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(HANSARD)

Monday, June 9, 2003

THE HONOURABLE DAN HAYS
SPEAKER

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THE SENATE

Monday, June 9, 2003

The Senate met at 6:01 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

OPENING OF JUNO BEACH CENTRE

Hon. Joseph A. Day: Honourable senators, I rise today to provide an addendum to the statement made by the Honourable Senator Atkins last week relating to the commemorations of June 6 and the landing at Juno Beach on D-Day. I had the honour to attend, with Senator Meighen, the opening of the Juno Beach Centre. The centre at Courseulles-sur-Mer in Normandy was opened on June 6. More than 1,000 D-Day veterans were in attendance, veterans who had landed on the beach on that date. Prior to attending the opening, as part of a delegation with the Minister of Veteran Affairs, we attended a ceremony at the Canadian cemetery near the Juno Beach area, at Beny-sur-Mer, where more than 2,000 Canadian soldiers are buried.

I would highly recommend and commend to honourable senators the work done by Mr. Garth Webb, Chair of the Juno Beach Centre, and his organizing committee. The Juno Beach Centre is as impressive as any World War II monument, including those discussed in this chamber on previous occasions. The Juno Beach Centre is an interpretive centre that provides for interactive research with respect to veterans and those who lost their lives. It provides a wonderful setting for individuals to visit, to see what transpired on that date. I highly commend this monument, dedicated to an important time in Canadian history, to all honourable senators.

The Prime Minister of France, Jean-Pierre Raffarin, and our Prime Minister, the Right Honourable Jean Chrétien, were in attendance, along with many thousands of others, including the 1,000 veterans.

THE HONOURABLE SHARON CARSTAIRS
THE HONOURABLE DONALD H. OLIVER
THE HONOURABLE RAYMOND C. SETLAKWE

CONGRATULATIONS ON RECEIVING HONORARY DEGREES

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I should like to bring to the attention of honourable senators that at least three — there may be others — of our colleagues have been honoured with honorary degrees. The Honourable Sharon Carstairs received an Honorary Doctorate of Laws from the University of Brandon; the Honourable Donald Oliver received an Honorary Degree of Laws from Dalhousie University; and the Honourable Raymond C. Setlakwe received an Honorary Doctorate from Bishop's University in Lennoxville.

Hon. Senators: Hear, hear!

QUESTION PERIOD

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTERS— STATUS OF NHINDUSTRIES AND LOCKHEED MARTIN CANADA BIDS

Hon. J. Michael Forrestall: Honourable senators, my question is for the Leader of the Government in the Senate. Could the Leader of the Government indicate to the house, by way of confirmation, that NHIndustries has now withdrawn the NH90 from the Maritime Helicopter Competition?

• (1810)

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I have no knowledge, at this particular time, that it has been withdrawn.

Senator Forrestall: Honourable senators, it appears that the Leader of the Government in the Senate cannot tell me whether the Lockheed Martin-led NH90 bid is still alive and well in this competition.

Senator Carstairs: As the honourable senator knows, no bids have been submitted as yet, so I cannot indicate which bids have not been submitted from all of those bidders potentially capable of making such a bid. To the best of my knowledge, a number of companies are still considering the bid offering. Until the formal process has begun to receive those bids, I do not think that we have any confirmation about any of them.

Senator Forrestall: Honourable senators, surely the minister could find out for us, before the summer recess, whether NHIndustries has withdrawn its bid and whether Lockheed Martin's bid, with virtually the exact same plane, except for Lockheed Martin instruments, is still in the running.

Senator Carstairs: No one is in the running, as the honourable senator puts it, since no one has submitted a formal bid to the Department of National Defence.

Senator Forrestall: Can the minister find out whether NHIndustries is withdrawing from the competition?

Senator Carstairs: If the honourable senator is asking if they have withdrawn from the competition, I would assume that the company would make a public announcement to that fact. That would not be for the government to determine.

CANADA CUSTOMS AND REVENUE AGENCY

THEFT OF PERSONAL INFORMATION— PREVENTION SAFEGUARDS

Hon. Terry Stratton: Honourable senators, my question is addressed to the Leader of the Government in the Senate. Two weeks ago, the federal government admitted that personal information of about 200 Canadians, stolen by a Canada Customs and Revenue Agency employee, was sold to another party, most likely organized crime. The information stolen last fall included names, addresses and social insurance numbers, which are particularly valuable on the black market.

Could the Leader of the Government in the Senate tell us what specific safeguards have been introduced at the Canada Customs and Revenue Agency to ensure that this type of theft does not occur again?

Hon. Sharon Carstairs (Leader of the Government): Clearly, honourable senators, if such a theft has occurred and public information has been allowed to be distributed to people who should not have it, whether they are involved in organized crime or otherwise, then I would presume that the government has examined its security systems. However, as to the specific answer to the honourable senator's question, I would have to take it as notice and get back to him.

Senator Stratton: Honourable senators, I appreciate that response.

By way of supplementary, with an ever-increasing amount of personal information being compiled by the federal government, these types of events may unfortunately be more frequent in the future. Last year's report of the Auditor General brought attention to this problem, revealing that the government is not doing enough to prevent identity theft and that stricter controls on social insurance numbers are needed. What guarantee can this government give Canadians that their private information will not be easily subject to theft?

As we move ever further into this age of high technology, people are concerned that a lot of information being transmitted on the Internet and stored on computer files is easily stolen. What steps is the government taking to ensure privacy? I am sure the honourable leader would agree that privacy is important to all Canadians.

Senator Carstairs: Honourable senators, let me begin by stating that I am in full agreement that privacy is of absolute concern to Canadians. They have every right to expect their government to put security systems in place to protect the information to the highest level possible.

Having said that, we know that, on a fairly regular basis, there are people who are trying to find ways to break into these systems. It is incumbent upon government to be vigilant. We should have up-to-date programming with the highest possible standard of security.

NATIONAL SECURITY

ASSESSMENT OF WAR ON TERRORISM

Hon. Michael A. Meighen: Honourable senators, events during the weekend in the Middle East and in Kabul indicate that international terrorism is indeed and unfortunately alive and well. They also indicate that the strategies of the world's various terrorist organizations are changing.

In the Middle East, once rival terrorist groups cooperated in a deadly attack on Israeli soldiers. Al Qaeda has been decentralizing and farming out attacks to smaller players in various countries.

My question is to the Leader of the Government in the Senate. Has a formal assessment been conducted by the government as to how the war on terrorism is proceeding? If there has been, can the leader share that information with this chamber? If not, given the changing nature of terrorism, would the leader agree that now is the time to conduct an assessment?

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for his question. To the best of my knowledge, there has not been a formal process put in place, but there is an ongoing process to monitor all of the new programs and initiatives that have been put into place to see whether they meet the standard established for them at the beginning of the program.

As the honourable senator indicated in his question, and he is absolutely right, the face of terrorism changes on almost a daily basis. The difficulty for government, particularly in the Departments of Foreign Affairs and Defence, is to ensure that we upgrade our systems. Bill C-17 is before the House of Commons, which, I hope, we will receive here shortly. It is another step in our strategy to deal with terrorism and terrorist activities. One hopes that we will have a better understanding of what the government is doing at that point.

Senator Meighen: Honourable senators, has consideration been given by the government to how this most recent change in the nature of terrorism affects the threat level for Canada?

Senator Carstairs: Honourable senators, the threat level for Canada has certainly not been as high as it has been south of the border, as the honourable senator would well understand. That is an issue of concern, particularly as we take steps, which I think are right and proper for us to take, to ban certain organizations. That proposal is not well-received by those organizations, which clearly establishes a higher security risk for Canada. On the other hand, it is essential to do that in order to ensure that we are doing our part on the war against terrorism.

In terms of future work, work is ongoing. It will not cease and desist.

HEALTH

BOVINE SPONGIFORM ENCEPHALOPATHY— SOURCE OF CASE IN ALBERTA

Hon. Leonard J. Gustafson: Honourable senators, it has been roughly 20 days since a case of BSE in Canada was made public. During this period, 18 farms in Canada have been quarantined and hundreds of cattle have been slaughtered as part of the Canadian Food Inspection Agency's trace out to determine the origin of this one case of BSE. In a press conference today, representatives of the CFIA reported that all of the diagnosed tests on the slaughtered cattle have come back negative and that this active part of the CFIA investigation is drawing to a close.

My question is to the Leader of the Government in the Senate based upon her government's reading of the CFIA report. Are we any further down the road to pinpointing the circumstances that led to this case of BSE in Canada?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, we should all be grateful for the hard work that those at CFIA have been putting into their endeavours during the past 20 days.

The honourable senator indicated the number of farms in quarantine. On Saturday, June 7, five premises had quarantines lifted. Only nine farms remain quarantined, including eight in Alberta and one in British Columbia.

CFIA inspectors have removed just over 2,900 cattle from farms. Those cattle have been put down and they have been sampled. As he indicated, all of those tests have come back negative.

• (1820)

All I can say to my honourable friend is that, with all of this testing and all of the work that has been done, it appears that BSE is still only present in one cow.

INTERNATIONAL TRADE

BOVINE SPONGIFORM ENCEPHALOPATHY— BEEF EXPORTS—REOPENING OF BORDERS

Hon. Leonard J. Gustafson: According to CFIA officials at today's press conference, an international review team began reviewing the findings of CFIA on the weekend. This international team seems to concur with CFIA's conclusion. Has the government sought assurance from our trading partners that they will base any potential decision to reopen our border to our beef products on the findings of science contained in this report by the international review team, or will other political considerations hinder the process of reopening international borders to Canadian beef exports?

Hon. Sharon Carstairs (Leader of the Government): As the honourable senator will know, the decision to reopen the border will not be made by Canada; it will be made by those countries to which we export, primarily to the United States. As he knows, 80 per cent of our cattle end up in that country.

I would remind the honourable senator that the international review team was invited to Canada, by the Canadian government, to establish the international profile we felt was necessary to open the borders as quickly as possible. It is one thing for us to say that the tests are all fair and equal and that they have only proven that one cow had BSE, but it was critical that an international review team make that evaluation. As was indicated today, that seems to be where they are going. We would hope that the pressure from the international review team would make it possible for other countries to open their borders.

HEALTH

BOVINE SPONGIFORM ENCEPHALOPATHY— TRACE-OUTS IN UNITED STATES

Hon. Leonard J. Gustafson: It has been confirmed that five bulls, traced by the CFIA to two farms in the United States, will definitely not undergo similar quarantine and the testing to which the Canadian cattle have been subjected. In view of this circumstance, is the integrity of the BSE that CFIA traced out being compromised? If not, why not? If so, what has this government done to communicate these facts to the American government and to rectify the situation?

Hon. Sharon Carstairs (Leader of the Government): As the honourable senator knows, the processes for testing, evaluation and quarantine in this country are not identical to those circumstances south of the border. We have no control over their policies and the implementation of these policies. We can only do our very best in this country to ensure that we are conducting trace-out activities that will hopefully eliminate any further difficulties with our border.

HUMAN RESOURCES DEVELOPMENT

BOVINE SPONGIFORM ENCEPHALOPATHY— AID TO BEEF INDUSTRY WORKERS

Hon. Leonard J. Gustafson: Honourable senators, I am sure the Leader of the Government in the Senate is aware that the Western premiers are currently holding a conference in Kelowna, B.C. High on the agenda for the premiers is the issue of the federal government's response regarding the issue of aid for Canadian beef. Would the Leader of the Government in the Senate please update us as to the status of any potential help for Canada's beef industry that will be forthcoming from the government?

Hon. Sharon Carstairs (Leader of the Government): As the honourable senator indicated in his opening question, it has only been 20 days since the discovery of the single case of BSE. We do not yet know the full extent of the damage that has been done to the beef industry. I do not think that we wish to be premature in putting up compensation programs that would not address the full needs.

Having said that, the Minister of Agriculture has spoken with his counterparts. He has indicated clearly that the federal government is concerned about the industry and about the implications of BSE in terms of their costs.

HEALTH

BOVINE SPONGIFORM ENCEPHALOPATHY— HANDLING OF OUTBREAK IN COMPARISON WITH SEVERE ACUTE RESPIRATORY SYNDROME OUTBREAK

Hon. Leonard J. Gustafson: It might be fair to say that, in regard to the cases of SARS in Ontario, we do not know the full implications of that disease either. Are there two sets of rules for what happens in Canada in regard to these issues?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, we must be fair. The SARS outbreak occurred some three and a half months ago. The government monitored the situation carefully, in the same way that it is monitoring the BSE outbreak. When it became clear that resources were needed, the federal government acted. I believe that we can count on the same kind of reaction with respect to BSE.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence, in our gallery, of Lord Williams of Mostyn, the Leader of the Government in the House of Lords, with his delegation from the United Kingdom.

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

HUMAN RESOURCES DEVELOPMENT

BOVINE SPONGIFORM ENCEPHALOPATHY— AID TO BEEF INDUSTRY WORKERS

Hon. Douglas Roche: Honourable senators, as Senator Gustafson pointed out, what began three weeks ago, with the sickness of one cow, has skyrocketed into a multi-million dollar crisis in the beef industry that affects the entire country.

The Western premiers' meeting that was referred to a moment ago received a report today, saying that the Alberta beef industry will be damaged beyond quick repair if the border stays closed for three months with no aid package. I have two questions.

First, on the question of aid and compensation, will the federal government take an aggressive position in developing an aid program of compensation for the producers as well as all those who are caught in the wide milieu of repercussions from this incident?

Second, dealing with the alacrity with which the border can be reopened, is the Canadian government able to make at least reasonable representation to the authorities from the United States — given that it was one cow, that 2,700 have been slaughtered and that there have been no cases of additional sickness — that this incident is isolated and that the border ought to be reopened as soon as possible?

Hon. Sharon Carstairs (Leader of the Government): As the honourable senator must realize, nothing would please the government more than to open the border with the United States, for 80 per cent of our exports, as quickly as possible. That is why we have put all of our concentration and efforts, at this time, toward reopening the border. That is why the international committee was established. That is why CFIA has been conducting tests and depopulating the herds as necessary.

In terms of the compensation package, as the honourable senator said, the big concern will be how long the border will be closed. If we continue to get the good results that we received today, as Senator Gustafson indicated, results that the international review committee seems to be accepting, hopefully, the border can be opened quickly; then, any package that would be necessary would be far less in value.

Hon. Gerry St. Germain: Would the honourable minister present to cabinet the suggestion that it has only been 20 days but that this is a business different from most businesses? It is virtually a cash business. When you buy cattle, you pay for them right at that time.

Is there any possibility of introducing an interim measure of assistance for this business that is like no other business? Several people are under severe financial pressure as a result of this situation. Traditionally, they have always operated on a cash basis. As the minister knows, most businesses carry on operations on a 30- or 60-day basis.

Has any consideration been given to that aspect of assistance? If not, would the honourable leader be so kind as to take the matter to cabinet?

Senator Carstairs: I thank the honourable senator for his intervention. Yes, we are very aware, at the cabinet table, of the particular problems faced by this industry. For example, the immediate cry was for EI benefits. As the honourable senator knows full well, a trucker who is an independent operator does not qualify for that kind of benefit.

• (1830)

Representations of the kind that the honourable senator mentioned this evening have, in fact, already been made, and I would assure the honourable senator that they will continue to be made.

[*Translation*]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour to table three delayed answers. The first one is a response to the question raised in the Senate on April 2, 2003, by Senator Atkins, regarding South Korea — personnel serving with United States Forces; the second is a response to the question raised in the Senate on April 1, 2003, by Senator Forrestall, regarding the personnel serving with Coalition Forces in the Persian Gulf; the third is a response to oral questions raised in the Senate on June 3, 2003, by Senator Meighen, regarding the War Museum on LeBreton Flats.

NATIONAL DEFENCE

SOUTH KOREA—PERSONNEL SERVING WITH UNITED STATES FORCES

(Response to question raised by Hon. Norman K. Atkins on April 2, 2003.)

The Canadian Forces has no serving member in exchange programs with the US forces stationed in Korea.

PERSONNEL SERVING WITH COALITION FORCES IN PERSIAN GULF—STATUS IN THE EVENT OF INJURY

(Response to question raised by Hon. J. Michael Forrestall on April 1, 2003.)

All Canadian Forces personnel serving on operations abroad are provided for, compensated and appropriately taken care of in the event of illness or injury. This includes foreign exchange CF personnel currently deployed in the Persian Gulf.

While the Pension Act and the RCMP Superannuation Act only provide for financial compensation in the event of disability or death in the completion of their duties, it is the designation of Special Duty Areas (SDA) which ensures that they are covered at all times while in the designated area.

Hence, the designation of SDA provides CF members who are deployed on operations abroad with around the clock coverage, known as "insurance principle" coverage, for death or any disability that they may suffer.

In the case of CF exchange members deployed with US and British troops in Iraq and Kuwait, they will be fully covered as these two countries have been designated as SDA under the Pension Act since August 1988 and August 1990 respectively.

HERITAGE

WAR MUSEUM—OVERRUN OF CONSTRUCTION COSTS

(Response to question raised by Hon. Michael A. Meighen on June 3, 2003.)

Canadian War Museum

The cost for the Canadian War Museum project has increased by a total of $30M:

- Base building $21.9M
- Collections, exhibits and visitor services $6.1M
- Contingency $2M

Current base building costs have gone up by $21.9M:

A) Construction costs have increased by $15M. Three factors affect the increase:

a) inflation for building materials - $7M (eg. concrete has gone up by 33 per cent)
b) design changes including increasing the size of the lobby to allow flow through of people to the river - $2M
c) design changes to include the roof element "Salute to Democracy," the Regeneration Hall and the copper roof - $6M

B) Professional fees have risen by $2M (Increases in construction costs lead to increases in professional fees and project overheads which are calculated on construction budgets.)

C) Site factors have increased over original estimates by $4.9M to cover:

a) site takeover costs including dewatering and backfill
b) Ottawa River Parkway protection and shoring
c) site services for water, sanitary et cetera.

Collections, exhibits and visitor services have increased by $6.1M

A) Costs for fittings and equipment have risen by $3.6M:

B) Exhibition costs have increased by $2.5M due to:

a) increased costs to deliver complete storyline with interpretive planning
b) addition of open-storage concept to the original permanent exhibition space
c) inflation

A contingency of $2M has been included.

LeBreton Flats

- Contaminants on LeBreton Flats are comprised of heavy metals and petroleum hydro-carbons.
- Reports on the contaminants and how they are been or will be dealt with can be found on the National Capital Commission's (NCC) website at www.canadascapital.gc.ca. Follow the links to National Capital Commission (green box on left); Parks, Heritage and Development; Development projects; LeBreton Flats. Under Public Consultation, second paragraph, click on Library to find all the reports on the decontamination of LeBreton.

ANSWERS TO ORDER PAPER QUESTIONS TABLED

OFFICES OF PRIME MINISTER AND PRIVY COUNCIL—COMMISSION ON THE FUTURE OF HEALTH CARE

Hon. Fernand Robichaud (Deputy Leader of the Government) tabled the answer to Question No. 6, raised in the Senate on February 2003—by Senator Tkachuk.

TRANSPORT—DOWNSVIEW PARK INC.

Hon. Fernand Robichaud (Deputy Leader of the Government) tabled the answer to Question No. 114, raised in the Senate on March 18, 2003—by Senator Stratton.

FINANCE—ALTERNATIVE FUELS ACT

Hon. Fernand Robichaud (Deputy Leader of the Government) tabled the answer to Questions No. 26, 27 and 28, raised in the Senate on February 5, 2003—by Senator Kenny.

NATIONAL DEFENCE—ALTERNATIVE FUELS ACT

Hon. Fernand Robichaud (Deputy Leader of the Government): tabled the answer to Question Nos. 87, 88 and 89, raised in the Senate on February 25, 2003—by Senator Kenny.

ORDERS OF THE DAY

LOBBYISTS REGISTRATION ACT

BILL TO AMEND—MESSAGE FROM COMMONS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill C-15, to amend the Lobbyists Registration Act, and acquainting the Senate that it has agreed to the amendments made by the Senate to this bill, without amendment.

[*English*]

CRIMINAL CODE

BILL TO AMEND—MESSAGE FROM COMMONS

The Hon. the Speaker: Honourable senators, the Senate has received the following message from the House of Commons:

> *ORDERED*—That a message be sent to the Senate to acquaint their Honours that this House agrees with amendments numbered 1 and 5 made by the Senate to Bill C-10B, An Act to amend the Criminal Code (cruelty to animals); but
>
> Disagrees with amendment numbered 2 because the amendment is inconsistent with the other elements of the offence and makes the law less clear and because the amendment would collapse two offences with different elements into one single offence, leading to confusion about the elements of the offence and to problems for police and prosecutors;
>
> Disagrees with amendment numbered 3 because it is unclear and creates confusion about whether the intent is to create a different test for liability of aboriginal persons and because there is no clarity as to what "traditional practices" are and how law enforcement can be expected to act accordingly; and
>
> Agrees with the principle set out in amendment numbered 4, namely, the desire to reassure Canadians that no defences are lost, but, because the wording of the amendment would codify a reverse onus by requiring an accused person to prove his or her innocence on a balance of probabilities, would propose the following amendment:
>
> Amendment numbered 4 be amended to read as follows:
>
> Page 4, clause 2: Replace lines 22 to 24 with the following:
>
> "182.5 For greater certainty, the defences set out in subsection 429(2) apply, to the extent that they are relevant, in respect of proceedings for an offence under this Part."
>
> *ATTEST:*
>
> William C. Corbett
> *The Clerk of the House of Commons*

Honourable senators, when shall this message be taken into consideration?

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

[*Translation*]

PUBLIC SERVICE MODERNIZATION BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Robichaud, P.C., for the second reading of Bill C-25, An Act to modernize employment and labour relations in the public service and to amend the Financial Administration Act and the Canadian Centre for Management Development Act and to make consequential amendments to other Acts.

Hon. Roch Bolduc: Honourable senators, we received a bill 15 days before the end of the session, a 279-page document. That is a lot of pages.

First, from the reading I have done, I can see that the officials who worked on it worked hard. There has been three years of debate within the public service. On the one hand, you have the Public Service Commission, which wants to keep its role; on the other, the administrators from departments, who want to manage their affairs; the Treasury Board, which has its hand on the till; and the unions, which say they want to be more involved. This difficult work finally resulted in a compromise, because there are no bosses in Parliament. There is a little give and take everywhere.

Second, the House of Commons studied this bill for four months. The bill comes to the Senate with hundreds of amendments that we are supposed to pass within 15 days. I like Ms. Robillard, the President of the Treasury Board, and she is doing a good job, but wanting our input before the end of the current session! I said to her, "We are going to sit all summer! I have no objection. I am available, but it is going to be hard work." This bill is of such importance for the federal public administration that it would be awful to pass it in a hurry. We are talking about the engine of government!

It is important that the fundamental principles be analyzed properly, because many changes are being made in this bill. Of course, the most sensitive parts have been hidden in the middle of the bill. There are 150 pages at the beginning of the document on labour relations and working with unions, but the most important bits are hidden in the middle. I remember, from my time in Quebec's Parliament, how crazy things were at the end of a session in December and June. Nothing has changed.

The bill comprises four acts: the Public Service Labour Relations Act, the Public Service Employment Act, the Canadian Centre for Management Development Act and the Financial Administration Act. Imagine delegating authority to the deputy heads. The deputy ministers have long complained that they do not have the authority to manage their department as they see fit. They are going to get a bit more authority, but not much more. They gain a little authority relating to revocations and to small bonuses for officials who perform well.

It is impossible to get performance evaluations, except when it comes to bonuses. I have never understood this. There are no indicators to verify the performance of departments. The Auditor General has been telling us for years that there is no way to evaluate the performance of departments. At the same time, officials are being evaluated and all the evaluations are good.

• (1840)

It gives some other powers over training. It is a massive bill and affects some other acts: the Canada Labour Code, the Official Languages Act — because managers are supposed to be bilingual in certain positions — the Canadian Charter of Rights and Freedoms, the Canadian Human Rights Act, the Personal Information Protection Act, and employment equity.

Employment equity makes me think of how the government spent a couple of million dollars to create a classification plan for the entire public service. It was supposed to be perfect, but it does not work; it has been rejected and they have to start over. In the meantime, the employment equity program is based on a plan that does not work. It is not easy to compare jobs. Jobs in the private sector are easy to compare, but there are functions within the government that do not have counterparts in private enterprise.

I think of the "tax assessors," and that explains why these people always say they are not paid enough. I will not give you a complete history of the public service. However, I would like to tell you how some of the important stages and trends got started.

Until 1917, departmental paternalism reigned supreme in personnel management. Civil servants were like a small family and they all knew each other. The politicians had great dignity and they hired people who were in need, and that sort of thing. It ended up, over the years, as a kind of patronage that was not just inevitable; it was sometimes improper.

The sources of inspiration were the British reform in 1855 and the American reform in 1883. In England, in 1855, it was decided to do things differently, to hold competitions, and to recruit from the universities such as Oxford, Cambridge, and others. They wanted senior civil servants to have good sense. It was important for England to have good public servants because these people ran the Empire. They led the planet. That was their method for selecting the best.

The American reforms began in 1883, after the assassination of President Garfield by a man who wanted a job and had been rejected. It was somewhat drastic, but that is what happened.

Here in Canada, we waited until 1917, a year when we had a coalition government. The reds and the blues were together; they governed well and they got rid of patronage because we were at war and needed good public servants to serve the government well. They decided to find a different way of hiring. They created the Public Service Commission. There was also some conflict between French and English Canadians. Most of the managers were English-speaking, and that was not right. Someone had to look out for the interests of minorities, and that is what they did.

However, the commission just monitored the situation. It was not really an organized entity. In 1935, Jean-François Pouliot, the member for Rivière-du-Loup, conducted an investigation and exposed federal patronage. It was not pretty.

It was a question of striking a balance, among other things, between managers, who were mostly anglophones, and the French Canadians. They tried to create a commission and tried to make an effort. Then war broke out. The roles of the government became more important and the federal mandarins arrived, mainly from Queen's University. They were important gentlemen. I read the history of the federal mandarins, which included Mr. Ritchie, Mr. Sharpe, Mr. Pearson, Mr. Norman Robertson, Mr. Reed, and several others. In 1945, they took charge and created a system.

Prime Minister King was a former civil servant. He had been Deputy Minister of Labour for years, and was therefore in favour of a good civil service. They introduced the concept of competition. I remember that they were very prestigious competitions at the time. I remember, when I was at university, that the competition to enter the foreign service was a very prestigious competition across Canada. It was a competition including a jury, eligibility lists and appointments by order of merit. That resulted in the quality of senior officials we have today at the Department of Foreign Affairs. They built a tradition of excellence at Foreign Affairs and in the Departments of Finance, the Bank of Canada, and so on. We owe the quality of our public service to the mandarins. They had foresight. They took the brightest young people, like they did in England.

In other words, what we adopted at that time was part of the American system for job classification and part of the British tradition of recruiting university graduates. I want to emphasize that these methods gave us a tradition of excellence. Quality in the senior public service is very important. I am not saying that public servants give poor advice, this happens at times, but they generally have a good deal of wisdom and they know their files.

In the 1960s, unionization was introduced, with a specific regime of labour relations. The Public Service Commission had full management rights under the laws of the day. It was decided that anything to do with labour conditions would be taken out of the Public Service Commission and put into a union system, and bargaining teams would be formed to deal exclusively with labour conditions, not anything to do with access to the public service, selection, promotion or anything else. In time, the unions were able to obtain arbitration decisions on staffing.

The commission also felt the pressure because the chairman of the commission at the time was a former deputy minister. He was familiar with the problems experienced by departments and, through the commission, he made it possible to delegate some of his powers through regulations. There was joint management, but only in part and only on working conditions.

Matters evolved as a result of a whole series of task forces, with the Glassco Commission on government organization and effectiveness, another commission on responsibility, studies on individual departments, and so on. This finally led to the Auditor General's report in 2001, which is pretty critical of current practices.

The Auditor General was not pleased with the practices that have evolved and said so. I will not get into details, but it is important for you to be aware of this.

Managers and employees continue to express their hesitation with regard to efforts to bring about the desired changes. Employees want more. They want to be more involved and to manage their own affairs. Since the beginning, the commission has wanted to retain its powers, and change is not easy. The excuse had always been respect for minorities. Managers wanted to get some powers back. Finally, this led to a certain degree of judicialization through grievances and appeals against actions taken by deputy heads.

• (1850)

The outcome is this bill, which attempts to reconcile all of these elements. The principles are, however, not always self-evident.

As far as the principles are concerned, for example, there is the matter of labour relations, where not a lot of changes are made, with the exception of introducing advisory committees. In my understanding of the bill, this reminds me somewhat of the Whittley Council. The English have had that for a long time. They avoided unionization by having a Whittley Council system, which was a bipartite body where all working conditions relating to the employees were discussed. Recruitment was not included, but there was much discussion of everything else relating to employees' conditions. This created an atmosphere of collaboration that worked well for a long time in England. I wanted to try it out in 1963 in Quebec, when they wanted to unionize the public servants, but the CSN did not agree. They wanted a real labour relations system.

So there was the Whittley Council, the tribunal and, in the sixties, the Pay Research Bureau, now defunct. We eventually became convinced that it would be a good thing if studies on pay and benefits were carried out by both parties simultaneously. So, the idea of a Pay Research Bureau has resurfaced, but it is almost bipartite in its composition, as it reports to the tribunal, which does have equal representation.

There is also recruitment and staffing, and they are the crux of the matter. For the sake of effectiveness, there is greater flexibility. We will come back to this point, because it is a serious one. Now there are a lot of preferences in the system. There has always, for instance, been the statutory one for hiring veterans. Today, there are preferences for veterans, for people who have been declared surplus and are about to be laid off, for trainees, for students who have already worked in various departments and could be good candidates. A whole series of preferences has been introduced into the system, as a result of pressures from unions, and now, as a result, we are far from the traditional merit-based system. I will come back to this point, because it is a fundamental one.

With regard to political activities, the possible sphere of political activities is broadened on the pretext of protecting workers' rights. I understand that all employees have rights. This applies to everyone, with the exception of deputy heads, which, in the act, means deputy ministers. It states that anyone else can be involved in politics, in political activities.

This is a major concern to me, not because I am a puritan but because I have always felt that managers ought not to be involved in these things. There is a good reason for this: our entire system is based on the fact that political directions change as governments change. In order for the people to retain their positions, a compromise is needed. That compromise is job security and the possibility of a career, provided there is total discretion, and advice to ministers being confidential, those advising ministers need to remain politically neutral, impartial. This is very important and the basis of the entire principle.

If people can get involved in politics whenever they want, no matter what aspect of politics, this will not be possible. There is something otherworldly about this. One section states that individuals can do anything as long as it is not reflected in the fulfilment of their duties. Really! Consider election workers, for example, who go to the minister's office the day after an election to say that they have worked for him and ask for a job. This is unwise, in my opinion.

I worked for politicians my entire life, and they need impartial advisors. They must get advice from people outside their inner circle. This is known as internal constitutionalism in administration.

I want to conclude with the delegation of additional management powers to deputy heads. Individuals found qualified by managers will be appointed. I do not mean that managers are not qualified to select those individuals, but this does concern me.

There is a certain paradox. There is a trend toward imitating the private sector and using the methods of private companies to manage the public service but, at the same time, keeping a separate Labour Code for Canadians. I understand that the employer does not want to broaden the scope of negotiations, but the result is nonetheless that this process becomes more litigious because the courts go beyond this.

The courts are generally quite sympathetic. Second, appeals are possible, and when there is legal recourse at this stage, the result is that the courts and the judges are called on to provide definitions, when they are unfamiliar with concrete cases. I am not saying that I do not respect judges, but, at some point, they will define merit. It is more complex than this.

There are complaints about the slow staffing process. Managers complain greatly about this and that is why they wanted additional amendments and powers delegated. Furthermore, there is the right to appeal any staffing decision. As a result, an individual can be disqualified if the judge so decides. Another paradox, under the pretext of freedom and law, is that everyone but deputy ministers will have the right to get involved in political activities.

There is another paradox. There will be increased training and yet candidates must be selected based on their qualifications. Why train them if they are already qualified? I can understand if it is management training, because public service management is distinct.

I would now like to speak about access to the public service. This is the foundation or the weakness I perceive in this bill.

In the private sector, the boss manages his or her staff as he or she sees fit — in compliance, of course, with the Canada Labour Code — to survive in a competitive system that, in theory, protects consumers. The goal is to make money. In the public service, there is no competition when it comes to carrying out the essential duties of the government. Defence is defence. Justice is justice. As a result, there is no competition. However, in order to protect the public from monopoly conditions, the competitiveness of the private sector is compensated for with competitive rules in hiring by saying that the most competent are the most effective. This is the basic argument. Competency has a relative value. In order to measure competency, there needs to be a certain amount of competition. People are assessed based on competition.

In the public service, managers are not owners. They want to act as owners, but they are merely trustees. Therefore, there must be rules to govern them. One of our important constitutional principles, underscored by the Honourable Senator Joyal in his book on the constitutional architecture in Canada, which I read with pleasure, was that of democracy, thus equality of desirable opportunities for access to public employment. There are classes of jobs, and there are skills required. It is an open process; people can apply. That is the system.

The most concrete application of the fundamental principle of democracy in public administration is that of competition for jobs to enter into the government. If that does not exist, then it is something else. Everyone who meets the criteria has the right to apply. Competition is used to establish the relative value of candidates, and appointments are made based on that order.

The second principle of our constitutional law is the rule of law. This goes against the discretion of managers, thus the recruitment and selection process that is counterbalanced by the discretion of managers under the pretext of effectiveness. There must be a certain balance between the two.

The hiring process is established to ensure that employees are hired based on merit and not favouritism. The rules are there to ensure that the best candidates are hired.

The beginning of section 10 of the current Public Service Employment Act reads as follows:

> Appointments to or from within the Public Service shall be based on selection according to merit...

[*English*]

Honourable senators, today, the application of the merit principle usually means that there is a competition, candidates are ranked, and the candidate ranked number one gets the job.

The bill replaces the "best qualified" application of the merit principle with what the government calls a "value-based approach" to merit. That would allow managers to hire qualified and competent individuals more quickly, even if they are not the best qualified. We are told that this change is needed because the application of the existing safeguard results in a long, cumbersome and costly process that makes it difficult to attract skilled talent.

• (1900)

[*Translation*]

In some cases, such as engineering and auditing, the recruitment problems are exacerbated by substantially lower salaries than in the private sector. It is clear that there would be no applicants if there were no reward. Unless you are extremely keen on working in the public service, you will not relish being hired for a three-month period and having to go through a competition to keep your job. If the hiring process takes six months, perhaps it needs looking into. Talk to ordinary public servants and you will soon find out why it takes so long to fill a position. They will talk about poor planning, especially the plans for renewing staff, and about employees who leave files gathering dust on the corner of their desks for weeks and weeks.

[*English*]

The problem lies not in the merit system, it lies in the fact that moving the competition along quickly is not a priority.

Honourable senators, I am not the only one concerned by this attempt to water down the merit principle. Professor Renaud Paquet of the Université du Québec en Outaouais made the following statement before the Government Operations Committee in the other place:

> My view is that the ideal regime would be one where the merit principle is enshrined in the legislation and where union-management negotiations are undertaken to determine how is it to be applied. Failing that, the current system seems to me to be far more relevant than what is being suggested in this Bill.

On March 25, Mr. Steve Hindle, President of the Professional Institute of the Public Service, told the same committee on March 25 that:

> We fear that the flexibility provided to deputy ministers under the new provisions and the limited scope of redress will increase the incidence of bureaucratic patronage.
>
> The questions are, what is the process used to determine the merit of the individual candidates and whether or not the criteria used to establish merit are subject to review, to public scrutiny in advance of the appointment being made; and what is to be the redress for employees who feel they are meritorious enough to have warranted being appointed?

He stressed that:

> Staffing in the public service should continue to be on the basis of merit, and quite clearly the proposers of this legislation agree. Where we have a disagreement is on the definition of 'merit'. We believe it should continue to be the best-qualified person who is offered the job first.

[Senator Bolduc]

[*Translation*]

William Krause, of the Social Science Employees Association, appeared before that committee and said:

> ... we believe there should be competitive processes and that the process should be one of relative merit and not individual merit.

In other words, merit is analyzed in terms of a group. Nicholas d'Ombrain, a respected senior public servant, who testified on April 28, said:

> There is a tremendous amount of weight placed by the government on its changes regarding merit. I think these changes, to the extent that they're designed to streamline the staffing process, are probably desirable. But I have two concerns. The first concern is whether in fact the changes that they believe will flow from being able to set aside the jurisprudence in terms of the definition of merit, which has gathered like barnacles on the hull of a ship over the years, will take place. I have no answer to that. It is simply a concern.
>
> Secondly, I'm somewhat doubtful about moving from what I call competitive merit — I believe it's called relative merit in the language in this part of government — to individual merit. I understand the reasons for doing this. But I just think that as a matter of principle the idea of competitive merit is long established and important.

[*English*]

Mr. D'Ombrain goes on to say the following:

> It is important in the way in which the Public Service Commission has evolved over the years. Indeed, in 1918 the most important change that took place then, in my judgement, was the extension to the entire public service — civil service, as it then was — of the competitive system for entry and advancement. So there is a question in mind about that.

[*Translation*]

I will make a comment that may seem odd to you, but which I think is appropriate. I have always been somewhat sceptical of the French from France; however, they must be given credit when credit is due. Their own public service access legislation, or Loi à l'accès à la fonction publique, provides the following:

> Public service employees are recruited by competition. Following each competition, the candidates selected by the jury are ranked by merit on a list. Appointments are made by order of listing on the eligible list.

It is of a dazzling clarity, and it makes a great deal of sense.

Senator Nolin: That is how it works.

Senator Bolduc: The French have many faults, but they think clearly. The British have been doing things the same way since 1855. We have done the same in this country, when we built up our public service after the war. Why not again? Because of delays? Whose fault is that? The commission has already delegated recruitment and selection to a large extent to the departments. People are complaining about delays. It must depend on how it is administered. It cannot depend on the competition principle.

I would like to have your attention while I demonstrate to you how we came to lose this practice. I am thinking here of the federal public service Post-Secondary Recruitment Program, which should be central to the public service renewal. We are talking about renewal because of the aging of the population. The Auditor General of Canada addresses this in Chapter 5 of her report. She finds it rather shocking that departments use the program so little. For instance, in 2002, out of a total of 18,000 new employees hired in the public service, 5,000 were recruited from the universities. This makes sense since the public service management is increasingly made up of specialized professionals. Barely 1,000 employees, or 20 per cent, were recruited through open competition. Alternatives such as individual recruiting for a given position are currently used. Instead of having an open competition, the competition is geared toward a single position. Take, for example, development programs. I have nothing against promoting from within but, when it comes to internship programs, those already on staff have priority. At present, determinate appointments have become the rule 95 per cent of the time. This does not make sense. Acting that way will destroy the federal public service. Statistics Canada is planning on renewing its labour force. It has never had problems recruiting statisticians, even though the job is difficult.

Not enough effort has been made to resolve the problem. People say it will be delegated to the department. I could quote several witnesses who appeared before the committee. Some of their evidence is troubling.

Finally, managerial discretion for the sake of efficiency and bureaucratic patronage are not excluded. Additional court action will be taken through appeals and the courts will define merit. I find this is unacceptable. There is abuse of power and non-compliance with established procedure. This should be clear. These are public positions. Without public competitions, there cannot be equal opportunity. That is what union representatives fear. The irony is that it is the unionized employees who are the most worried. The Professional Institute of the Public Service and the social sciences group are worried the most about the future of the system. The quality of the public service depends specifically on these groups. I have the feeling that there are compromises being made so that everyone has their share. It is worrisome. After reviewing the issue, Mr. Searson from the Commission said that he thought we could live with it. It was given an additional role, two roles were removed, and another was added. He thinks this is a reasonable balance.

I was the President of the Public Service Commission and I can tell you that this will not work. We will run into problems in a few years because of this. We must avoid those problems. The public service should be above politics and bureaucratic patronage. Ministers today are less imposing than before. The Minister of Defence is not concerned about who joins the department. The department has some 45,000 employees; it is large and very complicated. However, this way of acting works its way down throughout the entire system. The principle is that recruitment should be done as close to the work site as possible. Managers recruit candidates, middle management recruits their subordinates and so on. It will be dangerous if the rules of the game are not clear.

• (1910)

I particularly stress the fact that we need entrance competitions, public competitions for university graduates in order to acquire the best and the brightest in Canada, in Canadian universities, to do what needs to be done. The work done at the Bank of Canada, at Foreign Affairs, at Finance, is important, as is the work done at Treasury Board.

Those are my concerns.

[*English*]

The Hon. the Speaker: Would the Honourable Senator Bolduc take a question?

Senator Bolduc: Yes.

[*Translation*]

Hon. Marcel Prud'homme: Honourable senators, it is very interesting to hear what Senator Bolduc has to say, since we recognize his competence. I have nothing to gain from him in saying so, or he from me; it is a totally disinterested remark.

Senator Bolduc, you have referred to performance bonuses.

When people are hired for a job, they are supposed to do their utmost. I have never been able to get a satisfactory answer to this, but you have served under five or six premiers in Quebec, you have been the Secretary General of the Province of Quebec — the counterpart of Mr. Pitfield here in Ottawa — and President of the Public Service Commission, so perhaps you could help me out here. What is the purpose of giving performance bonuses, when a person has taken an oath to do his utmost? Some may have 10 talents and others 30, but we must give all we can. So why, then, do we have to suddenly give bonuses to producers, when that is that they were hired to do?

This must be frustrating for those who do not get a bonus. If I go to a meeting and hear that so-and-so got a bonus, and such and such another person as well, and I am sitting between two other high-level people who did not, I will start doubting their abilities because their neighbours, in a similar position, got bonuses.

I find your speech most enlightening.

Senator Bolduc: I do not support giving the public service bonuses. I might think it appropriate for, perhaps, some Crown corporations, where there is competition, as there is in private enterprise. In the private sector, performance is easy to measure: either there is a profit or there is not.

That is not my theory for the public sector. Obviously, at 74 years of age, my values are perhaps more in keeping with the baby boom than today, but this trend started only about 10 years ago. There has been an increase in bonuses since there have been salary increases. This leaves me a bit pensive. The public service's work ethic is to do the best job possible and not depend on such things. Something I am still struck by is that Foreign Affairs employees are not paid more than necessary, and they are some of the most effective workers. They work around the clock, even Saturdays and Sundays. They do their duty and, overall, they are effective and productive workers. They are motivated by their career and by the work ethic of the public service. In my opinion, that is the most important aspect. I do not envy the fact that people get bonuses these days, but I do not understand it.

Hon. Pierre Claude Nolin: Are our numerous amendments of tax legislation not responsible for such practices? It is well known that, in the private sector, there are practices to allow employees to roll over, in their registered plans, sums of money that they could not have invested otherwise. Is there not a kind of parallelism with the private sector that has led to such practices?

Senator Bolduc: Possibly. The effort was made, because the government wants to change how it does things and older bureaucratic procedures. Today, a bit more flexibility is called for. It was an attempt to motivate people.

In the regular public service I am familiar with, I do not see the purpose of this. While salaries are not princely, they are better than before. If I were to say anything about remuneration, it would be about Crown corporations, but I will come back to this.

On motion of Senator Cools, debate adjourned until the next sitting of the Senate.

[*English*]

LEGAL AND CONSTITUTIONAL AFFAIRS

MOTION TO AUTHORIZE COMMITTEE TO STUDY INCLUDING IN LEGISLATION NON-DEROGATION CLAUSES RELATING TO ABORIGINAL TREATY RIGHTS—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Robichaud, P.C.:
>
> That the Standing Senate Committee on Legal and Constitutional Affairs be authorized to examine and report on the implications of including, in legislation, non-derogation clauses relating to existing aboriginal and treaty rights of the aboriginal peoples of Canada under s.35 of the *Constitution Act, 1982*; and
>
> That the Committee present its report no later than December 31, 2003.

Hon. Nick G. Sibbeston: Honourable senators, the matter of non-derogation clauses in federal legislation has been raised in this chamber many times in the last few years. The issue arose because of unilateral changes made to these clauses by the government, beginning in 1998. Until then, in the vast majority of federal statutes dealing with non-derogation rights as provided for in the Constitution Act, 1982, section 35, the wording was based on section 25 of the Charter. The wording in several pieces of federal legislation was clearly as follows:

> ...nothing in this Act shall be construed so as to abrogate or derogate from any existing aboriginal or treaty rights of the aboriginal peoples of Canada...

This wording, from 1982 to approximately 1998, appeared in a number of pieces of federal legislation, beginning with the Firearms Act, the Sechelt Indian Band Self-Government Act, the Canada Petroleum Resources Act, the Canada Wildlife Act, the Canada-Newfoundland Atlantic Accord Implementation Act, and the Canada-Nova Scotia Offshore Petroleum Resources Act, 1994.

The wording of non-derogation clauses is particularly important because of their role as an interpretive guide to the courts. Even small changes in wording necessarily cause uncertainty. The courts must evaluate each change in wording and try to surmise what Parliament intended.

Although variations in wording began appearing in 1998, it was with the Nunavut Waters and Nunavut Surface Rights Tribunal Act, in 2001, that the issue really came to the full attention of the Senate. In that act, Canada proposed wording that differed from the clear wording used in earlier legislation. This new wording stated:

> For greater certainty, nothing in this Act shall be construed so as to abrogate or derogate from the protection provided for —

The next section highlights the change.

> — existing aboriginal or treaty rights of the aboriginal peoples of Canada...

• (1920)

Government lawyers argued before us in the hearings in the Energy Committee when we dealt with this matter that using wording from the Constitution Act, 1982, might have afforded greater protection to section 35 rights than that contained in the Constitution itself. The absurdity of this argument is self-evident. They also argued that the new wording appeared in the Mackenzie Valley Resource Management Act in 1998 and had been used ever since. In 1998, however, the Canada Marine Act used wording that was different again, stating:

> ...nothing in this Act shall be construed so as to abrogate or derogate from the application of section 35...to existing aboriginal or treaty rights...

In 1999, the Social Union Framework Agreement, signed by the Government of Canada and all the provinces and territories, except Quebec, reverted back to wording very similar to that contained in the Charter.

The proliferation of these differing non-derogation clauses creates uncertainty as to their legal effect. Where constitutional rights are at issue, we strongly feel the Department of Justice should not be using legislation as a testing ground for its evolving and often unilateral interpretation of section 35 rights. Aboriginal people rightly view the inclusion of section 35 in the Constitution as a high-water mark in Canada's acknowledgement of their solemn duty to fulfil treaty rights of Aboriginal peoples. The uncertainty created by the constant shifting of the government's position has caused considerable and legitimate apprehension on the part of Aboriginal peoples, who fear that clauses, which were supposed to protect their rights, may instead be used to limit them or, at worst, open floodgates as to the intrusion of these rights.

The original intent of non-derogation clauses was to set out that it was Parliament's intent to respect Aboriginal rights and not to infringe upon them. Subsequently, the Supreme Court, in the *Sparrow* decision in 1990 and others subsequently, such as *Van der Peet* in the mid-1990s, established that Parliament could infringe on Aboriginal rights in certain circumstances and established clear tests for when and how this could be done. In the wake of these decisions, the new wording developed by the Department of Justice appears to be designed to allow legislation to be read as if it were Parliament's intent to infringe upon them, whether or not this was explicitly the case. We went from clearly wanting to uphold Aboriginal rights to wanting to provide room for legislation to infringe on those rights.

With respect to the Nunavut Waters and Nunavut Surface Rights Tribunal Act, the Senate amended it by deleting the non-derogation clause contained within it. This was preferable to letting the bill pass with the new wording. It is important to remember that this act was a special case. The purpose of the act was to implement part of the Nunavut land claim. The Inuit believed that having a weakened non-derogation clause actually was worse than having none at all. They were, of course, comforted by the fact that the legislation contained inconsistency clauses, making it invalid where it conflicted with their land claim settlement. They asked that the non-derogation clause be removed, and the Senate, I am proud to say, provided them with that remedy.

This was, as I described, a special case. The general remedy for Aboriginal people is not the removal of non-derogation clauses but the return to the pre-1998 wording.

Nonetheless, as Aboriginal senators continued to press the government to address this issue — in our discussions of the National Marine Conservation Areas Act and the Species at Risk Act — this was precisely the solution the Minister of Justice initially proposed. In a letter to the Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources, he proposed removing non-derogation clauses from all existing legislation and not having such clauses in the future. It was never the position of Aboriginal senators that deleting non-derogation clauses was an option. Fortunately, Aboriginal senators and the minister's own cabinet colleagues persuaded the Minister of Justice that this approach of deleting all non-derogation clauses in federal legislation was neither appropriate nor feasible.

In April of this year, we were able to meet with the minister to discuss how we might proceed and deal with this important matter. At the time, the idea of having a Senate committee examine the issue was raised. However, we agreed that, before we went that route, it would be worthwhile to have further discussions to determine if we could come up with a solution ourselves that might be acceptable to both the government and Aboriginal peoples. We did meet several times and made some progress. Aboriginal senators did make a specific proposal that would have inserted a positive statement about upholding Aboriginal treaty rights in the Interpretation Act.

In proposing a solution, we recognized that there are two separate but connected issues at stake. The first is the desire on the part of the government, senators and Aboriginal peoples to uphold the integrity of Aboriginal and treaty rights and not to abrogate or derogate from them. The second is that the capacity of Parliament to pass legislation consistent with the Constitution should not be enhanced or diminished. We, therefore, proposed the following wording for the Interpretation Act amendment:

> (1) Every enactment shall be construed so as to uphold existing Aboriginal and treaty rights recognized and affirmed under section 35 of the Constitution Act, 1982, and not to abrogate or derogate from them.
>
> (2) For greater certainty, nothing in subsection (1) enhances or diminishes the capacity of Parliament to make laws consistent with section 35 of the Constitution Act, 1982.

This was the proposal we placed before the minister's officials.

Existing clauses in enacted legislation could be left alone, as this amendment would supersede them. Of course, there would be no requirement for including a non-derogation clause in future bills. This proposal had the advantage of dealing with the issue once and for all and of applying to all federal legislation. We would no longer have to look at every piece of legislation and question whether there ought to be a non-derogation clause. The provision in the Interpretation Act would apply to all federal legislation.

However, we could not reach an agreement. We held two meetings and eventually the government leader introduced the motion to have the matter referred to committee. I generally support this approach and look forward to sharing my views with the committee, discussing some of the ideas we have developed in the past few years. In addition to the proposal concerning the Interpretation Act, we suggested the option of a stand-alone Aboriginal bill of rights. This was a comprehensive four- or five-page document that would set out the rights of Aboriginal people. Either option could be combined with the inclusion of an

Aboriginal rights audit in the Department of Justice Act. This act now includes a requirement for a Charter of Rights audit on all legislation. Why not have an Aboriginal rights audit where the Minister of Justice could report to Parliament and the Senate on matters affecting Aboriginal rights?

My own hope is that the committee will recommend a return to the original non-derogation wording based directly on section 25 contained in some once-and-for-all form. The wording was perfectly acceptable and worked well for many years, from 1982 to 1998. There may be other alternatives that the committee will discover that will, I hope, achieve the same.

As for the complex issue of Aboriginal rights, I urge senators to focus on the issue of non-derogation clauses, a statement in legislation that says that Parliament is not to derogate or abrogate from the rights of Aboriginal people. As to what those rights are, I think the courts have been defining them, for the most part. We need to focus on the matter of providing a good non-derogation clause.

Hon. Senators: Hear, hear!

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

• (1930)

[*Translation*]

THE ESTIMATES 2003-04

SECOND INTERIM REPORT OF NATIONAL FINANCE COMMITTEE ADOPTED

On the Order:

> Resuming debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Di Nino, for the adoption of the Sixth Report of the Standing Senate Committee on National Finance (*Second Interim Report on the 2003-2004 Estimates*) presented in the Senate on May 27, 2003.

Hon. Roch Bolduc: Honourable senators, I draw your attention to two problems pointed out to the President of the Treasury Board. The first concerns the remuneration of presidents of Crown corporations.

I do not know who drafted the standards. I have already mentioned that the official remuneration of the President of Canada Post was around $500,000, but when I met him recently, he told me his salary was not $500,000. I believe he receives a salary of around $350,000 plus benefits.

Still, I am surprised when I look at these categories. I know we can pay them good salaries, but the President of the Bank of Canada earns less than the President of Canada Post. That upsets me greatly. If there is one position of great importance in a Crown corporation, it is the President of the Bank of Canada. I would just like to mention it because we do not know who set the criteria.

A little while ago, Senator Prud'homme was talking about bonuses, and that was partly because of what Senator Nolin was saying about income taxes, and also the fact that consultants have been hired recently. The government hires a number of consultants and they are very expensive. They come from the private sector. There is always a problem. That is what I want to say here. Our role as legislators is to be very much aware that everyone has interests, even the senior public servants. It is important that people know that. We talk quite a bit about the interests of the unions, and government managers have interests, too, which is one reason why the way the act has been amended gives me some trouble. We are going to broaden discretionary powers, and we are no longer going to select the most qualified. In other words, we will have a list, and all those who qualify to be on the list will be in the running.

We are far from the 1950s, when we built the federal public service with the best. That is what I wanted to say about compensation. The classification criteria are not clear. I have nothing against it; one of my friends put it together. It is a monopoly situation. It must stop.

Second, it is very important to improve infrastructure. Between Canada and the United States, trade is $700 billion a year, which is $2 billion a day, day in and day out. Among other things, 87 per cent of our trade is done with the United States. We trade more with them than all of Western Europe put together and three times more than with Japan. We have to look at the importance of this trade to us. In fact, of the 87 per cent of goods I just referred to, 70 per cent are transported in trucks, which is enormous. In other words, one truck crosses the border every two and a half seconds. There are not that many bridges. There is the Ambassador Bridge in Detroit, the Peace Bridge in Buffalo, and the Blue Water Bridge in Sarnia. Of course, a few trucks cross at Lacolle and the Thousand Islands. For your information, the Ambassador Bridge was built in 1929, when trucks had two wheels — two in front and two in back — the Peace Bridge in 1927, and the Blue Water Bridge in 1938. We have the infrastructure to conduct an unbelievable amount of trade with the United States. Can you fathom how much money I am talking about?

There is a place with only one lane in each direction. It reminded me of the Taschereau Bridge between île d'Orléans and Quebec City. You must not be in a rush. However, if you have business transactions that are costing 10 per cent more because of delays, things need to move faster and arrive on time. When people have to wait for one more hour, it represents 25 per cent of our trade with the United States.

It is important that the government hurry, that bridges remain as is. I do not think that a tunnel will be built for the time being, but we should at least prepare the site so that it can be used.

The other day, I went by Fort Erie. I was lucky. There was one lane open for cars, but the other side had a line of trucks a mile long. It costs people who are waiting a fortune. We cannot allow this. We must build infrastructure, not just in the form of bridges but of roads, too. I think the infrastructure is very important. I rarely call for spending more public dollars. I was raised in the

Duplessis era and we did not waste money. However, I must say, frankly, that the federal government must do more than it is doing now. It just announced $300 million for Detroit. That is not much when you consider the situation and the amount of traffic there. We must do something. I would like the government to be aware of this situation so as not to add to the costs of doing business.

[*English*]

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

Motion agreed to and report adopted.

FEDERAL NOMINATIONS BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Stratton, seconded by the Honourable Senator Murray, P.C., for the second reading of Bill S-4, to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions.—(*Honourable Senator LeBreton*).

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, Bill S-4 will provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions. This bill should be embraced by all honourable senators and should not require any further debate to sustain the reasonableness and the public interest that would be served by such a statute.

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

• (1940)

THE FINANCIAL ADVISORS ASSOCIATION OF CANADA BILL

PRIVATE BILL TO AMEND ACT OF INCORPORATION—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Kirby, seconded by the Honourable Senator Mahovlich, for the second reading of Bill S-21, to amalgamate the Canadian Association of Insurance and Financial Advisors and The Canadian Association of Financial Planners under the name The Financial Advisors Association of Canada.—(*Honourable Senator Lynch-Staunton*).

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, since my intervention on Thursday I have received two legal opinions, one from the petitioners and one from our own Law Clerk and Parliamentary Counsel, both unanimous in saying that there is no other way to effect the merger of the two entities except through this process.

This still does not take away from my concern that there is a better way, maybe not in this case, but it seems to me that Parliament should be out of the business of incorporating non-profit organizations because it adds a burden to that organization whenever it wants any changes made. For instance, Senator Di Nino has a private bill on behalf of Boy Scouts of Canada asking for a change in their name. It is a very costly, lengthy process. Under the Corporations Act, it could be done within 15 minutes by application. It would be nice to think that some day the government of the day could find legislation that would absolve all those corporations and other entities incorporated by act of Parliament from having to come back to Parliament for any changes. I suppose that is wishful thinking.

I am glad that Senator Kirby is here because I meant to ask him this after he made the presentation on behalf of this bill. Perhaps, in his closing remarks, he might address the fact that clause 15 of the bill states that:

> This Act shall come into force or be deemed to come into force on the 12th day of June, 2003.

That is called a retroactive clause, something in which Parliament should not engage. Perhaps Senator Kirby, if he cannot today explain the purpose of that unusual provision, will raise it in committee. I would like to share with him and others my concern that it exists in this bill. Again, retroactivity, by itself, is not something in which we should engage.

That being said, I have no objection to having this bill referred to committee and to having the debate continue there.

The Hon. the Speaker: Are we ready for the question, honourable senators?

Hon. Michael Kirby: Honourable senators, I wish to respond to the question raised by the Honourable Senator Lynch-Staunton.

As I indicated last week, I share his concern.

The Hon. the Speaker: Senator Kirby, I was not too sure whether you would speak or not.

It is my obligation to inform honourable senators that if the Honourable Senator Kirby speaks now, his speech will have the effect of closing the debate.

Senator Kirby: Honourable senators, I wish to repeat what I said last week and echo support for what Senator Lynch-Staunton said a minute ago in that it is unfortunate there was no other way around this issue. Perhaps, one thing the Standing Committee on Rules, Procedures and the Rights of Parliament ought to consider is whether there is a way to deal with these private members' bills, which get us into a situation where we have to do things such as amend even minor name changes. I would gladly support that matter being discussed before the Rules Committee.

I do not like retroactive clauses either. There is one in this bill, which, I suppose, would end up being retroactive if the bill is not completely finished with by June 12. I was told that this date had been selected some time ago because both organizations are having their annual meeting on that date. I would be delighted to see that issue discussed in committee. In fact, if the bill had to be slightly amended so that it came into effect on proclamation, I would not be upset.

With that, honourable senators, I believe that closes the debate.

The Hon. the Speaker: It was moved by the Honourable Senator Kirby, seconded by the Honourable Senator Mahovlich, that this bill be read the second time. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Kirby, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.

SCOUTS CANADA

PRIVATE BILL TO AMEND ACT OF INCORPORATION— SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Di Nino, seconded by the Honourable Senator Jaffer, for the second reading of Bill S-19, respecting Scouts Canada.—(*Honourable Senator Jaffer*).

Hon. Mobina S. B. Jaffer: Honourable senators, it is my honour and pleasure to speak today to Bill S-19, respecting Scouts Canada, as it deals with an organization that is close to my heart.

When most people think of scouting, the image they have in their minds likely consists of a group of young men in green or beige uniforms camping in the woods, learning survival skills and, perhaps, singing campfire songs. However, I believe that scouting today is much more than this. The lessons it teaches young people go well beyond wilderness survival skills; there are much deeper life lessons that it teaches as well.

Scouting helps young people to learn to have confidence in themselves and in their abilities. It gives them a profound sense of responsibility to themselves, others and their environment. It teaches self-reliance that is valuable not only in the wilderness but in other situations as well.

Scouting helps youth to form strong relationships with others and build lasting friendships. It teaches them to become leaders and to play a vital role in the society in which we live. These are things that cannot always be learned in conventional schools and can only be acquired by the type of experience scouting offers.

As it says in the *Scout Handbook*, a scout is a member of the great youth movement started by Lord Robert Baden-Powell. Baden-Powell thought it would be a good idea to teach boys some of the skills of scouting. Scouts should be strong, courageous, alert, able to read the smallest signs of nature and the tracks of animals, able to survive in the wilderness, always ready and willing to help each other, and able to decide what to do and when to do it.

Lord Baden-Powell believed scouting affected a young person's education, appreciation of religion and a greater promotion of peace. Lord Baden-Powell, founder of the scout movement, set out a number of reasons why scouting was an important educational experience. He stated that the secret of sound education is to get each pupil to learn for himself instead of instructing him by driving knowledge into him by a stereotyped system.

Regarding appreciation for religion, Lord Baden-Powell said, "Though we hold no brief to any one form of belief over another, we see a way of putting the boys in touch with their objective, which is to do their duty to God, through doing their duty to their neighbour, in helping others in doing their daily good turns and rescuing those in danger. Self-discipline, unselfishness, chivalry become acquired and quickly form part of their character. These attributes of character, coupled with the right study of nature, must of necessity help to bring the young soul in closer touch to spiritually with God."

He also spoke of the greater promotion of peace. Lord Baden-Powell went on to say, "Before you abolish armaments, before you can make treaty promises, before you build palaces for peace delegates to sit in, the first stop of all is to train the rising generations in every nation to be guided in all things by an absolute sense of justice. When men have it as an instinct in their conduct of all affairs of life to look to the question impartially from both sides before becoming partisans of one, then if a crisis arises between two nations, they will naturally be more ready to recognize the justice of the cause and to adopt a peaceful solution, which is impossible so long as their minds are accustomed to run to war as the only resource."

Lord Baden-Powell goes on to say, "In the scouting movement, we have it in our power to do a great thing by introducing practical training in justice and fair play, both through games and practise in the field, and through arbitrations, codes of honour, trials and debates in the club room."

• (1950)

Honourable senators, scouting helps young people to achieve their goals to the best of their ability. In 1974, the advantages of the scouting experience were broadened significantly when young girls were, for the first time, included in the organization's mandate. This change, which is reflected in the legislation before us today, is of tremendous significance and personal importance to me because I believe that all young girls should reap the benefits of a scouting experience. I know how much my own experience with scouting has enriched my life and how the lessons I learned have stayed with me to this day.

As Senator Di Nino has already said, the informal lessons that Scouts Canada teaches us today are in line with the original and ongoing mission of the organization, as well as with the vision of its founder Lord Baden-Powell.

Passage of this bill will update the existing statutes that govern the scouting movement in Canada. Not only will the bill change the name of the organization from Boy Scouts of Canada to Scouts Canada, but it will also to reflect the change in its mandate to include young girls.

Honourable senators, scouting is in my blood. My mother grew up knowing Lady Baden-Powell in Kenya. As a guide, she went on to become a guide leader. To this day, she is associated with the guiding movement. I was a Brownie, a Girl Guide, a Queen's Guide and then a 2nd Queen's Guide in Uganda. I was also a Girl Scout in the U.S. In Canada, I was a Ranger leader and a Commissioner of Guiding for a number years. With my husband, I was a Beaver and a Venturer leader. In the 1980s, my husband, Nuralla, and I started a co-ed group of Venturers, one of the few in the country, while I was still a Girl Guide Commissioner. We started the co-ed Venturers group because we believed this was a way to bring girls and boys together to work on joint projects and, most important, to learn to relate to and challenge each other.

We felt that involvement in the scouting program would give girls the opportunity to gain confidence and help them in their careers. We took the boys and girls to many camps. The conversations around the campfires and afterwards were interesting and, at times, challenging. We learned to trust them and, as time went on, they were working together cooking meals, climbing hills, going on long hikes and helping each other to achieve their goals.

We took our co-ed group to the World Jamboree in Kananaskis, Alberta. When the girls returned from the jamboree, they were confident knowing that they could do all the outdoor activities just as well as the boys could do them.

The greatest compliment my husband and I received recently was from a female member of our co-ed group, a Venturer, who told us that she was doing well in her work and was able to compete because, as a Venturer, she learned certain skills. She told us that being a Venturer taught her that she was as good as any boy, and that helped alleviate any fear she had.

As a previous Girl Guide Commissioner, I believe that the Girl Guide movement is important for girls' growth. I also believe that the co-ed group helps to build confidence in young people.

Lord Baden-Powell often said that when he spoke of scouting, he included, in his comments, guiding also.

I would thank Senator Di Nino for introducing Bill S-19.

Lady Baden-Powell said in her autobiography: "Both associations have set up working parties to discuss how to bring the two movements up to date to meet the needs of a more sophisticated rising generation. I was anxious that both movements should keep to my husband's constant stipulation that scouting and guiding should be simple and that it should be fun. Provided these qualities were retained and provided that basic principles of scouting and guiding were not altered, I saw no harm in changes. If the movement is to live up to its name, it must move with the times. I know I am old but I should never oppose changes simply because it is change particularly if the times demand a new look."

Honourable senators, I support this bill because it will help to sculpt the future of scouting for young people and it will bring the law into accord with the realities of scouting at the present.

I believe that all honourable senators can support this bill, and I urge all senators to go one step further and support the Canadian Scouting Movement in their own regions to ensure that our young people are given the opportunity to participate in the unique experience that scouting offers.

I thank honourable senators for their attention.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

Hon. Consiglio Di Nino: Honourable senators, rule 115 of the *Rules of the Senate* calls for a delay of one week for a private bill originating in the Senate before it can be considered by a committee. Recognizing that we are now in the middle of June, I spoke with Senator Furey, Chairman of the Standing Senate Committee on Legal and Constitutional Affairs, to ask if his committee would have time to consider this bill within the next week. He told me that his committee will attempt to make time to study this bill. In the vein of that gesture, on behalf of my colleague Senator Furey, I move:

> That, with leave of the Senate and notwithstanding rule 58(1)(a), that rule 115 be suspended in respect of Bill S-19, respecting Scouts Canada, and that the bill be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

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

Some Hon. Senators: Agreed.

Hon. Anne C. Cools: I did not quite understand why leave was required.

The Hon. the Speaker: Leave is being requested to move a motion to suspend rule 115 in respect of any study of this bill. Rule 115 indicates that one week must pass before a committee may consider a private bill.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, this bill simply changes the name of the organization. It contains nothing controversial. As I understand it, there is nothing to be debated at committee. Is there any way we can move to third reading and refer the bill to the House?

Senator Di Nino: With unanimous consent, honourable senators, we could proceed to third reading of this bill. I thank the honourable senator for making such a suggestion and I would, therefore, ask for unanimous consent to move to third reading of the bill.

Senator Cools: Honourable senators, it is unusual not to refer a bill to committee. If it is so straightforward, then the committee will deal with it swiftly and return it to the house. However, the process is to refer it to committee. Many such private bills have been referred to committee and have been dealt with expeditiously. I would, therefore, suggest that it go to committee so that there can be no perception by the scouts' organization that any part of the process was circumvented. As a member of the committee, I can promise Senator Di Nino that I will use whatever influence we have to deal with the bill with dispatch.

The Hon. the Speaker: The house would require unanimous consent to proceed as suggested by Senator Lynch-Staunton. It is not forthcoming.

[*Translation*]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, this side of the chamber has no objections to the motion before us being withdrawn. We consent to moving straight to third reading, as the Honourable Senator Lynch-Staunton just proposed, in order to consider this bill as soon as possible and to be of service to the Canadian Scouts Association.

[*English*]

The Hon. the Speaker: Honourable senators, before we agree to proceed to that question, I should remind the house of the provisions of rule 113, which states:

> After its second reading, a private bill shall be referred to a committee, and any representations before the Senate for or against such bill stand referred to such committee.

Honourable senators, leave would be required to waive rule 113. I think Senator Cools has indicated what the result of that would be. Would the Honourable Senator Di Nino care to ask for leave?

Senator Di Nino: I would be delighted to move, with leave, that rule 113 be suspended and that we proceed to third reading of Bill S-19.

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

Some Hon. Senators: Agreed.

Senator Cools: No.

The Hon. the Speaker: Leave is not granted. Senator Di Nino will have to move his original motion again for clarity.

• (2000)

Senator Di Nino: I move that rule 115 be suspended and that Bill S-19 be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

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

Motion agreed to.

THE FINANCIAL ADVISORS ASSOCIATION OF CANADA BILL

PRIVATE BILL TO AMEND ACT OF INCORPORATION—REFERRED TO COMMITTEE—REQUEST TO WAIVE RULE 115

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, with respect to Bill S-21, which the house has referred to the Standing Senate Committee on Banking, Trade and Commerce, the opposition would be agreeable to waiving rule 115 so that the Standing Senate Committee on Banking, Trade and Commerce could deal with that bill forthwith and not have to wait a week.

The Hon. the Speaker: Is it agreed, honourable senators, that section 115 of our rules be suspended with respect to any study of Bill S-21?

Hon. Anne C. Cools: What is Bill S-21? There is something fishy here.

Senator Robichaud: There is nothing fishy.

The Hon. the Speaker: To answer the question of the honourable senator, Bill S-21 is proposed legislation to amalgamate the Canadian Association of Insurance and Financial Advisors and The Canadian Association of Financial Planners under the name The Financial Advisors Association of Canada. It is a private bill.

Senator Cools: Are we being asked to waive rule 115 or rule 113?

The Hon. the Speaker: Honourable senators, the request to the Senate is that rule 115 be suspended with respect to any study of Bill S-21.

Senator Cools: Honourable senators, will it go to committee?

The Hon. the Speaker: It has already been referred to committee.

Senator Cools: Agreed.

The Hon. the Speaker: It is agreed, honourable senators?

[*Translation*]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, when I asked for leave from the Senate, a comment was made to the effect that this was fishy. I can assure all the honourable senators that there is nothing fishy in what we are doing. It is all straightforward and proper.

[*English*]

Hon. Marcel Prud'homme: Honourable senators, I would ask that we stop the practice of reverting to items on the Order Paper. I have no objection to the matter we are dealing with; I am on the Banking Committee, so I will study Bill S-21, if need be.

Nevertheless, I hope we stop reverting. If an honourable senator who may be interested in a particular matter leaves after the matter in question has been stood, it may come as a surprise to him or her to find that the house has reverted to that matter.

Senator Cools: Honourable senators, we should be clear as to what happened. It is unusual to waive rules. It is unusual to be calling for unanimous consent time after time. When these procedures are being called upon routinely, honourable senators should raise questions.

Senator Robichaud: It is not fishy.

ILLEGAL DRUGS

REPORT OF SPECIAL COMMITTEE— INQUIRY—ORDER STANDS

On the Order:

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

Hon. Tommy Banks: Honourable senators, do I understand that there is time left on the Order Paper for this item? I should like to speak to this, but there are senators, not currently in the chamber, who I would prefer to be here to hear what I have to say.

The Hon. the Speaker: If the honourable senator wishes to speak on another day, the answer is yes.

Order stands.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

MOTION TO AUTHORIZE COMMITTEE TO STUDY PUBLIC HEALTH GOVERNANCE AND INFRASTRUCTURE— DEBATE ADJOURNED

Hon. Michael Kirby, pursuant to notice of June 5, 2003, moved:

> That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine and report on the infrastructure and governance of the public health system in Canada, as well as on Canada's ability to respond to public health emergencies arising from outbreaks of infectious disease. In particular, the Committee shall be authorized to examine and report on:
>
> - the state and governance of the public health infrastructure in Canada;
>
> - the roles and responsibilities of, and the coordination among, the various levels of government responsible for public health;
>
> - the monitoring, surveillance and scientific testing capacity of existing agencies;
>
> - the globalization of public health;
>
> - the adequacy of funding and resources for public health infrastructure in Canada;
>
> - the performance of public health infrastructure in selected countries;
>
> - the feasibility of establishing a national public health legislation or agency as a means for better coordination and integration and improved emergency responsiveness;
>
> - the Naylor Advisory Group Report and recommendations.
>
> That the Committee submit its report no later than March 31, 2004.

He said: Honourable senators, I shall be brief. This motion arises from the fact that there has been considerable public discussion about whether Canada has adequate infrastructure to deal with public health emergencies such as SARS, West Nile virus and so on. A number of members of the committee and a number of people in the health care field who have followed the work of the committee have suggested that a very short, concentrated study be undertaken, which we would hope to complete before the middle of November. We set a date of March 31 next year, but we would hope to complete the study much faster than that.

• (2010)

First, the study would seek to address the question of whether Canada has adequate infrastructure for public health emergencies such as SARS and, if not, what is needed. As part of that review, we would look at the question of whether Canada needs an equivalent of the Centers for Disease Control in Atlanta. There is a tendency for people to want to jump on that bandwagon without giving the question adequate thought.

Second, we would hope to examine the report of the Naylor commission, which was appointed by the federal government under the chairmanship of David Naylor, Dean of the Faculty of Medicine at the University of Toronto. The commission includes representatives from a variety of medical associations and,

interestingly enough, the Centers for Disease Control. It is looking specifically at how the SARS issue was handled in Toronto. Its deadline to report is July 31. We think it is important, as do a number of other people, that this committee give its views on the appropriate federal response to the Naylor report. We will deal with the specifics of the Naylor report and the broader question about whether Canada has the adequate infrastructure to address public health emergencies and, if not, what the infrastructure would be.

I know that the question of money will arise. We anticipate that this study will cost perhaps nothing, at best, or an insignificant amount.

The only witnesses we would call from outside the country could testify via teleconference. If we need to hear witnesses from inside the country, we believe they can be heard without spending money. We do not see the need for the committee to travel. We hope to have finished the study by the end of October. We have given ourselves some leeway in case we are not able to finish our study by that time.

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

The Senate adjourned until tomorrow at 2 p.m.

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