



CANADA

Debates of the Senate

2nd SESSION

•

37th PARLIAMENT

•

VOLUME 140

•

NUMBER 66

OFFICIAL REPORT
(HANSARD)

Wednesday, June 11, 2003



THE HONOURABLE DAN HAYS
SPEAKER

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(Daily index of proceedings appears at back of this issue).

Debates and Publications: Chambers Building, Room 943, Tel. 996-0193

Published by the Senate
Available from Communication Canada – Canadian Government Publishing, Ottawa, Ontario K1A 0S9.
Also available on the Internet: <http://www.parl.gc.ca>

THE SENATE

Wednesday, June 11, 2003

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

Prayers.

[*Translation*]

ROYAL ASSENT

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

RIDEAU HALL

June 11, 2003

Mr. Speaker,

I have the honour to inform you that the Honourable Ian Binnie, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy of the Governor General, signified royal assent by written declaration to the bills listed in the Schedule to this letter on the 11th day of June, 2003 at 8:25 a.m.

Yours sincerely,

Barbara Uteck
Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

Bills Assented to Wednesday, June 11, 2003

An Act to amend the Canadian Environmental Assessment Act (*Bill C-9, Chapter 9, 2003*).

An Act to amend the Lobbyists Registration Act (*Bill C-15, Chapter 10, 2003*).

A fine land I say
Its values held dear
True honour to cheer
And happy those here
In peace, not in fear

A fine land I say
Where peace is the way
Any difference fostered
And harmony nurtured

A fine land I say
Opportunity fair
And no matter where
For the talents are there

A fine land I say
Good citizens all
Extend a warm welcome
No boasting at all

A fine land I say
Wherever I travelled
Wherever I stayed
From province to province
Friends many were made

You should know as I leave
My heart heavy in ways
I will miss this great country
The rest of my days

So this is not goodbye, dear friends
For if God wills, we'll meet again.

Ottawa, May 30, 2003
Abdelkader Lecheheb
Ambassador of the Kingdom
of Morocco to Canada

SENATORS' STATEMENTS

FOREIGN AFFAIRS

FAREWELL TO HIS EXCELLENCY
THE AMBASSADOR OF MOROCCO

Hon. Marcel Prud'homme: Honourable senators,

A fine land I say
The miles stretch away
Beauty unmeasured
Diversity treasured

Honourable senators, this poem was read at the farewell dinner hosted by the Honourable Denis Paradis, Minister, and the Honourable Gar Knutsen.

This evening, between 5 p.m. and 7 p.m., in the Francophonie room, all of the honourable senators are invited to say farewell to His Excellency the Ambassador of Morocco, on the occasion of his departure for Japan. His Excellency has served his country well and is very fond of Canada; he did not hesitate to recite his poem last night at the farewell dinner.

The Honourable Senator Molgat, on his official visit to Morocco with Honourable Senators Bolduc, De Bané, Poulin and myself, asked me to establish this association with Argentina, Brazil, Russia and Morocco.

[English]

The Speakers travelled around the world and made commitments, and when they came back they asked that we create bilateral associations. This is what happened with Speaker Molgat when he asked me to create the Argentina, Brazil, Russia and Morocco associations.

Please come for a few minutes tonight, between five and seven, to the La Francophonie Room, to say goodbye to the ambassador. We will see you there.

• (1340)

[Translation]

THE HONOURABLE RAYMOND C. SETLAKWE, C.M.

CONGRATULATIONS ON RECEIVING HONORARY DOCTORAL LAW DEGREE

Hon. Laurier L. LaPierre: Honourable senators, at convocation on June 7, 2003, Senator Setlakwe's alma mater, Bishop's University, granted him the degree of Doctor of Civil Law *honoris causa*.

[English]

My friend Dr. Setlakwe graduated from Bishop's University in 1949.

[Translation]

In the citation given with the honorary doctorate, the rector of the university grasped the essential of this great man's life when he said:

[English]

...epitomizes the democratic ideal of citizenship.

At the same time, he reminded the audience of students, notables, professors and friends of the university that the senator's first act of political courage was:

...to battle the Bishop's administration of the late 1940s in order to create a Young Liberals Club in an era of Union Nationale power. He argued then that the university had a duty to allow greater freedom of expression and to foster debate about the political matters of the day.

I have no need to add, honourable senators, but —

[Translation]

— as usual, he won his case.

This is a man devoted to his family, his community, Thetford Mines, his employees, and the causes he has chosen to serve: the Thetford Mines Hospital Foundation, Bishop's University, the Université de Sherbrooke —

[English]

— and the Research Fund of the Montreal Heart Institute.

[Senator Prud'homme]

[Translation]

He has also been a member of the Order of Canada since 1996.

[English]

However, this has cost him no money.

He was born a Liberal, like Sir Wilfrid Laurier, and he has served the cause of liberalism without reserve, like Sir Wilfrid Laurier, since then. He has known and helped every Liberal Prime Minister of Canada since World War II. Loyalty to the people of Canada, to the Liberal Party and to the leader of the party is paramount for Dr. Setlakwe. Often I am aware, sitting so close to him, that he is quite distressed, in these dysfunctional times, at the fact that the Liberal Party is so much and so unnecessarily divided. I share his views.

Setlakwe is a poet, or he knows every poet that has passed among the humans of this planet — perhaps some have even come from other planets — and he quotes them frequently.

When I spoke at Bishop's University recently, Ms. Setlakwe and he were there. Standing in the courtyard, he pointed to a roof from where he would watch the arrival of the love of his life and, no doubt, like an Armenian, he would open the window and softly sing love poems to her as she practically froze to death waiting for him.

I am happy to be sitting next to him. I am sorry that I will not be here next week to pay homage to him, as I have to be in Europe. This is my homage to him. I am sorry he is leaving, for he has enriched my life and my passage here. I will never forget him.

I wish you well, Dr. Setlakwe.

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTERS—PRESS CONFERENCE ON MARITIME HELICOPTER PROJECT

Hon. J. Michael Forrestall: Honourable senators, I take no pleasure in this statement. I wish we had been in a position, as I indicated yesterday, to interview appropriate departmental officials here in the Committee of the Whole of the Senate of Canada. In reference to the now-infamous press conference held on the statement of operational requirements and the requirement specifications for the Maritime Helicopter Project for Sea King replacement, if we have time, I would like a written response to some of my concerns.

Last week, the distinguished Chief of the Defence Staff, General Ray Henault, discussed his involvement with the statement of operational requirements for the Maritime Helicopter Project during this damage-control press conference at National Defence Headquarters. General Henault said, at that damage-control conference, that he was:

...here at the Headquarters then as the Deputy Chief of the Defence Staff, before that was the Assistant Chief of the Air Staff and worked through the original SOR, but also the updated SOR.

In point of fact, shortly after the NSA project was cancelled in 1993, work began on drafting an updated SOR for a Sea King replacement.

This maritime helicopter SOR is dated March 13, 1995, and was approved by the Chief of the Air Staff in May 1995, several months before General Henault went to Winnipeg as Chief of Staff for Operations in July 1995 where he served until June 1996. No maritime helicopter SOR work was conducted during the period that General Henault was attached to the staff of the Chief of the Air Staff.

General Henault was then posted to NDHQ until September of 1997. In September of 1997, he was appointed Assistant Chief of the Air Staff. Work on the current revisions of the maritime helicopter SOR did not commence until January of 1998, after the Canada search helicopter contract award. General Henault was promoted to Lieutenant-General and Deputy Chief of the Defence Staff in August of that year.

At that time, the current version of the maritime helicopter SOR was still in its very preliminary draft format. The Senior Management Oversight Committee review had just commenced, with its inaugural meeting being held on June 18, 1998. At that time, General Dempster and the Gray committee reviews of the maritime helicopter SOR were yet to commence. In fact, they began in February and March of 1999.

We also know, from ATI releases, that the Deputy Chief of the Defence Staff organization played no role in the formulation of the maritime helicopter SOR and the Deputy Chief of the Defence Staff — at that time General Henault — had no role in approving it and, in fact, does not even appear on the sign-off sheet. In fact, the person involved with the maritime helicopter SOR was the Vice-Chief of the Defence Staff, who was responsible, as many honourable senators will know, for program management —

The Hon. the Speaker: Senator Forrestall, I regret to advise that your three minutes has expired.

Senator Forrestall: Three words — my last sentence.

The Hon. the Speaker: Three words.

Senator Forrestall: I ask, what prompted the assertions of the Chief of the Defence Staff during this damage-control conference?

[*Translation*]

ROUTINE PROCEEDINGS

CANADA-FRANCE INTER-PARLIAMENTARY ASSOCIATION

FRENCH PARLIAMENTARY ELECTIONS,
JUNE 9-16, 2002—REPORT TABLED

Hon. Lise Bacon: Honourable senators, I have the honour to table the report of the delegation of the Canada-France Inter-Parliamentary Association for the parliamentary elections held in France, from June 9 to 16, 2003.

[*English*]

FISHERIES AND OCEANS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE
TO STUDY QUOTA ALLOCATIONS AND BENEFITS
TO NUNAVUT AND NUNAVIK FISHERMEN

Hon. Gerald J. Comeau: Honourable senators, I give notice that tomorrow, Thursday, June 12, 2003, I shall move:

That the Standing Senate Committee on Fisheries and Oceans be authorized to examine and report upon the matters relating to quota allocations and benefits to Nunavut and Nunavik fishermen; and

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

MARRIAGE BILL

NOTICE OF MOTION TO RESTORE TO ORDER PAPER

Hon. Anne C. Cools: Honourable senators, I hereby give notice that tomorrow, Thursday, June 12, 2003, I shall move:

That the Order of the Day for resuming debate on the motion for second reading of Bill S-15, An Act to remove certain doubts regarding the meaning of marriage, which dropped from the Order Paper on June 5, 2003, pursuant to rule 27(3), be now restored to the Order Paper.

• (1350)

LEGAL AND CONSTITUTIONAL AFFAIRS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE
TO STUDY LAW OF MARRIAGE

Hon. Anne C. Cools: Honourable senators, pursuant to rule 56(1), I hereby give notice that I shall move:

That the Standing Senate Committee on Legal and Constitutional Affairs be authorized to examine and report on the law of marriage in Canada, in particular its historical and constitutional meaning as a voluntary union between a man and woman, and the history and application of the law

of marriage, and the *Constitution Act, 1982 Charter of Rights*, and the current constitutional challenges to the law of marriage in the courts of British Columbia, Ontario, and Quebec, and the Minister of Justice's November 2002 discussion paper on marriage, and the current demands for different forms of marriage, and the public interest in the law of marriage; and

That the Committee submit its report no later than December 31, 2003.

QUESTION PERIOD

HEALTH

SEVERE ACUTE RESPIRATORY SYNDROME— NORTH CAROLINA CASE—POSSIBLE REINSTATEMENT OF WORLD HEALTH ORGANIZATION TRAVEL ADVISORY

Hon. Wilbert J. Keon: Honourable senators, my question is for the Leader of the Government in the Senate. A North Carolina man who visited a health facility in Toronto has been diagnosed as having SARS. The exportation of this case to the United States, combined with the caseload of more than 60 active probable cases, means that Toronto has met at least two of the criteria that the World Health Organization uses to issue a travel advisory. Although the WHO has decided against this for now, the agency has said it is very worried about the situation in Toronto.

The first advisory against the city was devastating. It is hard to imagine what the outcome of a second advisory would be.

My question is: What is the federal government doing to prevent a travel advisory or, failing that, prepare for a possible reinstatement of the travel advisory?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the Government of Canada is hoping that there will not be a travel advisory. As I indicated once before, there is regular contact now between the WHO and the Government of Canada. The difficulty with the case in North Carolina, to which the honourable senator alludes, is that this individual exhibited no symptoms as he left the country. Clearly, the problem now is: Should our health authorities re-examine the incubation period for this disease? Are there additional initiatives that can be put into place which could eliminate that kind of export case?

I think that, at this stage, it is fair to say that the WHO is as confused as to the next step as is the Government of Canada because, in the past, there has been a clear link. This time, although the link has been established, the symptoms were not discernible when the gentleman left the country.

SEVERE ACUTE RESPIRATORY SYNDROME— LENGTH OF QUARANTINE

Hon. Wilbert J. Keon: Honourable senators, I thank the minister for raising the subject of the incubation period.

The individual with SARS in North Carolina is suspected of contracting the disease from a symptom-free transmitter. That case, combined with the case last week of a resident in obstetrics who developed SARS symptoms one day after completing a 10-day quarantine, raises concern as to whether that quarantine period is long enough.

Could the Leader of the Government in the Senate tell us if Health Canada officials are reviewing whether the quarantine period for SARS exposure should be extended?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the number of days of quarantine is not imposed by the federal government; it is imposed by the local health authority. However, I can tell the honourable senator that ongoing discussions are taking place between the local health authority, the Department of Health in Toronto, and the Department of Health here in Ottawa.

Clearly, we must do everything we can to get this disease under control. The issue of a quarantine of this particular resident has raised considerable concerns. So far, it appears that the gentleman has had an atypical, instead of a typical, reaction, but it is being monitored carefully at all three levels.

INDUSTRY

SEVERE ACUTE RESPIRATORY SYNDROME— ROUTING OF TRAVEL TO AVOID TORONTO

Hon. Laurier L. LaPierre: Honourable senators, I do not know whether the minister is aware that, at the Banff Television Festival, many foreigners, in particular Americans, told me that they were not forbidden by their companies to come to Calgary provided they did not go through Toronto. In fact, one very large American television empire told one of its vice-presidents, who was receiving a prize, that she would have to go through Denver or Vancouver, but not through Toronto, in coming from New York.

I was wondering whether there is anything we can do about that. It appeared to me, at that time, to be so negatively dangerous for our country, and in particular for the businesses of Toronto.

I am sorry I did not give notice of this question, because I just thought of it.

Hon. Sharon Carstairs (Leader of the Government): The honourable senator has raised a very serious issue here today. The fear that seems to exist is, of course, totally disproportionate to the problem. As the honourable senator knows, and I know that because he was in the room when it was said, the Prime Minister has indicated that when he landed in St. Petersburg, he had to sign a declaration saying that he had not been in Toronto; otherwise they would not have let him into the country.

The fear levels on this entire matter are totally disproportionate, as are the implications, not just for the City of Toronto, although there is no question that Toronto is taking the brunt of the problem. We do know, for example, that the Vancouver airport is receiving 50 per cent fewer passengers. We know that the Banff Springs has hired only 200 out of their normal contingent of 300 summer employees. In fact, this situation is having repercussions straight across Canada for the tourism industry, which is why the announcement, last week, provided money directly to Toronto, but also provided tourism dollars for the rest of the country as well.

FOREIGN AFFAIRS

NORTH KOREA—DEVELOPMENT OF NUCLEAR WEAPONS

Hon. Norman K. Atkins: Honourable senators, my question is for the Leader of the Government in the Senate. North Korea announced, on Monday, that it is developing nuclear weapons in order to reduce the size of its conventional armed forces and its reliance on conventional weapons. The G8 leaders, at their recent summit, issued a statement ordering North Korea and Iran to stop developing nuclear weapons.

Can the Leader of the Government in the Senate tell us if the federal government has made representations to North Korea, stating our strong opposition not only to its nuclear program but also to the possibility of a first-use of nuclear weapons in any conventional conflict?

Hon. Sharon Carstairs (Leader of the Government): I can assure the honourable senator that the North Korean government is well aware of the position of Canada with respect to their development of nuclear weapons. They have been informed of it in the past.

The G8 statement, which clearly was made available to the North Korean government, had our signature on it; a signature which I think all Canadians support.

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTERS—PRESS CONFERENCE ON MARITIME HELICOPTER PROJECT

Hon. J. Michael Forrestall: Honourable senators, my question is for the Leader of the Government in the Senate. Can the Leader of the Government tell us why the Chief of the Defence Staff, General Ray Henault, discussed his involvement with the statement of operational requirements on the Maritime Helicopter Project during last week's damage control press conference at the Department of National Defence headquarters?

• (1400)

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I do not think it was damage control. The Chief of the Defence Staff held a press conference to keep the media and the Canadian people aware of all the circumstances surrounding the

Maritime Helicopter Project from the defence perspective. It was a valid press conference to hold because, after all, our democratic government is in the business of keeping the citizens informed of the activities of the government.

REPLACEMENT OF SEA KING HELICOPTERS— COMMENTS OF CHIEF OF THE DEFENCE STAFF

Hon. J. Michael Forrestall: I would have thought that this chamber shared in that responsibility, to a certain degree. At the press conference, General Henault stated that he was there, at headquarters, then as the Deputy Chief of the Defence Staff, and before that as the Assistant Chief of Air Staff, and worked through the original statement of operational requirements but also the updated SOR.

Could the Leader of the Government confirm that this statement by the Chief of Defence Staff is somewhat misleading, and makes it sound as though he had been personally involved in the Maritime Helicopter Project file for some considerable time. Was this done to give some degree of legitimacy to this highly politicized process, which has been defended by the government as made by the military, for the military?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I do not think that one should interpret a statement by the Chief of the Defence Staff as being anything other than a statement by the Chief of the Defence Staff. He made the point; he was open to questions, and the media was there in a free and open process to ask whatever questions they wished.

Senator Forrestall: This is the first time in 37 or 38 years on Parliament Hill that I have taken issue with a man in an office for which I have the highest respect.

Would the Leader of the Government be prepared to ask the Minister of National Defence to respond to my charge, if you will, that he made statements that were not based on fact, and that he himself, among others, would have known that at the time? Because of my trust and confidence in him, I now have to do something that I find most distasteful.

Senator Carstairs: The honourable senator has put very serious allegations on the record with respect to the Chief of the Defence Staff. It would seem that the best way to address the allegations would be for the committee, of which he is deputy chair, to choose to hear from the Chief of the Defence Staff in an open forum, thereby allowing the Chief of the Defence Staff to defend his own reputation.

Senator Forrestall: I would welcome, from the Leader of the Government in the Senate, a very direct communication to the chairman of that committee, Senator Colin Kenny, to do just that at the earliest possible moment.

Senator Carstairs: As the honourable senator knows, I do not direct any committee to do what he or any other senator would like it to do.

FINANCE

CRITERIA FOR PROVIDING FUNDING
TO ALLEVIATE CRISIS SITUATIONS

Hon. Douglas Roche: Honourable senators, my question is for the Leader of the Government in the Senate. In recent days, I have raised the question of the need for special economic help by the government on two issues that are not related: The crisis in the beef industry and the humanitarian crisis in the Congo. The government is also receiving requests for economic help for those affected by the SARS crisis, an item that is not connected to the other two items.

Here are three areas of deep concern to many Canadians: the beef industry, the Congo and SARS. I am well aware that the government does not have a bottomless purse, and I am not asking the Leader of the Government in the Senate to set those three issues on a priority basis. However, I am asking the honourable leader to state how the government is approaching this new triple demand for more government resources. What criteria is the government using to determine where to spend needed funds?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the criteria that the Government of Canada uses consistently are, identify the needs of Canadians and the needs of those less fortunate in the world and establish what it thinks are the priorities for where those expenditures should be set. There has not been any change in the criteria and there has not been much difference in criteria between this government and previous governments.

In respect of BSE, the honourable senator should know that there is a federal-provincial-territorial meeting in Vancouver on Friday. They will be discussing issues around compensation and, it is hoped, what they believe they could do cooperatively.

The honourable senator is aware that there is a special cabinet committee devoted specifically to SARS.

In respect of the honourable senator's concerns about the Congo, Canada has not taken the lead in financial assistance to that area. I indicated to him, yesterday, the amount of humanitarian aid that Canada has sent over the last four years. I also indicated that we have been asked to support the lead of France in this matter by sending some Hercules planes and crews to assist. The government will do what it can to meet the needs as they are identified.

I also said, yesterday, that Canada could not be the only one at the table on this issue.

Senator Roche: Yesterday, it was pointed out to me privately — not by the Leader of the Government but by somebody else — that there is a connection between what the beef industry might receive in economic compensation and what those affected by SARS might receive. It was suggested that there might be a political trade-off. I am not making an accusation but I am trying to clear the air.

Could the Leader of the Government in the Senate inform the house as to whether there is a connection in government thinking between what could be done for the beef industry and what could be done for those affected by SARS?

Senator Carstairs: Honourable senators, there is no trade-off. The only issue of concern is what Canadians require in their time of need — what people and industries affected by SARS need and what people and industries affected by BSE need. Neither incident is related to one city or to one province. That does not seem to be well understood across Canada. The effects of SARS and of BSE are being felt across the country. Cattle are raised in each province in Canada, to my knowledge, and as a result, all provinces have been affected by this BSE scare, although some more than others.

LEGAL AND CONSTITUTIONAL AFFAIRS

BILL C-10B LEGISLATION TO AMEND CRIMINAL
CODE—REQUEST FOR CLARIFICATION OF
COMMITTEE'S ORDER OF REFERENCE

Hon. Charlie Watt: Honourable senators, my question is for the Leader of the Government in the Senate. On Tuesday, June 10, at 4 p.m., the order of reference was established to consider the message from the House of Commons concerning Bill C-10B, "to amend the Criminal Code (cruelty to animals)." I realized this morning, from the committee agenda, that the order of reference had been changed, and I need clarification on this matter because it is important. On Wednesday, June 11, at 7:38 a.m., different directions were given and the order of reference on the agenda now reads:

That the Senate concur in the amendment made by the House of Commons to its amendment 4 to the Bill C-10B, an act to amend the Criminal Code (cruelty to animals);

That the Senate do not insist on its amendments 2 and 3 to which the House of Commons has disagreed;

• (1410)

I thought the situation was that the first motion was not dealt with but that the second motion was dealt with yesterday, on the floor. I would like to have clarification on this matter so we can put it to rest, if we can.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, it was clear, in a ruling from the Speaker yesterday, that we have sent both motions to the committee. That is where they reside at the present time. As far as the agendas of the Standing Senate Committee on Legal and Constitutional Affairs are concerned, I know nothing about these agendas and have entered into no discussions with anyone about them. The honourable senator would need to put the question about the agendas to the chair of that committee.

Hon. George J. Furey: Honourable senators, the agendas, as Senator Watt has referred to them, are taken directly from the order of reference. I do not take as a directive for the committee what the honourable senator has just read out. The committee is to study the motion that was passed here as an order of reference for the committee. I do not take it as a matter that goes before the committee for rubber-stamping.

Hon. Pierre Claude Nolin: Honourable senators, does that mean that the committee can amend the message from the House of Commons?

Senator Furey: That is certainly my understanding. If we look to the last part of the order of reference, or what was taken as an order of reference, the last statement in the Speaker's ruling on this matter yesterday was that the question being put on the motion, it was adopted, on division, and that the question before the Senate be referred to the standing Senate committee. I agree with Senator Watt that there may be some confusion. It is phrased almost as a directive to the committee, but I see it as a question that the committee must consider and can amend if it so wishes.

Senator Nolin: Honourable senators, so that we are all clear, there are five amendments in front of the committee. Two were accepted, No. 1 and No. 5. Amendments No. 2 and No. 3 were rejected by the House of Commons. We can study the rejections. We can also amend the amendment that was proposed to this chamber. On Amendment No. 4, the House has suggested a new version or a new amendment, which to my mind is incomplete, but I will have to convince my colleagues of that. We cannot only say yes or no to the message, but we can amend our Amendments No. 2, No. 3 or No. 4 to adjust them to whatever we think is appropriate to the debate.

Senator Furey: I would make one small change to what Senator Nolin said. I do not think the committee can make the amendments. We can come back and suggest amendments to this chamber and vote on them. Other than that, I follow what the honourable senator is saying and concur.

Hon. Anne C. Cools: Honourable senators, to be crystal clear, I heard the chairman of the committee say that the entire message received from the House of Commons here in the Senate is being referred to the committee. In other words, the committee can consider the whole message. Senator Watt has just shown me the reference as it appears on the agenda for the committee meeting today, and it excludes the message. I want to be crystal clear that the entire message has been referred to the committee.

Senator Furey: Honourable senators, it is my understanding that the committee will be considering the message and the wording that was put in the form of an order of reference in the chamber yesterday. I have no doubt that there is some confusion because the actual message is not appended to the order of reference. However, unless I am wrong and unless the Leader of the Government in the Senate corrects me, I understand that we will be considering the full message and making recommendations to the chamber.

THE SENATE

BILL C-10B LEGISLATION TO AMEND CRIMINAL CODE—POSSIBILITY OF CONFERENCE WITH HOUSE OF COMMONS IN THE EVENT OF DISAGREEMENT

Hon. Serge Joyal: Honourable senators, I should like to address a question to the Leader of the Government in relation of the

context in which there is a disagreement between the two Houses of Parliament. I must apologize for not having given her notice.

As the government leader will know, rule 78 of the *Rules of the Senate* calls upon the two Houses to meet in a conference to try to resolve disagreement. After a bill has been introduced in the other place and dealt with properly and sent back, if this house maintains its position, or some of it, the differences can be resolved through a conference between the two chambers. Will the government pay attention to this rule in the context that, at some point in time, we might end up with conflicting views between the two Houses on Bill C-10B?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, we would want to respect the rule insofar as we can. When the Senate has insisted on its amendments in the past, they have then been returned to us, many times it seems. In some instances, they have travelled back and forth and back and forth. Apparently, former Senator MacEachen asked the government to hold a conference in 1990 with respect to changes to unemployment insurance. The government of the day, the group that sits now in official opposition across from me, in fact, rejected that request on the basis that a conference had not occurred since 1921 and was therefore no longer a precedent.

Hon. Pierre Claude Nolin: Honourable senators, the group in front of you strongly believes in what we are arguing. Somehow, we will have to organize ourselves to make sure we can —

The Hon. the Speaker: I am sorry, Senator Nolin. I want to recognize Senator Beaudoin. He is next, and then I will turn to you.

[*Translation*]

Hon. Gérald-A. Beaudoin: Honourable senators, the Senate referred the question to the Standing Committee on Legal and Constitutional Affairs. We can accept it in part, or in full. There is absolutely no doubt about that. However, once the matter is handed over to the committee, it is the whole question that is referred; otherwise, we will never finish with it.

Of course, we all agree to refer the question to the committee, which can certainly accept it in part, or in full. However, the committee must act within the limits of its powers. He who can do the most can also do the least.

[*English*]

Senator Nolin: Honourable senators, does the Leader of the Government think the group in front of her wants the best for this country?

Senator Carstairs: Honourable senators, some would call me naive, but I happen to think that everyone who enters public life does so because they are interested in doing what is in the best interests of this country.

Senator Nolin: Senator Joyal asked the honourable leader, in a preventive way, about a rule we have rarely used but, if need be, could be used to creatively prepare a conference between the two chambers to resolve a conflict. At least on our side — and I mean this chamber — we have a good argument and good reason for proposing those amendments. On the other side, the other chamber, I am not that sure. The question was: Is it the leader's understanding that, in the near future and if there is a need for it, we could have such a conference? I think that was a very valid question.

Senator Carstairs: Honourable senators, I did answer that the Mulroney government rejected the idea of having such a conference. They alleged that the practice was defunct, citing the fact that it had not been used since 1921.

• (1420)

Frankly, we are entering the realm of the hypothetical. I understand that the committee will study this matter for two days — namely, this afternoon and tomorrow morning. Thereafter, they will report to this chamber, at which point some decisions will have to be made as to what the next step will be. The procedure that was used in 1987, 1988, 1990, and apparently in 1991, is that the message was sent back again to the other place.

I do not want to prejudge anything that will happen this afternoon. I have moved that we not insist on our amendments. I cannot retract a motion I moved myself, but the committee will do as it wishes over the next two days.

[*Translation*]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour to table two delayed answers: the response to an oral question raised in the Senate by Senator Murray on May 13, 2003, concerning the Newfoundland and Labrador Terms of Union — Conflict with Constitution Act, 1982; and a response to an oral question raised in the Senate by Senator Robertson on May 13, 2003, concerning Severe Acute Respiratory Syndrome.

JUSTICE

NEWFOUNDLAND AND LABRADOR TERMS OF UNION—CONFLICT WITH CONSTITUTION ACT, 1982

(*Response to question raised by Hon. Lowell Murray on May 13, 2003.*)

The applicable procedure for amending the Constitution of Canada, which includes the Terms of Union of Newfoundland with Canada, depends very much on the specifics of the amendment under consideration. The determination of the applicable procedure can be a complex and debatable issue in some circumstances.

The Terms of Union of Newfoundland and of Prince Edward Island have in the past been amended bilaterally on issues such as denominational schooling, Prince Edward Island's Confederation Bridge, and the name of the province of Newfoundland and Labrador. However, there could be other amendments proposed to the Terms of Union that would fall under other amending procedures. That would be entirely dependent on the nature of the proposal in question, including consideration of existing constitutional provisions that may be the subject of, or affected by, the proposed amendment.

HEALTH

SEVERE ACUTE RESPIRATORY SYNDROME— INFRARED SCREENING OF TRAVELLERS

(*Response to question raised by Hon. Brenda M. Robertson on May 13, 2003.*)

There have been erroneous media reports that a thermal scanner borrowed from the Singaporean government and installed at Toronto Pearson International Airport was put in place for a photo op and has since been removed.

Following are the facts:

- The scanner arrived on May 6 and was calibrated for use. It was operational on May 7 and the thermal scanner was used in the screening of outbound international passengers at Terminal One.
- At the request of the company that owns this valuable piece of equipment, on the evening of May 7 the scanner was removed from its public location to protect it from potential tampering overnight (this occurs every night on this piece of equipment).
- The scanner was used at Terminal One until May 10 which allowed adequate opportunity to see how it worked in this location with traffic flow.
- On May 10, the scanner was moved to Terminal Three for use at international arrivals and remained there until the end of day on May 16 when it was returned to Singapore.

The Government of Canada would like to thank the Singaporean Government for providing this machine and remains committed to ensuring that SARS is controlled and contained.

Twelve additional thermal scanners — six for Pearson Airport and six for Vancouver International Airport — are now in operation.

[English]

CRIMINAL CODE

BILL TO AMEND—MESSAGE FROM COMMONS— POINT OF ORDER—SPEAKER'S RULING

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I wish to raise a point of order arising from the wording of the motion passed last night to refer, so we thought, the message from the House of Commons on Bill C-10B to the Standing Senate Committee on Legal and Constitutional Affairs.

My argument is that this was not done, that the message was not sent, and that the wording of the motion did not meet the intent of this chamber yesterday.

I will refer to three precedents to show how it should have been done, and I will then show that the wording of yesterday's motion did not meet the intent of this chamber.

On May 16, 1989, as referenced in our journals, Senator Doody moved that the Senate do not insist on its amendment to Bill C-14. This was following the receipt of a message from the House of Commons. After debate, Senator MacEachen moved, seconded by Senator Argue, that the question — meaning the question that the Senate do not insist — together with the message from the House, be sent to the committee.

On February 11, 1999, upon receipt of a message from the House regarding Bill C-20, Senator Graham, seconded by Senator Carstairs, moved that the Senate concur in the amendments of the House of Commons. After debate, Senator Carstairs, seconded by the Honourable Senator Joyal, moved that the motion, together with the message, be sent to the appropriate committee.

More recently, on May 7, 2002, following receipt of a message from the House, Senator Carstairs, seconded by Senator Robichaud, moved that the Senate not insist on its amendment regarding Bill C-15A. After debate, Senator Kinsella, seconded by Senator Rossiter, moved that the motion, together with the message, be referred to the appropriate committee.

I could quote from the terms of reference on that last example, that the motion together with the message from the House of Commons concerning Bill C-15A be referred to the committee, and I could quote from the proceedings themselves. Each time, the message and the motion are found together.

Yesterday, we thought we had sent the message to committee, but we did not. We sent to committee Senator Carstairs' motion that we agree with the message from the House of Commons, but we did not send the message itself. The position now is that the committee, with Senator Carstairs' motion by itself, has nothing upon which to base a conclusion because it does not

have before it the message on which Senator Carstairs' recommendation is based.

I suggest that what we did yesterday did not meet our intent, which was well stated by Senator Carstairs. As reported on page 1563 of the *Debates of the Senate* of yesterday, she said:

...I moved a motion that that message of the House of Commons go to our committee.

She did move such a motion. We had the extraordinary situation of having two motions before us, which, with all due respect, was highly irregular. We should have dealt with one and then the other. To have two motions before us at the same time is, to put it very politely, highly irregular.

I believe that many of us thought that we were voting on the motion to send the message to committee. As it turns out, we did not do that. We sent the motion to support the amendments to committee, without the message.

If that conclusion is correct, I believe that the committee should ask for a correction of some sort. Otherwise, we must admit that its meeting this afternoon will be pointless because it will have no message before it to study and report back on whether it agrees with Senator Carstairs' motion that was forwarded to it yesterday.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, with the greatest of respect, the honourable senator is challenging the Speaker's ruling of yesterday. In his ruling of yesterday, the Speaker said:

The issue is this: Is there anything not in order with the motion proposed by Senator Carstairs, with leave, that the question first proposed, which I believe includes all matters referred to in the motion she made first, be referred to the Standing Senate Committee on Legal and Constitutional Affairs?

He went on to say:

I have discussed this matter and looked at the precedents and rules, and I can find no impediment, no problem with the Senate voting on the motion currently before the Senate. I so rule.

Senator Lynch-Staunton: I am not challenging the validity of the motion. I am saying that the motion we passed did not include the message, and therefore the committee does not have the message before it.

Senator Carstairs: With the greatest of respect, the Speaker says it does.

Senator Lynch-Staunton: The Speaker may have said that, but with all due respect, I base my remarks on the wording with which the committee will have to live in order to do its work. Nothing in its terms of reference includes the message. It is not the Speaker who writes motions here.

Hon. Anne C. Cools: Honourable senators, I am still of the opinion that the matter is not clear. I began raising this issue yesterday early in the debate because I was under the impression that we had before us two distinct and separate motions. I believe that I said at one point that the second motion was a superseding motion, not a motion amending the first motion. I asked for clarification on that point early on in the debate.

I have sat through many of these debates and I know the results. Senator Carstairs mentioned the amendment to the unemployment insurance bill in 1989. I participated in that debate.

I have questioned the chairman, and the chairman feels confident that the message has been referred to the committee. Yet, I can see no evidence of that.

With all due respect to His Honour, I do not believe that Senator Lynch-Staunton is questioning the Speaker's ruling. He is merely questioning whether the result of the vote is what the Senate intended. In other words, was the message carried over to the committee, as was the intention of the debate and the vote? It is clear that the message cannot be referred to the committee by an act of any person's mind here or by an act of any person's will here. It is done by a vote of the chamber.

I do not know how we will clarify this situation. In its notices of meetings, the committee usually states its order of reference. The order of reference, as stated here, does not include the message.

Perhaps when we sit down at the committee meeting later today, we will discover that it is miraculously there. It is crystal clear, however, that the chairman believes that the message and this intention about not insisting on the Senate's amendments were both referred.

• (1430)

I do not know how we are to resolve this situation because the wiser action would have been to clarify in the motions themselves that both were being sent to the committee.

This is a serious matter. The scripting of motions is no simple matter. It should be better attended to.

Hon. George J. Furey: I believe the question was addressed to me, Your Honour. I would like to take a moment to see if we can clarify this matter.

There is some confusion. The agenda does not make reference to the actual message that came from the other place. With the consent of the chamber, I propose that I amend the agenda before our committee officially begins its hearing today and append to it the actual message from the other place.

Senator Lynch-Staunton: Still on the point of order, honourable senators, I am sure we will get to that.

I am told that I was challenging the Speaker's ruling. On the contrary, I am agreeing with the Speaker. I will quote verbatim the Speaker's words found at page 1576 of the *Debates of the Senate*:

I am now at the point of the question. I do not want to repeat my ruling because I will make things more confused than they need to be. I have ruled that the question before us is in order, and there is only one question before us — not two. That is, to refer the question to committee, which is the identification of the motion that was put by Senator Carstairs in starting the debate.

It is clear that we were voting on the first motion.

Some Hon. Senators: Question!

Then the Speaker quotes Senator Carstairs' motion.

Senator Lynch-Staunton: What happened to Senator Carstairs' first motion?

I wanted to ensure that what we were voting on was what we intended to vote on, and the Speaker replied:

The first motion has now been referred to the Standing Senate Committee on Legal and Constitutional Affairs.

Fine. Then I am quoted as saying:

Could I ask why we were not allowed to vote on the first motion?

What I meant to say or should have said or what I thought I said was: "Could I ask why we are not allowed to vote on the second motion?" That was the motion to send the message to the committee.

The Speaker replied:

We could have voted, but it was not moved.

The Speaker confirms that the message did not go to committee, only Senator Carstairs' first motion.

I think that my point of order is well based. The intent of this chamber, which is repeated throughout the debates, to send the message to the committee was not honoured or respected.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, the issues around the orderliness of the matter really flow from rule 62(1) and perhaps, more particularly, 62(1)(i). I would suggest that this house, by unanimous consent, agree that the message be sent to the committee. This is what we all are saying, in effect. Senator Lynch-Staunton is correct in his point of order. However, beyond the point of order is the question of what I take to be the common view of the house; namely, that we want to have before the Standing Senate Committee on Legal and Constitutional Affairs not only Senator Carstairs' motion but, more important for some, the message itself.

[Translation]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, it is clear in my mind that the message is related to Senator Carstairs' motion. If the honourable senators accept Senator Kinsella's suggestion, our problem is solved.

Of course, the message will be sent to the Standing Committee on Legal and Constitutional Affairs. As a result of yesterday's ruling by the Honourable the Speaker, the chair of that committee also believes that the message was accompanying the motion so that all of it could be sent to the committee for consideration. I do not think there is a problem. We should go ahead and let the committee do its work.

[English]

The Hon. the Speaker: I wish to clarify, Senator Robichaud. Were you in agreement with Senator Kinsella to agree to add the words "and the message"?

Senator Lynch-Staunton: No, I want a ruling on the point of order. This is not the time for negotiation.

[Translation]

Senator Robichaud: Honourable senators, I rise on a point of order. I think we may have gone a bit astray when Senator Kinsella made his suggestion to settle the issue. I have no objection to accepting Senator Kinsella's suggestion, since it is clear that the motion was attached to the message received. If it will simplify things, and move them forward, we have no problem with Senator Kinsella's suggestion.

[English]

The Hon. the Speaker: Honourable senators, if Senators Kinsella and Robichaud agree that the order of this chamber referring Senator Carstairs' motion to committee include the words that not only is it a reference of the question put by Senator Carstairs but as well the message to which it relates, that would resolve the question that Senator Lynch-Staunton has raised. If we agree to add that wording, then I think Senator Lynch-Staunton has achieved his objective and we will have accomplished what we have done in the past in terms of practice with respect to these matters.

I would need unanimous consent. I may not get it. However, in fairness to Senators Kinsella and Robichaud, I should ask for it. If unanimous consent is not forthcoming, we will proceed with the point of order.

Is there unanimous consent, honourable senators?

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

The Hon. the Speaker: There is not unanimous consent.

Senator Lynch-Staunton: There is not. No, I want a ruling on the point of order. It is so easy to sweep everything under the rug. We are getting too casual here. If we did the right thing last night, I want a ruling to say that my point of order is not properly based. If we did things in a way that did not meet the intent of the chamber, let us correct that after the ruling, and not just say, "Oh, well, let us get together and do a little rewording." No, no. If the wording of the motion is not what we intended, then the committee may have to reconvene the meeting and reword its purpose by including the word "message." It is not so simple as "wink-wink, nod-nod."

Hon. Tommy Banks: Is a motion in order now?

The Hon. the Speaker: No, we are on a point of order. I had asked for unanimous consent to proceed in a certain way. It was not forthcoming. Do you wish to intervene on the point of order?

Senator Banks: No, I will wait until there is a motion.

[Translation]

Hon. Gérald-A. Beaudoin: Honourable senators, the only way to resolve this problem is to come to the conclusion that the message is implied. We cannot refer something to a committee without taking for granted that the message will be before the committee, otherwise it is pointless.

I agree with those who made this argument. The message is there. Senator Carstairs spoke at length about it and we are going to refer everything to the committee. It is clear that the message is part of the whole; it is part of the question. In my view, the committee should decide on the message and on the question. Otherwise, why refer it to the committee? That is the only way to resolve matters.

We did not refer to the message clearly, but it is implied, and I feel it is part of the motion.

• (1440)

[English]

Senator Cools: I agree with Senator Lynch-Staunton that we should proceed properly and in a formal way. I think senators should understand that unanimous consent is a matter of leave. It is usually a permission granted. Unanimous consent cannot be used to adopt motions. It is simply not in order; it is not proper.

It seems to me that what we have here is a vote that has already been taken, and is now an order of the house. What we are really talking about is amending something that has already happened. I would suggest, honourable senators, once we have untangled ourselves from this point of order, that the proper way to proceed is to put down another motion which essentially fulfils any deficiency that there was in the first one. Perhaps it would be simple, and I am sure everyone would grant leave to move a motion saying that the Senate intended the committee to have the Commons message before it for its consideration.

Not to do that, honourable senators, puts the Senate and the committee in the position that the committee will convene at 3:30 p.m. and then, at that point in time, find that the order of reference is insufficient and that the Commons message is not before it. The committee would then have to return to the Senate for a reference which includes the Commons message.

Another point, since we would be trying to augment a motion that was passed, and not rescinded, is that the motion could be passed by the usual process, which is a simple majority. We are not repealing the previous one.

Honourable senators, in particular to you, Your Honour, motions cannot be moved and adopted in this place by use of unanimous consent. As a matter of fact, motions usually proceed on notice, with movers and seconders, and so on. I think senators should not be confused into believing that we can proceed on something so fundamental by unanimous consent.

Hon. Eymard G. Corbin: Honourable senators, I checked the *Journals of the Senate* for today. The journals make it clear that the second question put by Senator Carstairs yesterday dealt with a message to be sent to the House of Commons, not the original message we got from the House of Commons.

There is confusion about messages here, and we should ask ourselves: Which message are we talking about, and which message was the second motion addressing? In my opinion, the message is a message to be sent back to the House of Commons. The original message received from the House of Commons has never been referred to the committee, in yesterday's proceedings. It is in suspense in this house. The message and the text of that so-called message, which we have sent to the committee, read as follows:

Bills.

Consideration of the Message from the House of Commons concerning Bill C-10B, An Act to amend the Criminal Code (cruelty to animals).

The Honourable Senator Carstairs, P.C., moved, seconded by the Honourable Senator Robichaud, P.C.:

That the Senate concur in the amendment made by the House of Commons to its amendment 4 to the Bill C-10B, An Act to amend the Criminal Code (cruelty to animals);

That the Senate do not insist on its amendments 2 and 3 to which the House of Commons has disagreed; and

That a Message be sent to the House of Commons to acquaint that House accordingly.

After debate, Senator Carstairs, with leave of the Senate, moved that the question now before the house — what is that question? The question has to do with a message to be sent to the House of Commons, not the one which we received.

Could we, then, clear the air about which messages we are discussing? In my opinion, the message received from the House of Commons has never been sent to the committee. We are talking about a message to be sent anew to the House of Commons. That was the second question that was put to this house yesterday.

The Hon. the Speaker: Final word, Senator Lynch-Staunton?

Senator Lynch-Staunton: No.

The Hon. the Speaker: I intend to rule now.

Senator Lynch-Staunton: I do not completely agree with Senator Corbin, but there is a question: Where is the message from the House of Commons? It has not gone to committee. I think that has been substantiated, and it is not on our Order Paper, so where is it?

SPEAKER'S RULING

The Hon. the Speaker: Thank you, honourable senators. Senator Lynch-Staunton's point of order, as I understand it, is that the proceeding yesterday did not reflect the intent of this chamber. He relies on the wording of the motion that we adopted, which is that the question now before the Senate be referred to the Standing Senate Committee on Legal and Constitutional Affairs and that the committee report no later than Thursday, June 12. The word "question" in that motion refers to the motion of Senator Carstairs, which reads:

That the Senate concur in the amendment made by the House of Commons to its amendment 4 to the Bill C-10B, An Act to amend the Criminal Code (cruelty to animals);

That the Senate do not insist on its amendments 2 and 3 to which the House of Commons has disagreed; and

That a Message be sent to the House of Commons to acquaint that House accordingly.

We then got into a discussion of intent, and I have the benefit of having heard pretty much all of the exchanges that have occurred here in the course of debate on this matter. Even so, I believe it is my obligation to interpret the motion in accordance with the plain meaning rule.

Can I read into it more than it says? For instance, can I read into it that the question, which was Senator Carstairs' motion that was referred to the committee, is more than that; that being those matters in which the House did not concur? I cannot. I do not believe that the message is included, and in that respect, Senator Lynch-Staunton and Corbin and some others are correct.

What I was asked to do yesterday was to answer the question as to whether or not the motion that was put before us was a proper one, and one that was in accordance with all of our rules and practices. I ruled that it was, even though, as has been brought out in discussion here, it did not follow the past practice where reference is made to both the question and the message.

I add parenthetically to Senator Lynch-Staunton that Senator Doody's motion, Senator Graham's motion, and Senator Kinsella's motion, all of which he referred to, were in essentially the same situation, where we had two motions. In none of those cases was the first motion disposed of before the matter was referred to committee. Therefore we are not in a different situation now than we were during those past practices that he has referred to in his argument.

Accordingly, I rule that what we have done is correct. In terms of the point of order, I cannot interpret in it that which, under its plain meaning, does not exist. Having said that, I wish to add the comment that our rules apply to proceedings in this place. The rules of committees, unless they are mandated by this place to the committee through direction, are for the committee. The committee would be the master of its proceedings in terms of what it took into consideration in fulfilling what it is that the Senate has asked it to do, and that is study Senator Carstairs' motion.

To sum up, the motion, in terms of the issue of order, stands as it is. There is nothing I can do as Speaker to read into it more than is indicated by the plain wording of the motion. I do not need to comment on the regularity of the motion because I have already done that, as Senator Carstairs observed. I ruled that it was in order, and that we have done nothing out of order. Nor have we breached any of our rules or practices of parliamentary procedure in doing what we did.

I had forgotten about Senator Banks' point.

• (1450)

MESSAGE FROM COMMONS
REFERRED TO COMMITTEE

Hon. Tommy Banks: No, you did not, Your Honour. I had asked whether a motion was in order, and you said no, because a point of order had been raised.

Arising out of Your Honour's decision and the discussion, I move:

That the Message from the House of Commons concerning Bill C-10B, An Act to amend the Criminal Code (cruelty to animals), be now referred to the Standing Senate Committee on Legal and Constitutional Affairs; and

That the Committee report no later than Thursday, June 12, 2003.

The Hon. the Speaker: This will require leave, honourable senators, to move. Is leave granted?

Hon. Senators: Agreed.

The Hon. the Speaker: Leave is granted.

It is moved by the Honourable Senator Banks, seconded by the Honourable Senator Wiebe, that the message from the House of Commons, received in respect to Bill C-10B, be referred to the Standing Senate Committee on Legal and Constitutional Affairs,

and that the committee report back with respect to the message, together with its report on Senator Carstairs' question that was referred to it yesterday.

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

Some Hon. Senators: Agreed.

Hon. John Lynch-Staunton (Leader of the Opposition): Wait a minute. It is not a question of getting one's way; it is a question of doing things properly.

The committee now has a new mandate, which means it will have to send a new notice of meeting. It is now 10 minutes to three, and the committee still wants to meet at 3:30 p.m. We just cannot rush things through like that.

The committee now has two mandates. I would have thought that the wording of the three cases that I quoted would be used. It would have been simple to marry Senator Carstairs' motion with the message and refer them as a package. However, if honourable senators want to proceed in this way, I will not stand in the way. I thought that basic procedure was still an element of proper conduct around this place.

In any event, I would like to have a copy of the motion to see that it at least meets some basic requirements.

The Hon. the Speaker: I was not reading from a text.

Are there other senators who wish to speak? If no other senator wishes to speak, is the house ready for the question?

Some Hon. Senators: Question!

The Hon. the Speaker: Honourable senators, I was not reading from a text but, rather, using Senator Banks' motion and reciting it from memory. If we could suspend for four or five minutes until I get a transcript of what I said, I would be in a position to read the motion back to you. It is an important matter, honourable senators, because of Senator Lynch-Staunton's point.

Is it agreed?

Hon. Senators: Agreed.

The Hon. the Speaker: We will suspend for five minutes.

The sitting of the Senate was suspended.

• (1457)

The sitting of the Senate was resumed.

The Hon. the Speaker: Honourable senators, I now have a text, and I will put the question.

Senator Cools, did you wish to speak?

Hon. Anne C. Cools: I just think that the record should show clearly that this motion is not an attempt to overrule or supplant the first one, but is intended to supplement any deficiencies that may have existed. We are not overturning anything that has happened before; we are just removing any doubts as to what the will of the chamber was, and what this house was trying to do.

The Hon. the Speaker: That is a good point.

I will put the question:

It was moved by the Honourable Senator Banks, seconded by the Honourable Senator Wiebe:

That the message from the House of Commons concerning Bill C-10B, An Act to amend the Criminal Code (cruelty to animals), be now referred to the Standing Senate Committee on Legal and Constitutional Affairs; and

That the Committee report no later than Thursday, June 12, 2003.

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

Hon. Senators: Agreed.

Motion agreed to.

[Translation]

ORDERS OF THE DAY

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. Pierrette Ringuette: Honourable senators, as a French Canadian and a native of New Brunswick, I am very pleased to be able to speak to Bill C-25 at second reading stage.

I am the product of the concept of equal chance put in place in New Brunswick by the Honourable Senator Louis J. Robichaud. As you listen to my words, I would like all of you to consider the value this concept of equal chance, now called equal opportunity, represents to me. It is the reason I have a lot to say about Bill C-25, which in reality combines four different bills.

[English]

I would like to underline at least four major elements within one of the four bills that are of major concern to me as a New Brunswicker and as a Canadian.

The first one is that Bill C-25 re-establishes the criteria of geographic zone in order to be eligible to apply for a job in the federal public service. That zone is 50 kilometres. Another major issue we have to consider when reviewing Bill C-25 is the fact that in the next five years almost 25 per cent of the public service of Canada will be renewed. People are retiring. That is a quarter of the public service.

• (1500)

Senator Bolduc mentioned another major element a few days earlier. We are talking about the level of qualifications now referred to as “satisfying the criteria.” We are no longer looking for the “highly qualified,” which is very important when one realizes that 25 per cent of the public service will be replaced within the next five years with people who can only be required to “satisfy the criteria” and need not be “highly qualified.”

Another major issue that I have been hearing constantly for the last 10 years is that there is bureaucratic patronage in our public service system. The Fathers of Confederation knew very well what they were doing when they established, in our Constitution, the Senate. The balancing of regional representation in the Senate compensates for the other place where the most populous areas hold the most power over government and over our country.

Bill C-25 represents the perfect example of how we, as senators with the responsibility of this institution, can stand for equality of treatment among the population of our regions. We also have a responsibility to our Constitution and to its valuable Charter of Rights and Freedoms, which includes mobility rights.

I quote from article 6:

- 6.(1) Every citizen of Canada has the right to enter, remain in and leave Canada.
- (2) Every citizen of Canada and every person who has the status of a permanent resident of Canada has the right
 - a) to move to and take up residence in any province; and
 - b) to pursue the gaining of a livelihood in any province.

Taking into consideration clause 34 of Part 3 of Bill C-25 dealing with the proposed public service employment act, the commission may establish geographic criteria for the purpose of eligibility for both internal and external competition. As I said earlier, this geographic criteria has now been set — by regulation probably — to 50 kilometres.

For instance, in the greater Ottawa region, we have about 1 million in population but 40 per cent of the federal public service jobs. In other words, 0.3 per cent of the Canadian population has sole access, exclusive access, to 40 per cent of federal government jobs.

About 20 per cent of the jobs in the public service are in Montreal, where we have about 10 per cent of the Canadian population. Approximately the same numbers apply for the Toronto area. One does not need to be an accountant to add these numbers.

I must also state, though, that this group of 20 per cent of the Canadian population within Montreal and Toronto are not allowed to compete for the 60 per cent of federal government jobs outside the 50-kilometre zone.

Basically, 80 per cent of the jobs will be restricted to 20.3 per cent of the Canadian population, leaving only 20 per cent of possible federal jobs for the 80 per cent of our population who live outside those three major cities of our country.

For instance, people living in Kingston cannot apply for a job in Ottawa. People living in Hamilton cannot apply for jobs in Toronto. People living in Edmundston cannot apply for jobs in Fredericton nor in Moncton, New Brunswick, because of these restrictions that a major institution has imposed of its own will.

With years of restrictions, roughly 80 per cent of public employees come from those three major centres.

What is the impact of that 80 per cent of the public service on policies and programs? They analyze issues, make recommendations and implement programs as per their heritage and their knowledge of the country. Eighty per cent of those people probably come from the three cities.

Let me relate a personal experience to show how our public servants are somewhat disenfranchised with the reality outside Central Canada. In 1995, I was the Member of Parliament for Madawaska—Victoria. There was a discussion about changes from UI to EI. I met with the director of the program who was a very nice lady, by the way, and I said this to her: Take into consideration that we, the federal government, decide when our fishers can fish, from this date to this date. We are the ones who tell them when they can work. On the other hand, in order to qualify for EI, the limited time frame, which we impose on them, should be three times longer.

What did that lady tell me in response? She said, “Well, maybe the people who are fishing in Newfoundland could go fish in Vancouver afterwards.”

What I am saying to you, honourable senators, is of much value. This issue is inherent in our responsibility as the Senate — we must care for all the people of Canada. We must have an understanding of what is happening in all the regions of Canada. In order to have that understanding, we need a public service that comes from all the regions of Canada.

Hon. Senators: Hear, hear!

Senator Ringuette: This is true not only for external competition; it is also true within the internal processes of the public service, even within the established geographic zone of 50 kilometres.

For 10 years I have been making arguments about the unfairness of the process. The process does not create opportunities. This is not right and does not concur with the mobility rights within our Charter of Rights.

• (1510)

It has been 10 years now. I have been told in the last few months, “We have pilot projects in the Toronto area. This will cost much money.” I asked, “How much?” I was told, “Well, we can buy software to do that, but roughly, it will be \$38 million.” Honourable senators, \$38 million, in the context of providing equity, fairness and opportunity to the citizens of this land is, in my words, “peanuts.”

I will give you another example from my discussions. They said, “You know that it is very costly for us to provide linguistic certification for applicants.” I said, “My God, you people. Do you know that across this land of ours we have human resources offices all over the place; we have university campuses all over the place. Why do you not allow the people who are in charge of education to certify the linguistic capability of the people who want to apply to become public servants? You do not have to bear the cost of that.”

However, there is this certain silo way of looking at things that has to be broken. I therefore recommend that the Senate amend the legislation to remove the geographic criteria from internal and external competition for all levels of jobs within the federal public service.

Hon. Senators: Hear, hear!

Senator Ringuette: Bill C-25 also includes an interesting thing, and that is the delegation of power from the commission to the deputy heads to managers. That is of grave concern to me because this means that whatever we close in regard to loopholes in this bill, and whatever we say must be removed in regard to zoning, this delegation of power provides that managers, any managers, can bring in people through the back door. We have always heard of political patronage.

Some Hon. Senators: Oh, oh!

Senator Ringuette: Yes, the awful words — political patronage. Bill C-25 does deal with political influence.

[*Translation*]

Hon. Rose-Marie Losier-Cool (The Hon. the Acting Speaker): Honourable senators, I regret to inform the honourable senator that her time is up. Does she seek leave to continue?

[*English*]

Senator Ringuette: Honourable senators, may I have leave to continue?

Hon. Senators: Agreed.

Senator Ringuette: Honourable senators, in the bill, at clause 68 and clause 69, provision is made for the commission to investigate complaints that deal with, in clause 68, political influence and, in clause 69, fraud. Nowhere in the entire Bill C-25 do we see the capability of either the commission or the tribunal to investigate complaints about bureaucratic patronage — the back door boys.

We have heard stories of bureaucrats who say, “You hire my son, and I will hire your daughter. Do you not have a cousin who is looking for a job?”

An Hon. Senator: Yes.

Senator Ringuette: Honourable senators, we have all heard stories galore to this effect. Therefore, I also recommend that the Senate amend Bill C-25 to include, for the commission and for the new tribunal that is being created, the mandate to investigate complaints of bureaucratic patronage within and from the outside.

At the last committee meeting I attended, we were talking about the issue of a preamble in the bill. I would like to read you a few lines from the preamble of this bill:

Canada will continue to benefit from a public service that is based on merit and non-partisanship and in which these values are independently safeguarded;

Later in the preamble, it reads:

the public service, whose members are drawn from across the country, reflects a myriad of backgrounds, skills and professions that are a unique resource for Canada;

How arrogant to put in the preamble of this bill such values and yet put in proposed section 34, Part 3, and restrict the opportunities of Canadians to put forward their skills to be good public servants.

In closing, I do believe that the public service is an extremely important national institution that plays a key role in responding to the Canadian public. We need the time to review this legislation; to give it sober second thought. Although I am not a member of the Standing Senate Committee on National Finance, which will be receiving this bill —

Senator Murray: The honourable senator would be most welcome to attend.

Senator Ringuette: I do intend to attend each meeting to question every clause of the four parts of the bill and promote amendments for equality of opportunity for every citizen, wherever they may live, in this great land of ours. I also intend to promote open and nonbiased advertised competition for both internal and external competition.

Honourable senators, I do hope that I will have your support in my endeavour to make this a fairer situation.

Hon. Senators: Hear, hear!

[*Translation*]

Hon. Lowell Murray: Honourable senators, I would like to congratulate Senator Ringuette for her speech on this important bill.

If, as expected, the bill gets through second reading before the end of this week, we will commence sittings of the Standing Committee on National Finance next Tuesday at 9:30 a.m. We will be hearing from the honourable minister, Lucienne Robillard, who is responsible for this bill. Senator Ringuette will have a chance to ask her questions at that time. Assuming second reading is over, we will also have the pleasure on Wednesday evening, at 6:15 p.m., of welcoming Public Service Commission President Scott Serson. Senator Ringuette will have an opportunity to express her point of view.

Senator Ringuette: Thank you, honourable senators. I will be pleased to attend those two meetings. This is an issue that has been close to my heart for 10 years now. Last week I told some PSC representatives who were visiting that I would see no problem in asking questions on this bill during clause-by-clause consideration, to ensure justice is done.

• (1520)

[*English*]

Hon. Terry Stratton: I am always surprised when people throw around figures in the millions of dollars as if it were no big deal. I think \$38 million is a big deal and we should look at it carefully.

On motion of Senator Stratton, for Senator Oliver, debate adjourned.

PENSION ACT ROYAL CANADIAN MOUNTED POLICE SUPERANNUATION ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Morin, seconded by the Honourable Senator Furey, for the second reading of Bill C-31, to amend the Pension Act and the Royal Canadian Mounted Police Superannuation Act.

Hon. Norman K. Atkins: Honourable senators, it is a pleasure for me to join in the debate today on Bill C-31. Senator Morin spoke to the bill on behalf of the government last Thursday. This bill extends the coverage for our Canadian Forces and for the Royal Canadian Mounted Police by providing them with insurance coverage in virtually all situations of elevated risk during deployment. At present, coverage extends to disability or death that occurs in the completion of their duties.

In addition, existing coverage provides insurance against all perils on a 24-hours-per-day/seven-days-per-week basis to those serving in special-duty areas. These are areas outside of Canada. Bill C-31 would ensure more complete coverage for members of the Canadian Forces and RCMP deployed to designated operations involving exposure, both inside and outside of

Canada, to conditions of elevated risk, including armed conflict. These amendments, at least at first reading, would seem to make it easier to obtain approval for designating special-duty areas that are based on a specific geographic location and to create the new type of service called special-duty operations that are not based on geographic location and could also include situations of elevated risk in our country. Examples of this might be the Swissair tragedy, the Manitoba flood, or the notorious ice storm.

Coverage by virtue of this bill would provide members who are exposed to conditions of elevated risk with 24-hour coverage for death and disability from the date of deployment until the date of return, under all circumstances while deployed.

This bill would also change the manner in which special-duty areas and special-duty operations come into being. It allows the Minister of Defence or the Solicitor General, in consultation with the Minister of Veterans Affairs, to designate an area or an operation quickly. The present system is cumbersome, multi-levelled and can take more than 10 months to implement. Bill C-31 also outlines in detail the criteria to be used for establishing elevated risk, which would ultimately lead to designation of special-duty areas or operations.

As the world becomes less and less safe and the deployment of both our troops and members of the RCMP on missions of peacemaking, peacekeeping or all-out conflict becomes more and more the reality, it is incumbent upon the government to insure these women and men against the loss due to the dangers they may face. The maximum protection possible should be provided, regardless of rank, to give these people serving their country, and their families, some measure of peace of mind.

I would hope that the government would not hesitate to designate the areas to which we send these people as special-duty areas. I would suggest that we would want to be overprotective. I believe those involved in the implementation of this legislation should aspire to apply it generously and expeditiously, which will increase the peace of mind of those deployed. For example, if someone is hurt before an area or mission receives a designation, that designation would apply retroactively to give benefits to anyone hurt before the appropriate designation has been made.

I would expect, as I think most Canadians would expect, that all persons deployed would be treated equally under the clauses of this bill. The Subcommittee on Veterans Affairs has just issued its report on the plight of retired Major Henwood. The committee's report exposed the different standards used in the forces that apply to senior officers, officers and non-commissioned officers. My hope is that the committee studies Bill C-31 thoroughly to ensure that it covers every eventuality created by elevated risk and that it applies equally to all who are exposed to these risks. In my opinion, Bill C-31 is most appropriate and long overdue.

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

Motion agreed to and bill read second time.

[*Translation*]

REFERRED TO COMMITTEE

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

On motion of Senator Morin, bill referred to the Standing Senate Committee on National Security and Defence.

BUSINESS OF THE SENATE

COMMITTEES AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, it being Wednesday, certain committees meet at 3:30 p.m., and I would ask the consent of honourable senators for committees to sit at the same time as the Senate.

[*English*]

The Hon. the Speaker: Is it agreed, honourable senators, that committees scheduled to meet today be allowed to sit even though the Senate is now sitting?

Hon. Marcel Prud'homme: Honourable senators, are there many committees that would ask leave to sit? Our numbers in the house are fewer and fewer, and although I enjoy being quorum for the government, I do not feel obliged to do it all the time. I would be happy to cooperate, as usual.

[*Translation*]

Senator Robichaud: Honourable senators, currently, the Standing Committee on Legal and Constitutional Affairs is scheduled to meet at 3:30 this afternoon.

[*English*]

Hon. Douglas Roche: Honourable senators, is it the intention of the Deputy Leader of the Government in the Senate to go through the whole scroll, or will the house adjourn at 3:30?

[*Translation*]

Senator Robichaud: Honourable senators, we will deal with the items under Government Business, and let the other items on the Order Paper stand until the next sitting.

[*English*]

The Hon. the Speaker: Is it agreed, honourable senators, that committees scheduled to meet at 3:30 p.m. or later today be given leave to sit even though the Senate is now sitting?

Hon. Senators: Agreed.

**MEMBERS OF PARLIAMENT RETIRING
ALLOWANCES ACT
PARLIAMENT OF CANADA ACT**

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Robichaud, P.C., seconded by the Honourable Senator Rompkey, P.C., for the second reading of Bill C-39, to amend the Members of Parliament Retiring Allowances Act and the Parliament of Canada Act.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I rise to speak briefly to Bill C-39. I have received the briefing notes and one of my questions has now been answered. Whatever else may arise could certainly be dealt with at committee. I have no objection to this bill going forward.

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

Motion agreed to and bill read second time.

• (1530)

REFERRED TO COMMITTEE

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

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

[Translation]

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. Gérald-A. Beaudoin: Honourable senators, it goes without saying that I am in complete agreement with the motion presented by the Honourable Leader of the Government in the Senate. The time has come to study the impact and consequences of a non-derogation clause on the rights of Aboriginal peoples. These rights are guaranteed by section 35 of the Constitution Act, 1982.

As Senator Carstairs has pointed out, a non-derogation clause has been included in certain bills. Nevertheless, the wording of these clauses differs from one bill to the next. There is no consistency, and that should be corrected.

To this end, the Standing Committee on Legal and Constitutional Affairs should hear witnesses who can offer useful suggestions, first, on the scope of this kind of non-derogation clause, and second, on the exact and correct wording that will be satisfactory to everyone with an interest in this kind of provision.

Honourable senators, allow me to remind you that the Charlottetown Accord of 1992 already had a clause providing that:

There should be a general non-derogation clause to ensure that division of powers amendments will not affect the rights of the Aboriginal peoples and the jurisdictions and powers of governments of Aboriginal peoples.

I believe that this item should be brought before the Committee on Legal and Constitutional Affairs as soon as possible in order to find a solution to this significant problem.

On motion of Senator Banks, for Senator Cools, debate adjourned.

**L'ASSEMBLÉE PARLEMENTAIRE
DE LA FRANCOPHONIE**

**PARLIAMENTARY AFFAIRS COMMITTEE MEETING,
MAY 17-21, 2003—REPORT TABLED**

Leave having been granted to revert to Tabling of Reports from Inter-Parliamentary Delegations:

Hon. Pierre De Bané: Honourable senators, pursuant to rule 23(6), I have the honour of tabling in both official languages the report of the Canadian branch of L'Assemblée parlementaire de la Francophonie, and the financial report relating thereto, on the meeting of the APF Parliamentary Affairs Committee held in Sofia, Bulgaria, from May 17 to 21, 2003.

BUSINESS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, would the house agree that all remaining items on the Order Paper stand in their place until the next sitting of the Senate?

[*English*]

The Hon. the Speaker: Is it agreed, honourable senators, that all remaining items on the Order Paper stand in their place, and that we proceed now to the adjournment motion?

Hon. Senators: Agreed.

[*Translation*]

Senator Robichaud: Honourable senators, with leave of the Senate, I move:

That the Senate adjourn during pleasure and resume its sitting at the call of the Chair later this day.

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

[*English*]

Hon. Marcel Prud'homme: A quick point of order, honourable senators. If any senator would like to show up at five sharp, there will be a small presentation to the Ambassador of Morocco in the Francophonie room. I know it is not exactly a point of order, but just a friendly reminder. Just come and shake his hand and come back to do your duty. I thank you very much for your patience.

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

Motion agreed to.

The Hon. the Speaker: As a reminder, honourable senators, as your presiding officer, I will ask that the bells be rung for

15 minutes before I take the Chair. In that we are now adjourning, I will depart by the back door, and the mace will be left on the table.

The sitting of the Senate was suspended.

• (1840)

[*Translation*]

The sitting of the Senate was resumed.

CANADA ELECTIONS ACT INCOME TAX ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-24, to Amend the Canada Elections Act and the Income Tax Act (political financing).

Bill read first time.

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

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

The Senate adjourned until Thursday, June 12, 2003, at 1:30 p.m.

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