate call on the government to ratify the Kyoto Protocol.

It is unfortunate that the amendment of Senator Lynch-Staunton did not pass this house. Passage of this amendment would have allowed the provinces and territories to appear before this chamber, present their positions and concerns, and to work toward a consensus on an implementation plan. There would have been an effort to reach a workable plan with the provinces before ratification that legally binds Canada to commitments we may or may not be able to achieve.

In the context of consultations with the provinces, I note that, shortly before the 1997 meetings in Kyoto, the Government of Canada met with the provincial governments, and they actually reached a consensus view on the position to be taken. However, the Government of Canada decided to play a game of one-upmanship with the United States on Kyoto, taking the view that, whatever the U.S. promised, Canada would do better. The end result was that the Government of Canada was hoodwinked; it was snookered; it was taken for a ride. The United States announced its position and Canada did one better, and now the United States has decided not to ratify.

Honourable senators, Canadians are undoubtedly concerned about the environment and would like to see a reduction in greenhouse gas emissions. We want to ensure that our environment is respected and that substantial development is promoted.

These goals are laudable and Canada should be working to make progress on all of them, but let us not forget that, as we move forward with the important goal of reducing greenhouse gas emissions, it is important that we work in full partnership with our provincial counterparts and other key stakeholders. That has been evident in both the debate on this motion and on the amendment over the past few weeks.

It is also important, as we develop our plans to reduce greenhouse gas emissions, that we know what the costs are and what individuals and provinces will have to do to achieve that goal. Senator Lynch-Staunton, Senator Beaudoin, Senator Murray and Senator Spivak have all mentioned the absence of provincial agreement on the implementation of the Kyoto Protocol.

Senator Lynch-Staunton noted that trying to ratify the protocol without provincial agreement reminded him of the unilateral patriation of the Canadian Constitution by former Prime Minister Trudeau. Senator Lynch-Staunton said that, at the time, a number of provinces individually initiated legal action in their respective courts of appeal with Nova Scotia, British Columbia, Prince Edward Island, Saskatchewan, Alberta, and the Four Nations Confederacy Inc. joining with those provinces, which were Manitoba, Newfoundland and Quebec, in support of the subsequent appeals to the Supreme Court of Canada, all arguing that the consent of the provinces was required.

We know what the Supreme Court of Canada said in this matter. The justices stated that substantial agreement was required and that the passing of the resolution without such agreement would contravene convention and would thus be unconstitutional.

Senator Beaudoin has aptly pointed out that the ratification of the Kyoto Protocol on climate change does not solve anything. He said it is in implementation that the Kyoto Protocol will lead to legal consequences and that we must follow the division of powers set out in the Constitution Act, 1867. Therefore, the federal government and the provincial legislatures must legislate within their areas of jurisdiction to implement the Kyoto Protocol.

We do not know how the government will implement the Kyoto Protocol in the absence of provincial consensus. We do know, as Senator Beaudoin has said, that the implementation of the protocol will affect numerous provincial areas of jurisdiction, including natural resources, the environment, transportation, municipalities, housing, agriculture, land management, manpower training and, more generally, property and civil rights.

Senator Murray related a conversation he had with Elizabeth May of the Sierra Club who said that the Kyoto targets could be met by the federal government acting alone using federal levers. Senator Murray said:

> She did not agree with me that that would require the exercise of the peace, order and good government power, or a carbon tax, or, perhaps, the use of the environment act that would enable the federal government to simply declare a substance toxic and then tell the provinces what to do.

Senator Eyton has echoed the uncertainty about how Kyoto would be implemented. He noted that there is much unease in the business community at the federal government's lack of precision in its statements and actions to date.

He said:

> There appears to be no commitment to any specific course of action, other than the targets themselves, that were largely negotiated by others, without any regard to Canadian needs and challenges, and in particular without any regard to the thinly populated massive land mass represented by Canada and to the significant clean energy exported by Canada to the U.S. as a contributor to their program to reduce greenhouse gas emissions.

Senator Eyton also said:

> We need to have an implementation plan broadly acceptable to Canadian provinces and industry, for the political and economic well-being of Canada and Canadians.

Senator Lynch-Staunton, Senator Kinsella and Senator Murray were eloquent in noting the process and the manner in which previous international treaties have been dealt with prior to ratification. Senator Andreychuk talked about the treaty implementing process in other countries.

Let us recall the acid rain agreement, where Prime Minister Mulroney was able to tell the President of the United States that every province and territory supported it.

Senator Kinsella spoke to the process leading to the ratification of two international treaties in the field of human rights; the International Covenant on Civil and Political Rights with its optional protocol, and the International Covenant on Economic, Social and Cultural Rights. He said:

> The Prime Minister of the day, Prime Minister Pearson, recognized that there was provincial jurisdiction involved and that Canada would only be able to meet its obligations if the provinces would concur. It took 10 years, which saw numerous federal-provincial meetings of officials and ministers responsible for human rights.

Honourable senators, we are all aware of the significant progress in the sphere of social justice that Canada has made since those international instruments were implemented in all jurisdictions across Canada. We are all aware of the high regard in which Canada is held worldwide in the area of human rights.

• (1750)

In preparing for the Free Trade Agreement, Senator Murray noted that there were 11 first ministers' conferences. He recalled that there were numerous meetings of federal and provincial trade ministers, and that after every negotiating session with the Americans, there were conference calls between officials at the provincial and federal levels.

At the end of the day, the federal government was confident enough to proceed and ratify the agreement. Then all the provinces, including the ones who objected to the Free Trade Agreement, moved forward with actions to ensure they were compliant with the Free Trade Agreement.

Senator Andreychuk in her comments noted that Canada has done little to modernize and democratize this treaty implementation system, while other nations like Great Britain and especially Australia have completely revamped their systems. Australia maintains within its constitutional structure the exclusive right of the executive to sign and ratify treaties. However, treaties must first be tabled in Parliament for at least 15 days before the government takes binding action, either signing or ratifying. This enables Parliament to take into consideration the economic, social and cultural effects the treaty will impose upon the country. Australia also has a joint parliamentary standing committee on treaties and treaty councils, which serves as an advisory mechanism for consultations with state governments on treaties of particular sensitivity and importance to states.

Consider the difference between Canada and Australia in this matter, honourable senators. Neither of our Houses of Parliament has heard witnesses, nor have the provincial governments come before us to discuss their concerns about the Kyoto Protocol.

However, as Senator Spivak has rightly pointed out, we cannot afford to do nothing about greenhouse gas emissions. She said:

> 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.

In returning to the goal set out in the Kyoto Protocol, the goals that Canada committed to in Kyoto in December 1997 and formally signed in March 1998, what work has been done to move toward those goals? That is a good question. What are the details of the tax measures to encourage environmentally friendly technologies and alternate energy sources? Why are municipalities and provinces still arguing about federal monies to fund public transportation? Why is it not clear who will get credit for agricultural sinks if we go ahead with ratification of the Kyoto Protocol? There is a veritable litany of unanswered questions, questions that ought to be addressed prior to ratification.

Honourable senators, we must reduce greenhouse gases. The goals of the Kyoto Protocol are sound, but the processes that are being followed by the government in developing the implementation plan in question are doubtful. Every province is committed to a reduction in greenhouse gases, yet provinces are questioning the federal government's so-called implementation plan. They are questioning who will bear the costs of implementation.

It is essential for our environment and our future that we deal with this matter in a responsible and responsive way. That means full participation of our provincial partners. We must do our job and it must be done properly. To move ahead and make real progress on the goals of the Kyoto Protocol, we must have a federal-provincial implementation plan that ensures that we can meet the targets we signed at Kyoto.

It was seen as a historic moment when the Prime Minister announced in Johannesburg that he would call upon Parliament to vote on the ratification of the Kyoto Protocol. As Senator Lynch-Staunton stated in his remarks, while ratification of international treaties in Canada is the exclusive responsibility of the executive, supporters of the Kyoto Protocol were greatly heartened by the statement that the Canadian Parliament would be asked to vote on ratification. This was unanimously interpreted as an unequivocal commitment to seeking Parliament endorsation for ratification before the end of 2002. Hopes were raised that there would be a serious plan, that the provincial governments would be brought onside, and that Parliament would have something of substance to review and debate.

Unfortunately, it has become apparent that the vote in the Senate will be essentially meaningless. It will be meaningless unless we, as the historic voice for the provinces and regions in Parliament, urge the government to increase its effort to secure a genuine and collaborative method for developing an implementation plan for the Kyoto Protocol on Climate Change.

I should like to read the existing motion as it stands on the Order Paper. It currently reads:

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

MOTION IN AMENDMENT

Hon. Terry Stratton: Honourable senators, I wish to propose an amendment. I move, seconded by the Honourable Senator Kinsella:

That the motion be amended by deleting the words "That the Senate call" and adding the following before the word "on":

"Whereas the implementation of the Kyoto Protocol in Canada can better be achieved through the collaboration of the Provinces, Territories and the Federal Government, the Senate urges the Provinces, Territories and the Federal government to increase their efforts to secure collaboration and the Senate calls"

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

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, we are pleased to support this amendment. It calls for the kind of good government that we think has already taken place. There has been cooperation, at least from the federal government to the provinces and the territories. We want the provinces and the territories to join with us in order to have the best possible agreement for Canada. As such, we gladly support the "whereas" paragraph that has been suggested.

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

Motion in amendment agreed to.

The Hon. the Speaker: The house now comes to the main motion. Is the house ready for the question?

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, the whole process begins with the United Nations Framework Convention on Climate Change.

• (1800)

That convention laid out the objective and the framework for managing our environment better. The Kyoto Protocol is a protocol to that convention. It lays out the implementation or mechanism to enforce the convention. As I had the opportunity to say in speaking to Senator Lynch-Staunton's amendment, I support the convention as well as the principles of the Kyoto Protocol.

However, to make it perfectly clear where we stand in the Senate of Canada, because we have had a good debate, and there may have been more agreement —

The Hon. the Speaker: Honourable senators, I am sorry to interrupt. It is now six o'clock. Is it your pleasure, honourable senators, that I not see the clock?

Hon. Senators: Agreed.

Senator Kinsella: Honourable senators, there is a common understanding, as far as the convention is concerned, that it be embraced by this chamber. I should like to make that perfectly clear, believing that the fullness of the motion that we would adopt should articulate exactly what we considered in this house.

MOTION IN AMENDMENT

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Accordingly, I move, seconded by Senator Stratton, that the motion as now amended be further amended by adding before the word "whereas" the following words:

"Whereas the United Nations Framework Convention on Climate Change signed by the Government of Prime Minister Brian Mulroney on June 12, 1992 and ratified by Canada on December 4, 1992 is embraced by the Senate of Canada; and,"

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

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I want to make it clear that we are not in favour of this amendment.

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

Hon. John Lynch-Staunton (Leader of the Opposition: Would the Leader of the Government be happy if the words "Brian Mulroney" were removed?

Senator Carstairs: Honourable senators, I do not think that is relevant to the debate. What is relevant is that the Kyoto Protocol stands on its own and should, in our resolution in the Senate, stand on its own.

Senator Kinsella: I have a question for the Leader of the Government in the Senate. Does or does not the government support the convention to which the protocol applies, the convention that was signed by Canada in 1992 and ratified?

Senator Carstairs: It is absolutely implicit. The honourable senator's amendment is unnecessary.

[*Translation*]

Hon. Eymard G. Corbin: Honourable senators, this is the second amendment introduced in English only. Would His Honour please read us the French text of the amendment?

The Hon. the Speaker: Honourable senators, the French version of the motion is not the same as the English version.

Senator Corbin: Honourable senators, I thought that amendments were supposed to be introduced in both official languages. This seems to be a practice that is not always respected and I am raising this issue now. I do not want to be like Scrooge, but this is an issue concerning respect for our official languages. If an amendment is proposed in one language, the Chair provides the House with the other language; that is the tradition.

For some time, all of the amendments have been introduced in English. It seems to me that this is in violation of the spirit of the Official Languages Act as it applies to the Senate. That is all I wanted to say. The Senate may now do as it pleases.

Senator Kinsella: Honourable senators, I tabled an English version and a French version of the amendment with the clerk, except I changed some words in the preamble. However, the text of the motion was written in French and I think it would be all right for the Honourable the Speaker to read it.

The Hon. the Speaker: Honourable senators, here is the French version of the motion:

> En amendement, l'honorable sénateur Kinsella, appuyé par l'honorable sénateur Stratton, que la motion modifiée soit modifiée de nouveau par l'ajout de ce qui suit avant les mots « Attendu que »
>
> > «Attendu que le Sénat appuie la Convention-cadre des Nations Unies sur les changements climatiques signée par le gouvernement du Premier ministre Brian Mulroney le 12 juin 1992 et ratifiée par le Canada le 4 décembre 1992; et ».

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

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

Motion negatived.

[*English*]

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

• (1810)

Hon. David Tkachuk: Honourable senators, we have listened to the upcoming apocalypse from honourable senators opposite and from the Minister of the Environment that rivals Zechariah, chapter 14, in the Old Testament. There will be a plague, with which the Lord will strike all the people, and their flesh will rot, and their eyes will rot in their sockets.

Do you get the idea?

Zechariah was predicting the end of time. Many speakers referring to plagues and droughts and fires are blaming natural disasters, which have occurred for millions of years, on global warming, not just normal warming, but man-induced global warming.

Believing in the apocalypse by itself is not a sin. However, to say that the Kyoto accord will prevent it is incoherent public policy. It is as politically shameful as the gun registry being sold as gun control and convincing Canadians they will be safer because a farmer in Spiritwood, Saskatchewan registered his gun.

The bureaucracy that will be required to keep track of smokestack industries and the reporting mechanisms that will be foisted on Canadian business will make the gun registration bureaucracy look like a test case for the real thing, Kyoto bureaucracy.

In Western Canada three out of four provinces, including my constituency of Saskatchewan, believe that Kyoto has not been properly negotiated. Three Western provinces believe that the federal government has not thought through the implications of the accord. They believe its consequences will be harmful to Canada's economy, and that it will have terrible repercussions on investment and jobs. Premier Klein equates it to the National Energy Program.

I should like to read a few excerpts from the past that I think honourable senators would find interesting. In 1930, there was a 10-year drought in North America. Some of the conditions they faced were an infestation of grasshoppers and a weed called the Russian thistle. The grasshoppers were so thick, they clogged the radiators of cars and made the roads slippery. Chickens and turkeys ate the insects, giving a foul taste to the meat and the eggs. The Russian thistle piled against fences and barns often 20 feet deep.

A climatologist from Virginia writes about what was happening in the Shenandoah Valley. He called it the 1930 horror show with its peak between July 19 and August 10. The summer's high temperatures recorded at Charlottesville's Leander McCormick Observatory were 103, 107, 106, 105, 97, 92, 102, 104, and 98 degrees Fahrenheit. This continued until August 17. That was global warming. In the Shenandoah National Park 300,000-acres went up in smoke. They had 10 times the normal number of fires. The temperature hit 110 degrees day after day, and mega droughts cost Virginia $1 billion. Hordes of thirst-crazed snakes attacked a turkey farm. This is not the first time we have had aberrations in the weather.

CO_2 has increased in abundance in the last half century in the atmosphere; consequently, it has been labelled as the culprit of global warming. It seems that part of the driving force for the Kyoto Protocol is: Why not spend a few billion dollars in case the scaremongers are correct and the world will turn into hell on Earth, as suggested by Andrew Coyne? Some senators have used the same argument.

If Andrew Coyne had used the same logic in 1900, he would have been the one shovelling horse manure, and perhaps advocating that the government should tax horse owners, and particularly those owners of four horses, rather than two. Does that sound familiar? It seems they produced a veritable mountain of manure. At the time, there were learned predictions of a looming catastrophe in the United States, a brown shadow, you might say, as actuarial calendars proved that taking the rate of horse ownership from the year 1900 and forecasting it to 1930, America would be buried with horse manure. I wondered if they contemplated taxing four-horse carriages in order to force the consumer to limit them to a two-horse or a one-horse carriage?

Who would have thought that 100 years later, we would be talking about emissions; just a different kind? Both are natural and environmentally friendly, but in large amounts, lethal.

I wish to ask honourable senators to reflect on the approach contemplated by the protocol.

If we have learned anything this century, it is that central planning is something to be avoided at all costs. The Kyoto accord is an attempt to create a world agreement that most of the world is either avoiding by not participating as a signatory, such as the United States and Australia, or being part of the group that signs, but, because of their status in the world, which is underdeveloped, they have no obligations. I am referring to countries such as India and China.

India and China believe there will be a large cost as a result of being a signatory to the accord. We do not believe there will be a large cost. In fact, all the other countries that have not signed believe that the cost of the agreement will retard their development. They think they can skip this agreement, but also other environmental responsibilities because Western nations had the luxury of developing in the early part of the century when environmental considerations were not a major public policy concern. They argue they should have the same economic advantage — pollute the earth so they can grow.

I am sorry to say that we in Canada buy this economic hocus-pocus. This is the main reason that President Bush rejected the Kyoto solution. It is the poor-cousin approach that let emerging nations escape responsibility.

They already have a huge economic advantage over earlier Western economies. They all have very rich customers, the West, to buy the goods they produce. They have investment pools of capital produced by the West as well as the tremendous technological skills and technologies to assist them in their development, such as airplanes, telephones and computers. They do not need to be polluting.

It is not our fault that many of them wasted most of the century with socialism, dictatorships, both military and communistic, and other forms of central planning that have left them a century behind, and in some cases, they are barely arriving at the 20th century.

We help them by adopting central planning, reduce CO_2 gases and make ourselves poorer, hence having less money to help them achieve the same technological skills that we in North America have. We are the cleanest economy bar none in the world. The United States produces less CO_2 per GDP than anyone in the world. They also produce the most CO_2 because they produce most of world's wealth, and we would all be poorer without them.

In response to their CO_2 emissions, the United States has adopted a market-based program to reduce emissions, and they have combined it with plans to reduce emissions and other noxious gases. Tax incentives and research dollars are at the base of their program.

While President Clinton talked the talk, he could not walk the walk. He knew that almost every elected representative from both parties in both houses was adamantly and overwhelmingly opposed to the Kyoto accord. That is why he never put it to a vote.

The economics of Kyoto were also centrally planned. Therefore, I can guarantee their failure. As countries reduce CO_2 emissions, this will no doubt reduce the price of fossil fuel commodities. We all know that. As we set about raising the price in Canada and in other countries, we will use less fossil fuel, therefore making it cheaper to those countries that have not signed on. This will give them an incentive to use more fossil fuels, erasing the gains made by the signatories by increased use elsewhere. That is what will happen. While we are taxing carbons, SUVs, minivans and other recreational vehicles, Asia and India will have greater incentive to use them, and they will be thinking, "Good for us." While we will be artificially propping up fossil fuel prices with taxes, countries that have not signed on will be increasing their economic advantage because they will be awash with cheap energy.

• (1820)

This is a mug's game that will make our workers suffer the worst effect of this centrally planned disaster. Developing countries must be rubbing their hands with glee, because if I lived there I would be. The European Union, although supporting Kyoto, has a caveat that its member countries have to agree on who will do what. They cannot agree on the size of a tariff-free banana and they are so preoccupied with the drinking habits of the Irish that I do not hold much hope that their participation at their centrally planned Brussels Parliament will be positive.

Fortuitously, the Standing Senate Committee on Agriculture and Forestry is studying the effects of global warming. In fact, it is the only committee on Parliament Hill that is doing so. We have had a number of meetings under the capable leadership of Senator Donald Oliver, who succeeded the very capable Senator Leonard Gustafson. On November 21, 2002, Henry Hengeveld, Chief Science Advisor, Meteorological Service of Canada, Environment Canada, testified before us, and I asked him the following question:

> If the Kyoto accord is adopted and the world meets its targets, what effects will that have on climate change?

To that question he responded as follows:

> It would delay the critical thresholds that we see ahead by about a decade. Therefore, by itself, the Kyoto Protocol will not solve the problem. It will have only a minor delay.

In my own Saskatchewan language, instead of frying in the year 2100, we will fry in the year 2110.

Senator Day actually asked an interesting question of Mr. Pearson from Laurentian University. He said:

> Is there a model that predicts a new ice age?

They were talking about the models that would be producing global warming. Mr. Pearson replied as follows:

> If you were to look at the temperature trends for the northern hemisphere until about the 1960s — this is the northern hemisphere and not the globe as a whole, not just Canada, but the northern hemisphere — you would find there was a cooling trend, a downward trend in average annual air temperature. It is that trend which is now kicking upward.

Therefore it has been going up and down.

At a meeting of the American Geophysical Union in San Francisco, on December 11 2001, scientists presented computer simulations indicating that rising carbon dioxide levels would lengthen the time that a low-pressure weather system hovered over the North Pole and a high pressure hovered air mass over the Atlantic. That pattern tends to blow in warm air from the Atlantic into Europe, potentially leading to wetter and warmer winters over the coming decades, but that gradual shift to warmer and wetter winters may also cause an abrupt change. Some climate models predict that the increased rainfall may weaken or perhaps even stop the Atlantic currents that carry warm water northward from the Tropics, and may plunge Europe into a new ice age. Other models predict no effects.

Last Saturday, by reading an article in *The Globe and Mail*, we learned there is less unanimity in the scientific world about global warming than many would have you believe, and that the information is still out there and is in many cases conjecture. It is not so much that anyone has proved CO_2 causes global warming — and I think most people would agree — as that no one has proved that it does not. Guilty until proven innocent. This is not science, honourable senators; this is ideology. In many cases it is scientists being driven by research grants, according to this meteorologist who was writing in *The Globe and Mail*. Of course, many honourable senators believe that corporate grants to universities taint research, and now we have to seriously look at huge amounts that will drive the global warming industry.

Along with this, we have all the conspiracy theories: Giant multi-nationals, friends of George Bush, in the oil industry who want to keep the world safe for fossil fuels, and hiding technologies that would rid our dependence on fossil fuels.

One thing I am confident of is that energy substitution is being studied by thousands of Americans, Canadians, and other people worldwide. I believe it is the Western economies that are driving this research and that will drive this research. There is just too much money in energy. In fact, there is so much money that Quebec, of all provinces, that defends provincial rights to its political death, can hardly wait for new taxes on carbon fuels that will increase the demand for hydro electric power. We have learned one thing in Western Canada — provincial powers can be bought.

The Kyoto Protocol, by the estimates of the federal government, will cost Canadians — and this is from a federal government document — $16.5 billion every year.

The Hon. the Speaker: I am sorry to interrupt, Senator Tkachuk, but I must advise that your 15 minutes have expired.

Senator Tkachuk: I just have half a page.

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

An Hon. Senator: One minute.

Senator Tkachuk: The Kyoto Protocol, by the estimates of the federal agreement, will cost $16.5 million. The Alberta government estimates it will cost $33 million. It will cost $2,124 per family on the low end — as the federal government estimates — $4,248 at the high end, and $200,000 will be lost by the Canadian Manufacturers Association. The federal government is not in a condition to commit our country to an agreement this serious. We, in the Senate, are being asked to participate in this political travesty and I, for one, will not do so. I will vote against the resolution, but I do have an amendment.

MOTION IN AMENDMENT

Hon. David Tkachuk: Honourable senators, I move:

> That the motion, as amended, be further amended by adding the following before the word "Whereas":
>
> "Whereas the principles of the Kyoto Protocol to the United Nations Framework Convention on Climate Change are supported by the Senate of Canada; and"

[*Translation*]

The Hon. the Speaker: The motion in English differs from the French version. The versions must be identical in both official languages.

> It is moved by the Honourable Senator Tkachuck, seconded by the Honourable Senator Stratton that the motion, as amended, be further amended by adding the following before the word "Whereas":
>
> "Whereas the principles of the Kyoto Protocol to the United Nations Framework Convention on Climate Change are supported by the Senate of Canada; and"

[*English*]

It is moved by the Honourable Senator Tkachuk, seconded by the Honourable Senator Stratton that the motion be further amended by adding the following before the word "Whereas":

> "Whereas the principles of the Kyoto Protocol to the United Nations Framework Convention on Climate Change are supported by the Senate of Canada, and"

• (1830)

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

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, it is interesting that this is the final, I hope, amendment, from the other side, or at least that is what we have been given to believe. It was introduced with a speech, which I totally reject, and with ideas that I believe are completely false. Therefore, I could not possibly support the amendment.

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

Hon. Senators: Question.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

[*Translation*]

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

Motion negatived.

[*English*]

The Hon. the Speaker: We are now back to the main motion, as amended. Would honourable senators like me to read the question?

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

The Hon. the Speaker: Will all those honourable senators in favour of the motion, as amended, please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the "yeas" have it.

Hon. Norman K. Atkins: On division.

Motion agreed to, on division.

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 Keon*).

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I should like to move the adjournment of the debate in which Senator Keon was engaged. I would ask that the adjournment stand in his name and that he be allowed to use the balance of his time.

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

Motion agreed to.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SEVENTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the seventh report of the Standing Committee on Internal Economy, Budgets and Administration (budget of a committee) presented in the Senate earlier this day.—(*Honourable Senator LaPierre*).

Hon. Lise Bacon moved the adoption of the report.

Motion agreed to and report adopted.

HUMAN RIGHTS

BUDGET—REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the second report of the Standing Senate Committee on Human Rights (Budget—Study on Canada's possible adherence to the American Convention on Human Rights) presented in the Senate on December 12, 2002.

Hon. Shirley Maheu moved the adoption of the report.

Motion agreed to and report adopted.

[*Translation*]

OFFICIAL LANGUAGES

BUDGET—REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the first report of the Standing Senate Committee on Official Languages (Budget—Study of Operation of Official Languages Act), presented in the Senate on December 12, 2002.

Hon. Rose-Marie Losier-Cool moved adoption of the report.

Motion agreed to and report adopted.

[*English*]

THE SENATE

ALLOTMENT OF TIME FOR TRIBUTES—MOTION—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Lapointe, seconded by the Honourable Senator Gill:
>
> That Rule 22 of the *Rules of the Senate* be amended by adding after subsection (9) the following:

"Tributes

(10) At the request of the Government Leader in the Senate or the Leader of the Opposition, the time provided for the consideration of "Senators' Statements" shall be extended by no more than fifteen minutes on any one day for the purpose of paying tribute to a Senator or to a former Senator, and by such further time as may be taken for the response under subsection (13).

Time limits

(11) The Speaker shall advise the Senate of the amount of time to be allowed for each intervention by Senators paying tribute, which shall not exceed three minutes; a Senator may speak only once.

No leave

(12) Where a Senator seeks leave to speak after the fifteen minutes allocated for Tributes has expired, the Speaker shall not put the question.

Response

(13) After all tributes have been completed, the Senator to whom tribute is being paid may respond.

Senate Publications

(14) The tributes and response given under subsections (10) to (13) shall appear under the separate heading "Tributes" in the *Journals of the Senate* and the *Debates of the Senate*.

No bar

(15) Nothing in this rule prevents a Senator from paying tribute to another Senator or to a former Senator at any other time allowed under these rules.

Other tributes

(16) Nothing in this rule prevents an allocation of time for tributes to persons who are not Senators or former Senators.".—(*Honourable Senator Sparrow*).

Hon. Joan Fraser: Honourable senators, this motion stands on its fifteenth day. I would hate to see it disappear from the Order Paper because I believe it is a subject in which a number of senators have quite a keen interest. I know there are some senators who are opposed to it. I will take this occasion to repeat what I said in the last session of Parliament, that I favour this adjustment to our rules for any number of reasons. I will not take the time of honourable senators this evening to enumerate them. However, I do hope that when we return after our break, debate will resume on this important and valid motion.

On motion of Senator Hubley, debate adjourned.

TRANSPORT

STATE OF AIR TRAVEL IN CANADA—INQUIRY—DEBATE ADJOURNED

Hon. Ethel Cochrane rose, pursuant to notice of December 3, 2002:

That she will call the attention of the Senate to the state of air travel in Canada.

She said: Honourable senators, I rise to speak on a topic that I know is of great importance to the people across this country and in every region that we have been appointed to represent; that is, the state of air travel in Canada.

I realize that I am limited to just 15 minutes, today, to discuss a topic on which there is much to say. I humbly suggest to honourable senators that I am merely scratching the surface here.

Many problems have been observed in aviation in recent months and years. Indeed, in this chamber not more than a couple of weeks ago, senators raised similar questions and concerns on the airline industry, our airports, and aircraft hygiene and public health.

I should like to draw the attention of honourable senators to what I perceive to be some of the key areas of concern, and I should note that these concerns are shared by many. In fact, today, the Transport Committee in the other place is tabling a report based on its study of aviation security fees.

This issue is a timely one. It is my sincere hope that other senators will take the torch that I am passing and engage in a fruitful dialogue on this important matter.

Honourable senators, media reports have been quick to remind us that air travel in this country is bad — very bad — and it is only getting worse. I remember reading a newspaper article in the *Calgary Herald* last winter in which a business writer lamented Air Canada's ongoing financial and operating difficulties. Those difficulties, he said, "underscore the sorry state of one of the country's key economic and support industries — an industry that has fallen to Third World status."

As reported in the media throughout the past year, there is more than just anecdotal proof of skyrocketing airfares. In the last year, in the absence of competitors such as Roots Air, Canada 3000 and Royal Aviation, leisure fares jumped 20 per cent and Air Canada's domestic business fares climbed almost 13 per cent. These increases are significant, especially given the overall drop in air travel that followed the September 11 attacks.

Compared to our neighbours to the south, Canadians are paying significantly more for domestic travel. In the United States, these lower fares have inspired Americans to fly often, or at least more often than Canadians. Data show that in recent years Americans have taken, on average, almost twice as many flights per capita as Canadians. This has translated into greater passenger support for that country's well-established network of international, regional and local air carriers.

• (1840)

Presently, Canadians buying tickets for travel within the country pay an incredible number of fees. According to figures from the Air Transport Association of Canada, ATAC, the various fees that Canadians pay on tickets for domestic air travel can reach more than 40 per cent of the base ticket price.

This sounds unbelievable, does it not? I know it does. Accordingly, I should like to give honourable senators a typical example. My example is the advertised price offered by one of our discount carriers. Honourable senators have seen these ads, I am sure. For an $89 one-way ticket from Halifax to Ottawa, a typical passenger would pay $28 in NAV CANADA fees, $10 for airport improvement, $11.22 for the Air Travellers Security Charge and almost $21 in harmonized sales tax. In the end, that $89 one-way trip would cost our typical traveller $158.95.

In this example, taxes and fees account for about 43 per cent of the complete ticket cost for one-way travel. A one-way ticket that is advertised as a mere $89 actually costs closer to $160. The wide array of government fees and taxes has escalated the ticket price by almost $70.

If our typical traveller were to purpose a return ticket, priced at $89 one-way, here is how the total travel receipt would look: $56.00 in NAV CANADA fees; $20 for airport improvement; $22.43 for the security surcharge; and more than $40 in harmonized sales tax. This would bring the grand total of the return trip to just under $320. While the base cost of the return ticket would be $178, our typical traveller would pay over $140 in additional fees.

Honourable senators, this is atrocious. Among those fees, of course, are some high-profile, relatively new charges for travellers, some of which were implemented in response to the terrorist attacks in the U.S.

The airlines were the first to act. They introduced a new surcharge to cover the rising cost of airline insurance. Currently, this fee is $3.00 for a one-way ticket, and it is automatically added to the price of all tickets.

In the last budget, the government acted by pledging $2.2 billion over five years to make air travel more secure. The proposed new security measures included better trained personnel to screen passengers and carry-on baggage, new explosive detection systems, armed undercover police officers on Canadian aircraft and modifications to the cockpit doors.

To achieve this end, the government introduced the now well-known Air Travellers Security Charge on April 1 of this year. Despite the common perception, the charge is not exactly $12 each way for travel in Canada. Officially, air travellers must pay $11.22 for each chargeable emplanement. Chargeable emplanements, according to the official definition, are "embarkations by an individual at a listed airport on an aircraft operated by a particular air carrier." In layman's terms, this includes the act of changing planes.

Honourable senators, as we know, it is not unusual for a passenger to make more than one emplanement for a one-way ticket. According to information I received when I contacted the Canada Customs and Revenue Agency, if I were flying one-way but had a stopover for more than four hours, or if I had been given separate tickets for the different flights on my one-way journey, I would be charged a full $24.

Clearly, it is possible for one-way travellers to face more than one chargeable emplanement. It is indeed possible to be charged the maximum Air Travellers Security Charge of $24 for even one-way travel.

While the surcharge is supposed to equal $12 one way, that is not how much it costs everywhere. I am referring here to the Atlantic Provinces. In particular, I refer to Newfoundland and Labrador, New Brunswick and Nova Scotia. In those provinces, a harmonized sales tax of 15 per cent is charged, which is then applied to the security surcharge of $11.22, the end total of which is $12.90 in Atlantic Canada. As noted by the Alliance of Canadian Travel Agents recently, air travellers from these provinces are paying a security surcharge of almost $13 one way.

At $24 for a return trip, Canada's new security tax is the highest in the world. It is, on the average, 300 per cent higher than the security tax paid by our neighbours to the south. On the average, Americans pay about Can. $7.65, while Australia's security tax is just over Can. $8.00. It is interesting to note that in one of the world's greatest hot spots, Israel, the security charge is only $12.42. That is practically half of what Canadian are paying for the Air Travellers Security Charge, honourable senators.

By September, air travellers had already paid more than $160 million in this fee alone. Earlier projections quoted in media outlets such as the *Calgary Herald* indicate that the tax could raise between $2.2 billion and $3 billion a year.

Before the surcharge came into effect, calculations by the Finance Department were cited in the media. It was suggested that the tax would "gouge Canadian travellers for up to $1 billion more than the costs of all of the planned safety measures combined." Honourable senators, according to an article in the *Toronto Sun* on March 8, 2002, the department's figures suggest that the tax is at least 30 per cent larger than required.

An article appearing in the *London Free Press* gives a better understanding of how some of the figures add up and provides insight into the security value of the measures proposed. In reference to the $1 billion in new bomb-detection machines to scan checked luggage at Canadian airports, the article explains that $1 billion is enough to buy 600 top-end bomb detectors, or roughly 10 times the total number now in use in the entire world.

Apparently, the plan was for Canada to order about five of the devices. The machines cost somewhere in the vicinity of $1.6 million each. Remembering that $1 billion, honourable senators, that would leave more than $992,500,000 in the purchasing budget.

It is my hope that government keeps this surplus in safekeeping. After all, security experts warn that today's bomb-detection devices may be obsolete in no time at all by new technologies.

However, bomb detection is merely one aspect of the new security features.

The other important prominent security feature is passenger screening. We are all well aware of this procedure. We are by now accustomed to arriving at airports early, so that we can be screened and allowed to board our flights on time. What I find particularly interesting in this instance, however, is that the screening of passengers and their carry-on luggage used to be the exclusive responsibility of the airlines. It is only as a result of the new security regime that the government must now shell out almost $130 million to take over the passenger screening from the airlines. It has been reported that the transfer of this responsibility will save Air Canada $70 million per year.

While on the topic of screening, I should note that the newspapers just last week reported that airport passenger screeners are still earning as little as $6.95 an hour. This news came from the House of Commons Transport Committee meeting with the Canadian Transport Security Authority. CATSA is the agency that was created to, among other things, take over responsibility for the contract of screeners from the airlines. This transfer occurred April 1, 2002, the date CATSA also began collecting the security fee. We will remember, of course, that when this fee was debated one of the most compelling arguments to support it was that new monies collected would provide a higher wage for screeners.

The Hon. the Speaker: Senator Cochrane, I regret to advise that your 15 minutes have expired.

Senator Cochrane: Might I have leave to finish my remarks, honourable senators?

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

Hon. Senators: Agreed.

Senator Cochrane: On the subject of higher wages for screeners, this, we were told, was necessary to retain the most qualified employees. Indeed, we were told there was a high turnover rate among screeners, which is not surprising given that their annual base rate was an appalling $14,400 per year.

Honourable senators, I am afraid that what I have presented to you so far today does not fully explore even a few of the problems plaguing air travel in Canada. I have only touched the tip of the iceberg, but I believe I have expressed some of the pressing concerns. Now it is in our hands. We must work to improve the situation for all regions of the country. That is our mandate, honourable senators. We must act quickly.

[Senator Cochrane]

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): I would hope that by the time we return in February the surcharge on security will have been abolished by this government.

On motion of Senator Comeau, debate adjourned.

FOREIGN POLICY ON MIDDLE EAST

INQUIRY—DEBATE ADJOURNED

Hon. Marcel Prud'homme rose pursuant to notice of December 10, 2002:

> That he will call the attention of the Senate to Canadian foreign policy on the Middle East.

He said: Honourable senators, allow me to say that the Senate had good representation at the funeral of Senator Molson. We just came back from that memorial service.

I regret I was not here today to ask supplementary questions on the question of the Hezbollah, because I am sure the government has made a mistake.

We are still allowed to say "Christmas," even though in Quebec it is now forbidden to sing *Adestes Fideles* and holy songs and Christmas songs, as of today. I violently object to that. This is a crime against tradition and a crime against what I stand for.

In deference of His Honour, and to all honourable senators, allow me to say something that is dear to me — Merry Christmas — which is something we wish for every nationality and for every member of every religion of this great country.

I would ask that this motion remain standing in my name. I thank His Honour for his great patience. I certainly do not want to make my speech today. I will do it in due time.

On motion of Senator Prud'homme, debate adjourned.

[*Translation*]

ADJOURNMENT

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

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

> That when the Senate adjourns today, it do stand adjourned until Tuesday, February 4, 2003, at 2:00 p.m.

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

Hon. Senators: Agreed.

Motion agreed to.

[*English*]

BUSINESS OF THE SENATE

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, before we adjourn this evening, I should like to wish each and every one of you a happy holiday season. Merry Christmas to those of you who are members of the Christian faith; holiday wishes to those who are not.

I extend those wishes to our entire Senate family, that is, everyone who works with us, many of whom are out there celebrating, and who we will join in just a moment. The overall sentiment of our season should be peace, love and joy.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, as a lazy Supreme Court justice notorious for not writing opinions would say, "I concur."

The Senate adjourned until Tuesday, February 4, 2003, at 2 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(2nd Session, 37th Parliament)
Thursday, December 12, 2002

GOVERNMENT BILLS
(SENATE)

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-2	An Act to implement an agreement, conventions and protocols concluded between Canada and Kuwait, Mongolia, the United Arab Emirates, Moldova, Norway, Belgium and Italy for the avoidance of double taxation and the prevention of fiscal evasion and to amend the enacted text of three tax treaties.	02/10/02	02/10/23	Banking, Trade and Commerce	02/10/24	0	02/10/30	02/12/12	24/02

GOVERNMENT BILLS
(HOUSE OF COMMONS)

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-4	An Act to amend the Nuclear Safety and Control Act	02/12/10	02/12/12	Energy, the Environment and Natural Resources					
C-5	An Act respecting the protection of wildlife species at risk in Canada	02/10/10	02/10/22	Energy, the Environment and Natural Resources	02/12/04	0	02/12/12	02/12/12	29/02
C-8	An Act to protect human health and safety and the environment by regulating products used for the control of pests	02/10/10	02/10/23	Social Affairs, Science and Technology	02/12/10	0	02/12/12	02/12/12	28/02
C-10	An Act to amend the Criminal Code (cruelty to animals and firearms) and the Firearms Act	02/10/10	02/11/20	Legal and Constitutional Affairs	02/11/28	divided			
C-10A	An Act to amend the Criminal Code (firearms) and the Firearms Act	–	–	Legal and Constitutional Affairs	02/11/28	0	02/12/03		
C-10B	An Act to amend the Criminal Code (cruelty to animals)	–	–	Legal and Constitutional Affairs					
C-11	An Act to amend the Copyright Act	02/10/10	02/10/30	Social Affairs, Science and Technology	02/12/05	0	02/12/09	02/12/12	26/02
C-12	An Act to promote physical activity and sport	02/10/10	02/10/23	Social Affairs, Science and Technology	02/11/21	0 + 1 at 3rd 02/12/04			
C-14	An Act providing for controls on the export, import or transit across Canada of rough diamonds and for a certification scheme for their export in order to meet Canada's obligations under the Kimberley Process	02/11/19	02/11/26	Energy, the Environment and Natural Resources	02/12/04	0	02/12/05	02/12/12	25/02

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-21	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2003	02/12/05	02/12/10	–	–	–	02/12/11	02/12/12	27/02

COMMONS PUBLIC BILLS

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

SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-3	An Act to amend the National Anthem Act to include all Canadians (Sen. Poy)	02/10/02							
S-4	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	02/10/02							
S-5	An Act respecting a National Acadian Day (Sen. Comeau)	02/10/02	02/10/08	Legal and Constitutional Affairs					
S-6	An Act to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers (Sen. Kinsella)	02/10/03							
S-7	An Act to protect heritage lighthouses (Sen. Forrestall)	02/10/08							
S-8	An Act to amend the Broadcasting Act (Sen. Kinsella)	02/10/09	02/10/24	Transport and Communications					
S-9	An Act to honour Louis Riel and the Metis People (Sen. Chalifoux)	02/10/23							
S-10	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	02/10/31							
S-11	An Act to amend the Official Languages Act (promotion of English and French) (Sen. Gauthier)	02/12/10							
S-12	An Act to repeal legislation that has not been brought into force within ten years of receiving royal assent (Sen. Banks)	02/12/11							

PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.

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