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THE HONOURABLE DAN HAYS
SPEAKER

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THE SENATE

Friday, June 13, 2003

The Senate met at 9 a.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

LESTER B. PEARSON AWARD

CONGRATULATIONS TO MR. MARCUS NASLUND

Hon. Francis William Mahovlich: Honourable senators, yesterday I had the distinguished honour of presenting the Lester B. Pearson Award to a fellow by the name of Marcus Naslund from Ornskoldsvik, Sweden. There were three honourees: Marcus Naslund, Peter Forsberg and a fellow from London, Ontario, named Joe Thornton.

The winner was Marcus Naslund, but all three are great hockey players. Two of the players came from this little village in Sweden called Ornskoldsvik. In 1975, the Toronto Toros had a training camp in Ornskoldsvik, and just to illustrate how things are influenced, I am sure that I saw parents there with their young ones, watching us practice. Here we are, 27 years later, and the two boys who were at that rink are here, being honoured as great hockey players.

It is a great award and it is in respect to Lester B. Pearson. I think Alan Eagleson had something to do with this award, and the one good thing that he did in his life was to name this great award. The player is chosen by his peers and that, in itself, is quite an honour.

INTER-PARLIAMENTARY UNION

CONFERENCE ON UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

Hon. Douglas Roche: Honourable senators, at this hour on Parliament Hill an international parliamentary conference is opening, which is dedicated to developing a network within the Inter-Parliamentary Union for UNESCO. The United Nations Educational, Scientific and Cultural Organization, UNESCO, contributes to peace and security in the world by promoting education, science, culture and communication. It has done exceptional work in developing the theme of a culture of peace, which involves respect for human rights, democracy and tolerance, the promotion of development, education for peace and the free flow of information, and the wider participation of women in preventing violence and conflict.

UNESCO is especially noted for its work promoting "education for all." The latest of its many activities is a project to bring five million science and mathematics textbooks to Iraqi primary and secondary students. UNESCO is working with both the Iraqis and the United States to promote this program. The Canadian Parliamentary Group for UNESCO, headed by Yvon Charbonneau, MP, works closely with the Canadian Commission for UNESCO, chaired by Max Wyman. They have assembled a distinguished group for the two-day Ottawa conference. A stronger UNESCO presence in the parliamentary process in Canada should result.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I should like to draw your attention to the presence in our gallery of a Commonwealth Parliamentary Association delegation from the United Kingdom that is visiting Canada. The members are Lord Morris of Aberavon, leader of the delegation; Baroness Hooper, Lord Bhatia, Frank Roy, MP; and Bob Laxton, MP. They are the guests of Senator Jaffer.

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

ROUTINE PROCEEDINGS

STUDY ON TRADE RELATIONSHIPS WITH UNITED STATES AND MEXICO

INTERIM REPORT OF FOREIGN AFFAIRS COMMITTEE TABLED

Hon. Peter A. Stollery: Honourable senators, I have the honour to table the fourth report of the Standing Senate Committee on Foreign Affairs, an interim report entitled "Uncertain Access: The Consequences of U.S. Security and Trade Actions for Canadian Trade Policy."

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

[*Translation*]

APPROPRIATION BILL NO. 2, 2003-04

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-47, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2004.

Bill read the first time

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

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

• (0910)

[*English*]

BANKING, TRADE AND COMMERCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO SIT DURING ADJOURNMENT OF THE SENATE

Hon. Richard H. Kroft: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That the Standing Senate Committee on Banking, Trade and Commerce be empowered, in accordance with rule 95(3) (a), to sit during the summer adjournment, even though the Senate may then be adjourned for a period exceeding one week, until such time as the Senate returns in September of 2003.

QUESTION PERIOD

HEALTH

FUNDING TO FIGHT HIV/AIDS

Hon. Donald H. Oliver: Honourable senators, the House of Commons Health Committee has called for an increase in the amount of money given to the federal HIV/AIDS program. Through the Canadian Strategy on HIV/AIDS, the federal government currently spends $42.2 million annually on AIDS prevention, research and treatment. The committee has recommended that that amount be more than doubled, to at least $85 million annually. AIDS activists have long been asking for this increase. It is now up to the federal government to respond to these calls for action. Will the government increase the amount of funding it provides to the Canadian Strategy on HIV/AIDS?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I thank the honourable senator for his question. The government has heard the request from the committee and will give it full consideration.

I also remind the honourable senator that a considerable amount of the donations to the New Partnership for Africa's Development, NEPAD, will be spent on HIV/AIDS, not in this country, but in a continent that is probably in much greater need.

Senator Oliver: Honourable senators, in addition to being accused of not doing enough to fight AIDS domestically, Canada's commitment to the international AIDS crisis is being questioned as well. At the recent G8 meeting, Canada was one of the only countries not to increase its contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria. The European Union, France and Great Britain all pledged to increase their funding to a total of $1.25 billion. This new money means that another $1 billion from the United States may be available for the global fund, as its increase was dependent upon other countries enhancing their contributions. Will the federal government follow the lead of its G8 counterparts and make a substantial increase to the global fund?

Senator Carstairs: As the honourable senator knows, the Government of Canada has taken the lead on the Africa Fund. We had already put aside funds to be spent on the HIV/AIDS strategy; others had not. They were coming up to our commitment.

There is one exciting program in which the Canadian government is participating right now, one in which few governments are participating. I refer to funding research for an HIV/AIDS vaccine. Obviously, we hope that we will see fruitful results, as it could clearly make the most significant difference in a strategy on HIV/AIDS.

JUSTICE

PROPOSAL OF INTERDICTION IN INTERNATIONAL WATERS

Hon. Consiglio Di Nino: Honourable senators, my question is directed to the Leader of the Government in the Senate. It was reported yesterday, in the news, that the U.S., Australia and Japan are considering seeking changes to international law to allow suspect vessels to be boarded in international waters. Currently, the law only allows for interdiction in territorial waters. The changes are being sought in response to reports accusing the North Koreans of shipping their contraband, such as drugs, counterfeit money, missiles and nuclear technology, around the globe. The North Koreans consider the proposed changes a backdoor effort by the U.S. to place sanctions upon them. Would the leader please tell me if the government has been approached to support this proposed change to international law?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, to the best of my knowledge, no, the Government of Canada has not been approached. Clearly, if we are going into waters which are not Canada's, we would want to do it by way of an international treaty, a treaty in which significant numbers of participants will take part.

Senator Di Nino: Is that the position of the Government of Canada, or is that the opinion of the honourable senator? Could the leader obtain for us the official position of the government on these proposed changes?

Senator Carstairs: As I indicated to the honourable senator, at the present time the Government of Canada has not been approached about such changes. I was setting the matter within the context that, should we be approached about such changes, we would want to do it within an international treaty.

HEALTH

SEVERE ACUTE RESPIRATORY SYNDROME— WORLD HEALTH ORGANIZATION CRITICISM OF PROCEDURES TO HANDLE OUTBREAKS

Hon. Brenda M. Robertson: Honourable senators, the World Health Organization's SARS Advisory Committee will meet again, today in Geneva, to discuss the situation in Toronto. Although we hope otherwise, it is possible that another travel advisory might be made against the city.

The World Health Organization has already stated that it is designating Toronto as an area with pattern C transmission of SARS because of the exported case to North Carolina. This morning, we also had word that the World Health Organization is criticizing Canada's lack of coordination between federal and provincial authorities in dealing with the situation. Could the Leader of the Government in the Senate tell us what the federal government's response is to the WHO's criticism of Canada's handling of the SARS crisis?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, frankly, we do not believe they have the correct information. As the honourable senator knows, as I hope most Canadians know, the case of the gentleman in North Carolina appears to be an extraordinarily isolated one. The individual had contact with someone who was totally asymptomatic. There was no way that it possibly could have been known that this man was in contact with someone who had been in contact with someone else who had SARS, since they did not show any symptoms whatsoever.

In terms of federal-provincial relations, I can assure the honourable senator, and through her, hopefully, the Canadian people, that the contacts between the federal government and the provincial government have been daily and, on some days, hourly.

Senator Robertson: Honourable senators, there is also a report this morning of a leaked Ontario provincial cabinet document from April which stated that if Toronto had been hit with a major disaster on top of the SARS emergency, the Ontario health care system would have found itself on the verge of collapse. It is hard to imagine that the situation has improved over the last few months, considering a second outbreak had to be dealt with.

Will the federal government increase emergency resources provided to Ontario's health care system to ensure that an unforeseen disaster does not further cripple the province, or will the government play a waiting game?

Senator Carstairs: Honourable senators, using the word "disaster" is not helpful to the entire process dealing with the SARS outbreak in Toronto and, unfortunately, in Vancouver, although that one seems to be totally solved at this point in time.

There are enormous stresses on the health care system in Ontario. Of that, there is no doubt. Those stresses are primarily felt by the front-line workers — nurses, doctors and nurses' assistants.

• (0920)

The federal government is working with the provincial government to determine the costs within the system. I should inform the senator that there have also been significant federal government costs in dealing with this SARS outbreak, which must be considered as well.

CREATION OF NATIONAL DISEASE CONTROL AGENCY

Hon. Terry Stratton: Honourable senators, my question is addressed to the Leader of the Government in the Senate. Health Minister Anne McLellan has been speculating recently about whether or not Canada should have its own version of the U.S. Centers for Disease Control. With the emergence of infectious diseases such as SARS, West Nile and the new monkey pox disease that has appeared recently in the U.S, as well as mad cow disease, it is clear that we need some sort of consolidated approach to infectious disease in this country. That is reinforced by an article in today's *The Globe and Mail,* wherein the World Health Organization has criticized Canadian health authorities for failing to notify people properly that they have been exposed to SARS. A senior United Nations official also raised questions yesterday about how well provincial and federal authorities are working together to tackle the virus.

Again, in *The Toronto Star* today, Ontario Health Minister Clement is quoted as saying that he wants to talk to his federal counterpart, Anne McLellan, to see what she can do to help prevent any further exporting of SARS. He says:

> They have to step up to the plate. We not only have to be confident that we are containing the spread in our community. We have to show the world that they can be confident in us and we aren't exporting the cases to other communities.

With that in mind, it is vitally important that Canada has a national strategy to deal with these challenges, either through a national disease control centre, a national chief officer for public health, or a combination of the two.

My question is: Does the federal government intend to move quickly on this matter, and have discussions already begun with the provinces?

Hon. Sharon Carstairs (Leader of the Government): As the honourable senator knows, the Honourable Anne McLellan was in Atlanta visitng the CDC so that she could have a first-hand look at that facility. My understanding is that she is now sharing that information with her provincial counterparts so that they can work together. A centre for disease control will only work in Canada if it is a joint effort on behalf of the provinces, territories and federal government. As the honourable senator well knows, constitutional responsibility for health rests with the provinces.

WINNIPEG AS LOCATION OF POSSIBLE NATIONAL DISEASE CONTROL AGENCY

Hon. Terry Stratton: I appreciate that. Here comes the question that I am interested in, as I am sure are all honourable senators: If Canada chooses to create its own version of the U.S. Centers for Disease Control, the logical place to put it would be in Winnipeg. It is already the home of Canada's National Microbiology Laboratory, and there is also an agricultural component to that lab, as honourable senators are aware. Currently, disease control work in this country is split between the microbiology lab in Winnipeg and the Centre for Infectious Disease Prevention and Control in Ottawa.

Could the Leader of the Government in the Senate tell us if the minister's remarks mean that if such a centre were created in Winnipeg, all of the disease control work would be conducted there? In other words, will the leader push for this?

Hon. Sharon Carstairs (Leader of the Government): The honourable senator has given all of the very good arguments why a future centre for disease control should be located in our city of Winnipeg. I, of course, applaud that endeavour. I can assure him that I will do everything on my part to make my position very clear on that matter.

FINANCE

MID-TERM ECONOMIC UPDATE

Hon. James F. Kelleher: Honourable senators, I have a question for the Leader of the Government in the Senate.

Honourable senators, in recent weeks it has become clear that the economy will not do as well this year as forecast in the budget. SARS, the high dollar and other problems are pulling us down. The economy has shed 32,000 jobs in the last two months. This will impact on the fiscal framework.

On May 24, following an interview with John Manley, *The Globe and Mail* reported that the Minister of Finance would provide a mid-term economic update this month. Could the government leader advise the Senate as to when and where that update will be delivered?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I must tell you that I did not know that there would be a mid-term economic update this month. I will seek that information and deliver it to the chamber with dispatch.

Senator Kelleher: Honourable senators, the other place is expected to rise today. Will that update be delivered to a committee of Parliament by Mr. Manley in his capacity as Minister of Finance? Will it be delivered outside of Ottawa, away from the scrutiny of Parliament, by Mr. Manley in his capacity as a leadership candidate?

Some Hon. Senators: Oh, oh!

Senator Carstairs: Certainly, it would not be done in his capacity as a leadership candidate. If it is done at all — and let me stress "at all" — it will be done by the Minister of Finance. That is Mr. Manley's position in the Government of Canada, and that is what he will continue to be, at least in the short term.

Senator Kelleher: I just thought I would ask.

NATIONAL DEFENCE

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

Hon. J. Michael Forrestall: Honourable senators, I have several brief questions. I noted the delicate way in which the minister handled the prejudice and bias between her and her colleague from Winnipeg. I almost applaud it.

Could the Leader of the Government in the Senate tell us why, during this now-infamous June 5 press conference, LCol. John Mitchell told a noted Atlantic Canadian journalist, Mike Duffy, that the normal load of smoke markers is six, when the Sea King carries 12?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I could not possibly explain that statement. I was not at the press conference, as the honourable senator knows. I do not have a transcript of the press conference because I understand there was not one. I could not possibly answer that question.

Senator Forrestall: I am not sure I heard the minister correctly. Is she now indicating that there was not a press conference for damage control purposes?

Can the minister explain, then, why Col. Wally Istchenko suggested to the press that the new maritime helicopter only had to carry and process one type of sonar buoy when the requirement specifications call for the new maritime helicopter to process several different types of sonar buoys?

Senator Carstairs: Again, honourable senators, I have no idea why the statement was made. I was not there. I do not know why the statement was made in the way the senator has indicated. I will try to seek information on that. Frankly, if there is not a transcript of the press conference, and I am led to believe that there may not be, then I do not know how we can satisfy his particular questions.

Senator Forrestall: That sounds somewhat high-handed to me.

In the last several days, I have pointed out several discrepancies, each one in itself not of great importance but, collectively, very important. How is it that these experienced people could make so many mistakes on factual issues when it comes to a major piece of military equipment? Was it to protect the government from the truth, that the new maritime helicopter will have less capability than the 40-year-old Sea King it will replace, so much so that the two-kilogram washroom curtain providing simple privacy on board had to be removed to save weight?

Senator Carstairs: Honourable senators, the privacy curtain was removed for safety reasons, as the senator well knows. As he also knows, the statement of operational requirements is not the statement of operational requirements absolutely equivalent to the Sea King. It was never intended to be that. The Sea King is a very old aircraft. I do not think we would want to replace the Sea King absolutely as the Sea King currently exists, when we know that there have been enormous strides made in technology since the time the Sea King was built.

• (0930)

Senator Forrestall: That is hardly my point at all. My point is simply that the major shift in policy from "best value for taxpayer dollar invested" to "cheapest, least cost" now places the obvious winner of this competition, when the competition comes to fruition or to its final stages, in a position of offering effectively less of an aircraft than the Sea King, and that surely is not the intent.

Senator Carstairs: The honourable senator likes to use the word "cheapest"; the Government of the Canada does not. It is his word. The Government of Canada is still seeking the best possible aircraft for the armed services of this country.

[*Translation*]

DELAYED ANSWER TO ORAL QUESTION

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour to table a delayed response to three questions, beginning with one oral question along with two responses to questions on the Order Paper.

The first is in response to an oral question raised in the Senate by Senator Di Nino on March 18, 2003, concerning Citizenship and Immigration, backlog in processing files.

CITIZENSHIP AND IMMIGRATION

BACKLOG IN PROCESSING FILES

(Response to question raised by Hon. Consiglio Di Nino on March 18, 2003.)

By the end of the transition period for skilled workers on March 31, 2003, the Department had processed over 90,000 of the applications in the inventory which had been submitted prior to January 1, 2002. The Department processed as many skilled worker applications as possible given the competing priorities of family reunification, humanitarian and visitor cases.

Given the transition rules, as of April 1, 2003, applications still in the inventory are now being assessed under the skilled worker selection system of the *Immigration and Refugee Protection Act (IRPA)*. It is not possible for the Department to estimate how many of these cases would have passed under the former selection system. However, the Department has recognized that because these applications were submitted with the expectation of being assessed under the former selection system, it would be fair and equitable to assess them under a somewhat lower threshold. As a result, transition cases are being assessed against a pass mark of 70 instead of the pass mark of 75, which is applied to all other skilled worker applications.

ANSWERS TO ORDER PAPER QUESTIONS TABLED

VETERANS AFFAIRS—ALTERNATIVE FUELS ACT

Hon. Fernand Robichaud (Deputy Leader of the Government) tabled the answer to Question No. 70 , raised in the Senate on February 25, 2003—by Senator Kenny.

NATIONAL DEFENCE—BUDGET

Hon. Fernand Robichaud (Deputy Leader of the Government) tabled the response to Question No. 3, raised in the Senate on October 2, 2002—by Senator Forestall.

[*English*]

ORDERS OF THE DAY

BUDGET IMPLEMENTATION BILL, 2003

THIRD READING—DEBATE ADJOURNED

Hon. Sharon Carstairs (Leader of the Government) moved the third reading of Bill C-28, to implement certain provisions of the budget tabled in Parliament on February 18, 2003.

She said: Honourable senators, I rise today to move Bill C-28, the Budget Implementation Bill, 2003, for third reading.

During the pre-budget consultations, a clear consensus emerged from the hundreds of Canadians who participated. They told the Minister of Finance that they seek a society built on their commonly held values, an economy that maximizes opportunity for all and an honest and transparent accounting of government's efforts to achieve those goals. This is the challenge Canadians have brought to their government.

The 2003 Budget responds to this challenge in three ways: First, it builds the society Canadians value by making investments in individual Canadians, their families and their communities; second, it builds the economy Canadians need by promoting productivity and innovation, while staying fiscally prudent; and third, it builds the accountability Canadians deserve by making government spending more transparent and accountable.

The 2003 Budget is based on sound financial management and a responsible stewardship of our resources, but it is also rooted in our values as we seek to give Canadians the tools they need to realize their potential.

In presenting his budget, the minister noted that Canada has now posted five consecutive budget surpluses and reduced the federal debt by $47.6 billion. The budget projects balanced budgets in 2002 and over the fiscal plan to 2004. These are backed up by the $3 billion contingency reserve. I might add that Canada is the only G7 country expected to record a surplus in the fiscal year 2002-03.

Honourable senators, I can assure you that it is the government's policy that there will be no return to deficit in Canada. Maintaining a balanced budget and reducing the debt will remain the anchor of our government's fiscal strategy, but economic success and fiscal discipline are only part of good government. They are a means to the much more important end, and that is to build the society so many Canadians value, where compassion and social responsibility are constant, concrete facts of national life.

Compassion and social responsibility are, in fact, part of the Canadian identity, and nowhere is this more true than in our commitment to quality, universal health care. It is a fundamental value of the Canadian people. The 2003 Health Care Accord, agreed to by the Prime Minister and Canada's first ministers in February, will improve access to health care systems, enhance accountability for health dollars spent and ensure that the system is sustainable.

To that end, the 2003 Budget commits $34.8 million in increased federal funding over five years to meet the goals outlined in the accord. Bill C-28 implements these measures, which include a five-year, $16 billion health reform transfer to the provinces and territories to target primary health care, home care and catastrophic drug coverage, areas identified by first ministers as areas of priority; an immediate investment of $2.5 billion through a supplement to the Canada Health and Social Transfer to relieve existing pressures in the health care system; building on the significant federal support for health care provided through the CHST by increasing support to provinces and territories through transfers by $1.8 billion, extending the transfer framework through to 2007-08; an additional $1.5 billion over the next three years for the acquisition of diagnostic equipment and related specialized staff training; a restructured CHST with two distinct and separate transfers, effective April 1, 2004; and removal of the ceiling on equalization payments beginning in 2002-03.

Other health-related measures include $600 million to Canada Health Infoway to accelerate the development of, among other things, electronic health records; $500 million to the Canada Foundation for Innovation for research hospitals; and $75 million to Genome Canada for applied health genomics.

At the same time, funding is targeted for governance and accountability initiatives, including funding for the Canadian Institute for Health Information and the establishment of a new Canadian patient safety institute. These measures will ensure that future generations of Canadians will have better and timely access to quality universal health care in every part of this country.

Working through Bill C-28, the 2003 Budget also strengthens the government's long-term commitment to Canadian children and families in several key areas. First, it provides additional support for children of low-income families through the Canada Child Tax Benefit, projected to bring the maximum annual benefit to $3,243 or up to $3,495 for a child under age seven in 2007. To assist low- and modest-income families with disabled children, the budget introduces a new indexed $1,600 child disability benefit effective this July. Related measures include $80 million per year to improve tax assistance for persons with disabilities, an expanded list of eligible expenses for the medical expense tax credit, including the incremental cost to individuals with celiac disease of acquiring gluten-free products, and measures to ensure that more infirm children are eligible for tax deferred rollovers on the proceeds of a deceased parent's or grandparent's RRSP or RRIF.

At the same time, the budget expands employment insurance benefits to include a new six-week compassionate care benefit to allow eligible workers to provide care or support to a gravely ill or dying parent, family member, spouse or child. I think all senators are aware that this has been something I have long advocated. It has come to fruition, and I think it makes a significant difference across the country in the quality of palliative care when you can have a family member with you for six weeks and that family member does not have to worry about either job security or income during that period of time.

Honourable senators, the government's ability to make major long-term investments in the quality of Canadian life without jeopardizing our fiscal balance rests on a healthy, growing economy, and we recognize that better economic performance tomorrow requires a more productive, innovative and sustainable economy today. The budget introduces several measures to help meet that goal. One involves the acquisition of learning and skills. Budget 2003 commits $60 million over two years to improve the Canada Student Loans Program, to put more money in the hands of students and to better enable post-secondary graduates to manage their debt. In addition, there are measures to improve access to interest relief for graduates who are in default on Canada student loans or who have declared bankruptcy and to make student loan assistance available to protect persons, including convention refugees.

• (0940)

In the 2000 Budget, the government introduced the largest tax reduction plan in history. To ensure that Canada remains a good place to invest and to boost the competitiveness of Canadian businesses, Budget 2003 builds on that five-year $100 billion tax reduction plan. It introduces further improvements to the tax system and enhanced incentives for saving and investing in Canada.

First, the budget raises Registered Retirement Savings Plan and Registered Pension Plan contribution limits to $18,000 over four years and indexes these new limits. Next, it supports small businesses and entrepreneurs through a number of tax changes, including a 50 per cent increase in the small business deduction limit to $300,000 from $200,000 over four years. Other measures eliminate the federal capital tax over five years, with medium-sized businesses benefiting first, and the $2 million limit on the amount of small business investment eligible for the capital gains rollover.

As well, the budget improves the tax treatment of automobile benefits for employees and auto expenses for employers.

Two of the remaining measures in the bill provide for increases in federal taxes on tobacco products, effective June 18, 2002, and for voluntary arrangements with interested First Nations to levy a broadly based sales tax consistent with the GST.

Furthermore, the bill proposes three clarifying amendments to the Excise Tax Act to ensure that the longstanding and well-understood policy intervention underlying the legislation in the affected areas is respected.

As well, we are taking action in such vital areas of public concern as climate change, the environment and agriculture.

Honourable senators, the scope of the budget plan is dramatic. While time precludes me from discussing the remaining measures in any detail, there is one matter that I want to touch on.

In addition to managing taxpayers' dollars wisely, the government is committed to being more accountable to taxpayers for how it manages their money. That is why the budget includes enhanced accountability for the three foundations established under federal statute to ensure that any unspent funds are returned to the government should they be dissolved. There is also the termination of the Debt Servicing and Reduction Account and clear rate-setting processes for non-tax revenues, including EI contribution rates and the Air Travellers' Security Charge, which, as senators know, has been reduced from $12 to $7, each way, for domestic flights.

Honourable senators, the Standing Senate Committee on National Finance examined this bill and reported it without amendment. I know that the committee canvassed a wide range of elements in the bill, but one area that attracted considerable attention was the issue of a retroactive provision relating to GST rebates for school boards. The issue arises from a very complex set of facts, law and policy, and I do not want to detain the Senate with all of the details. However, I do want to acknowledge that senators did have concerns, which were shared by witnesses before the committee. Counsel for the affected school boards appeared at committee. The Canadian Bar Association and the Quebec Bar Association also appeared to offer their views on the policy basis for the measure.

The committee also heard from the Parliamentary Secretary to the Minister of Finance, Mr. Bryon Wilfert, MP, together with officials from the Department of Finance. Mr. Wilfert explained in elaborate detail why a retroactive measure was justified in this particular case. The justification is based on well-established practice for implementing tax measures and based on the criteria governing the use of retroactive legislation in the domain of tax policy. The committee did consider an amendment to limit the retroactive effect of the measure, but after careful deliberation, the committee rejected it. I believe the committee made the right decision.

Honourable senators, Budget 2003 provides important new investments to build the society Canadians value and the economy we need, and it does so without putting us back into deficit. It takes serious steps forward in our quest to build the society that Canadians value, the economy Canadians need and the accountability Canadians desire.

Honourable senators, I urge you to join with me in according Bill C-28 passage at third reading.

Hon. Gérald-A. Beaudoin: Honourable senators, last Thursday, in the National Finance Committee, I presented an amendment to Bill C-28. After having heard an impressive group of lawyers and constitutional experts — that is, the Honourable Marc Lalonde, former Minister of Finance of Canada; the Honourable Roger Tassé, former Deputy Minister of Justice; Simon Potter, President of the Canadian Bar Association; Claude Desaulniers from the Quebec Bar Association; and Yves St-Cyr from the Quebec School Board Federation — I came to the conclusion that it is necessary to amend clause 64 of Bill C-28.

As Senator Bolduc stated clearly and adequately, the facts of this case are as follows: A group of school boards has obtained a ruling from the Federal Court that they are entitled to be reimbursed 100 per cent of the excise tax that they have paid, not 68 per cent, as the government is saying.

By virtue of the principle of *res judicata*, which is a principle of law that has been in force for many centuries, it is mandatory for the Crown to reimburse. If I have understood the facts clearly, there is no problem with the first group, but there is a problem with the second group. The experts who appeared before our committee said we apply to the same facts the same principles of law. If we reimburse 100 per cent for the first group that was before the courts, we should extend that principle of *res judicata* to the second group and reimburse them. In other words, instead of being paid only 68 per cent, they have the right to 100 per cent.

Many witnesses last Wednesday spoke about the question of retroactivity in that case. I do not think it is a very important question in the present case because it is part of the fiscal law to be retroactive, and in that case it is only partial anyway.

We are dealing with the principles of law established by the courts, that is, the rule of law applies, and when there is a judgment of the courts, *res judicata* applies. When the Supreme Court of Canada rules, that ruling becomes the law of the land. It is even part of the Constitution. We have the conventions and the text of the Constitution, and we have the decisions of the courts on constitutional law.

• (0950)

Having regard to our constitutional law system, I cannot see how we may set aside the second group. The facts as established by my colleague Senator Bolduc are the same. Therefore, the same principle of law should apply, and most of the experts I have quoted at the beginning of this speech agree entirely with that.

In addition, we have jurisprudence. It is a question of law, of the administration of law. Some people think that, since we are in the field of taxation, the amendment I proposed cannot be received because it may necessitate an additional cost of money — $18 million. It is true that more money will be necessary, but there is nothing in this case that is violating our parliamentary precedents and usage. There is nothing against the principle of constitutional law because the courts of justice in our system must rule on the interpretation of law, and also on the constitutionality of laws. It is their duty; it is their power. We, parliamentarians, have to accept their rulings even if it necessitates the spending of more money.

We have cases and cases on the constitutionality of laws, and when the Supreme Court says we are obliged to do this and this, in this Parliament we never raise the question of cost because a constitutional decision of a court necessitates the spending of more money because it is part of our system. It is not against the privileges of one house or the other.

The legislative branch of the state, Parliament, and the judicial branch have, in their domains, adequate, independent and strong powers. In my opinion, my amendment applies the principles of law as the courts interpret them. If the court says you must do this, and if it necessitates the spending of money, that is the end of it. There is nothing unconstitutional in that.

Honourable senators, I see that there is no encroachment on the powers of the Senate or the House of Commons, and we, the Parliament, must comply with the interpretation of the principles of law established by the courts. Whether it costs money or not is irrelevant. We sometimes hear people say that it costs money to go before the courts, which is true. The court may rule that Parliament must do this and that, and we have to comply, and if the need to spend money is involved, so be it. That is the end of it. There is no constitutional problem.

In conclusion, I would say that the principle of *res judicata* is part of our system of law, part of our administration of justice and of the rulings of the court. They have existed for many centuries, probably from the Middle Ages, perhaps even Roman times, but that is enough. I do not need to have 20 centuries.

MOTION IN AMENDMENT

Hon. Gérald-A. Beaudoin: Therefore, I move, seconded by Senator Bolduc:

That Bill C-28 be amended in clause 64, on page 55,

(*a*) by replacing line 19 with the following:

"into force on December 17, 1990, except in respect of cases in which school authorities and lawyers representing Her Majesty the Queen in right of Canada have agreed to file consents to judgment before the appropriate court"; and

(*b*) by deleting lines 20 to 39.

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

Hon. Sharon Carstairs (Leader of the Government): No. The argument that has been put forward by the honourable and learned senator, Senator Beaudoin, is clearly an important one, but one that, I think, has serious flaws. He makes no distinction between the so-called group 1 and group 2, but there is a considerable distinction between group 1 and group 2.

To put it in context for members of this chamber, when the GST came into effect, a policy with respect to the treatment of student transportation services and the related rebates to school boards was well understood and complied with by all school boards throughout this country. It provided for a 68 per cent, as opposed to a 100 per cent, rebate to the school boards across this country.

A group of tax consultants approached a group of school boards in the Province of Quebec and, on a contingency basis, at no cost to the school boards, said they would like to take this case to court on their behalf, and they took it to the Tax Court and they lost. They then appealed it to the appeal court, and they won. That is the group of schools that were, therefore, reimbursed. They had a judgment, and because of that judgment, they were reimbursed.

The Government of Canada then changed the law, and that is what we are agreeing to today, but as you know, the government can impose tax law and then have it retroactively adopted by the House of Commons and the Senate. That is very much according to the rules and procedures that we have followed for a long time.

• (1000)

The second group of school boards did not have a judgment prior to the announcement by the federal government of its use of retroactive provisions. The retroactive provisions and their criteria are important for all of us to understand. The use of retroactivity is guided by a set of principles that were set out in the government's response to the 1995 report of the Public Accounts Committee dealing with the management of risks to the tax base.

The committee criticized the government for not taking action to amend the tax laws retroactively in order to protect the tax base following an adverse Tax Court decision. The committee called upon the Department of Finance to develop the criteria to be used to determine when it is appropriate to introduce clarifying changes to the law on a retroactive basis. No single criterion is intended to be determinative in and of itself, with the exception of the fifth criterion which pertains to the correction of obvious ambiguities and errors.

Honourable senators, let me take you through the others. First, the amendments must reflect a long-standing, well-known interpretation of the law by the Department of National Revenue. It is agreed that taxpayers require certainty, and a court interpretation contrary to that which the majority of taxpayers have expected and complied with would have an effect equivalent to a retroactive change in the law as taxpayers knew it. Not amending the law retroactively to counter the unintended interpretation could penalize the majority for its reliance on the long-standing interpretation. Thus, retroactivity is used for all of those who have been duly following the rule as it was established in 1990, that is, school boards straight across this country.

The second provision is that the amendments must reflect a policy that is clear from the relevant provisions and that is well known and understood by the taxpayers. In this case, the taxpayers, being the school boards, knew of this since 1991. The amendments are intended to prevent windfall benefits to certain taxpayers.

Finally, the amendments are necessary to preserve the stability of the government's revenue base. The action of the Government of Canada taken following the decision in the fall of 2001 — and the government made the decision in December of 2001 — was the correct one. It followed the prescribed policy. We are now implementing it.

[*Translation*]

Hon. Roch Bolduc: Honourable senators, the situation is really not so complicated. A Federal Court judgment says that the school boards, which had begun to submit claims for GST rebates between 1996 and 2000, were correct.

Each year after 1996, the school boards submitted their claims to the Tax Court of Canada. The government won, but on appeal, the Federal Court said: "No. That is not the way it is. The government must pay 100 per cent of these claims, not 68 per cent, as it was paying previously." That was in 2001. It was decided to group the 29 school boards together and hand down a single judgment, which is known as the *Des Chênes School Board* decision or group 1.

During this time, other school boards presented a request for a motion for judgment on the first judgment. The important thing, later, was that there was an agreement between the lawyers to suspend the proceedings and wait to see what happened. Finally, the judgment was handed down and it found in favour of the school boards. The suits then continued. There was an agreement, and then it went to appeal. The appeal was to be heard in December 2002.

Six days before the appeal, the government's lawyer submitted a consent to judgment to the school boards' lawyer. The other party read the consent to judgment, which contained a clause that was difficult to understand, whereby the Minister of Finance may reserve the right to make possible amendments.

The school boards' lawyer found that the decision made sense. He agreed on this point because it was a result of the other decision. The school boards involved filed their application. A third group of school boards, which had not filed an application, waited. However, a claim was being processed for group 2. There was a letter of consent to judgment from the government and the school boards accepted.

Six days later, December 21 to be precise, a Friday evening at 7 p.m. — shortly before Christmas — the Minister of Finance issued a release indicating that the government might review its decisions. And so things stood. Then came the 2003 budget. In the meantime, the school boards had pursued their legal action and won for the second time. The judge had ruled in their favour. Yet the government, in its February 2003 budget, amended the legislation with retroactive provisions.

The basic question is: Will the government, through its attorneys who consent to judgments, respect the decisions of its representatives or will the Minister of Finance use his discretion after the fact to introduce legislative provisions that disregard what the government's attorneys have said? That is what is at the heart of the debate.

Excellent legal professionals have appeared before the National Finance Committee. Roger Tassé, a well-known constitutionalist in Canada, agreed that this was the central issue. The Ontario and Quebec school boards also agreed.

Others who appeared before the committee include: Roger Desaulniers, a tax lawyer with 37 years of practice; Mr. Potter, President of the Canadian Bar Association, who made some remarkable comments; and a former minister of the Crown, Marc Lalonde.

I would like to read some excerpts from their evidence, because it is important that you know what this is about. I will start with Mr. Tassé. With regard to the school boards, he said:

> Group 2, which includes cases in Quebec and cases in Ontario, is not exempt under the government's proposal.

In other words, they are not entitled to an exemption under this legislation. It simply states that retroactivity will not apply to group 1. This was stated after consent was given. I will read another paragraph:

> On December 13, six days before the Federal Court of Appeal hearing, the department's lawyers tabled an offer to the school boards. The offer stated that if the boards withdrew their appeal based on the new facts, the department was prepared to consent to a judgment, as in the *Des Chênes* case.

All the school board representatives were acting in good faith, particularly since the lawyers had agreed to suspend the proceedings until a decision was handed down. That much is clear.

• (1010)

Mr. Tassé then goes on to say:

> It should also be noted that the lawyers for the Crown had also offered consent to judgment. The lawyers for the Crown took the initiative of talking to the lawyers of the school boards in group 2 and proposing that they withdraw their appeal based on the new facts, in return for consent to judgment, and judgments were consequently obtained. Why propose consent to judgment if there was never any intention of acting upon it?

That is the real question. The government spoke out of both sides of its mouth. On one side, its lawyers spoke for the government and, on the other, so did the Minister of Finance.

> The real issue is whether the administration from 1996 to 2001 was acting in good faith. In 1996, boards started to claim rebates and it was left to the administration to indicate — as is being argued today — that this provision is clear and that it does not entitle any claimant to a full rebate but to a partial rebate. Why not present an amendment on this right now? Instead, the decision was made to proceed through the courts, and this has taken many years, on the assumption that the courts might decide in favour of the government. Unfortunately, that is not what happened.

It is as if the government had decide to take the court route, but if that did not work out, it would take the legislative route. That is unacceptable. Anyone who has studied even a little law knows that.

I asked Mr. Tassé another question, and his response was:

> Under the circumstances, I find it unacceptable to ask Parliament to allow the government to take the legislative route and change what was decided by the courts with the consent of the lawyers. This, to me, goes against one of the fundamental values of our country, that is respect for court judgments.

I can tell you that when such words come from a constitutionalist the likes of Roger Tassé, they are pretty potent. I also asked questions of Mr. Cyr. Honourable senators, when I say "I," that is a bit of an exaggeration, since there were many of us who asked questions.

Later, Mr. Tassé said the following:

> The school boards did not take action in time to make their claims carry some weight.

Mr. Cyr went on to say:

> The only ones concerned are the Quebec and Ontario school boards that obtained judgments from the Tax Court of Canada subsequent to consent by her Majesty the Queen.

Mr. Tassé said:

> The Minister of Finance should respect decisions by lawyers that have resulted in court decisions. Thus he would be complying with court judgments reached under consent.

This is therefore a legal issue that goes far beyond a paltry $8 million for Ontario and $10 million for Quebec. I think the total is $18 million.

The Leader of the Government referred to budgetary constraints. Since when is the government unable to adjust its budget, particularly since $18 million is a pittance for the Government of Canada?

We have seen labour relations tribunal decisions that have amounted to hundreds of millions in connection with employment equity. How did the government manage to pay that? The amounts involved were $300 million to $500 million. That was not a government decision but a court decision. Odd, how they managed to find the money for that. Money is not a valid argument, in my opinion.

Mr. Desaulniers gave the following evidence:

> If there were a risk and if a system had been established specifically to prevent this kind of situation, why did they choose the court route rather than the more direct route of an amendment? That is the first question and the first consequence. If you choose the courts rather than an amendment, you must accept the consequences.

It appears that all the lawyers are unanimous on this point, and I shall read what Mr. Potter says, on page 29, because it is just so smooth. He is speaking on behalf of the Canadian Bar Association.

[*English*]

> The Canadian bar speaks for about 38,000 lawyers across Canada. The reason its president is here today — rather than the president of the national commodity tax section — is that this amendment raises an issue that goes well beyond tax. It covers issues in all fields of law.

[*Translation*]

They are familiar with the case. They know very well that what he said is true.

The Leader of the Government in the Senate said that there are long-established government criteria. Five criteria must be met for acceptance. None of the criteria applies to this case. The criteria are not involved; I agree with them because they are very sensible. Moreover, I am not concerned about the retroactivity of the legislation. Certainly, in taxation matters, there has always been retroactivity, because the budget comes down one evening and, from that moment on, it takes effect. No one would dispute that fact; we all agree on that. That is not the point of the case. The point is much deeper than that.

I would like to point out Mr. Lalonde's letter, where he writes about trying to get retroactivity before the judgment in October. The government had tried that and it changed its mind. Mr. Lalonde wrote that the proposal had already been a dead issue since then, and it was with the greatest surprise that they found out about the provisions, which were even more despicable than the ways and means motion of February 18.

He adds:

> But to our knowledge, the measure you are proposing concerning the school boards is without precedent in the history of the Canadian parliamentary process. If ever it were passed by Parliament, it would be a serious breach of the rule of law and its authority under our constitutional system.

These are serious allegations. This comes from Marc Lalonde, not just anyone, but a former Minister of Finance and a well-known legal expert from one of the most recognized tax law firms, Stikeman and Elliott. It is not just his word here; the reputation of his firm is also on the line. Let us be serious.

I would like to conclude with a quote from Mr. Potter, because he made remarkable statements.

[*English*]

> This amendment signals that every time the tax border is successfully challenged by a taxpayer, we will be subjected to the possibility of a retroactive amendment that would destroy vested rights. This is troubling. If poor drafting or unintended and unforeseen tax consequences have to be neutralized through the use of retroactive amendments, the principle of tax certainty can no longer be relied upon by taxpayers.

[*Translation*]

That means lawyers can no longer advise their clients because they do not know what is going to happen. The following year the Minister of Finance might put forward an amendment with retroactive provisions. That does not make any sense whatsoever.

He adds:

> If the retroactive aspect of the Des Chênes amendment is not removed, it raises the spectre of a substantial tax compliance concern. That retroactive aspect seriously undermines our tax system. There is no justification for that retroactive measure.

In my view — and I am appealing to the legal professionals in the Senate — Senator Day, Senator Moore, Senator Joyal, Senator Kroft and several others on our side who are aware of this fact — we cannot allow this to happen. If there is a reason the Senate exists, it is precisely for this type of issue, where the government is abusing its power. We must correct the situation. We are wise people.

I understand that Mr. Manley does not have time and that Mr. Cauchon already has enough on his plate. It is complicated. I am appealing to the Leader of the Government in the Senate to meet with his two colleagues and demand changes. I assure you that, to lawyers across Canada, this is scandalous.

You must make an effort to accept this without partisanship. This oversteps the bounds of a healthy parliamentary process.

[*English*]

The Hon. the Speaker: I have Senator Gauthier rising on a point of order.

Senator Carstairs: Honourable senators, I wanted to ask Senator Bolduc a question.

The Hon. the Speaker: The point of order may take precedence. We should deal with the point of order.

[*Translation*]

POINT OF ORDER

Hon. Jean-Robert Gauthier: Honourable senators, I agree in principle that this is a mess, that our public servants have been incompetent. One even admitted to the committee that it was not a good day for some advisors to the Minister of Finance. I agree with the arguments presented.

• (1020)

I have had a problem for years. Is it in order for a Senate motion to be put to the Senate committee? I consulted *Beauchesne's Parliamentary Rules & Forms*, sixth edition, on page 184, Requirements for the Use of the Royal Recommendation, and I quote:

> 599. ...after the question has been proposed on an amendment, and it has appeared that the amendment would vary the incidence of taxation or increase the charge upon the Consolidated Revenue Fund, the Speaker has declined to put the question.

It is simple. We are told that this provision would cost Canadian taxpayers between $18 million and $20 million. The trustees of the school boards may well be right, and I support them. I was a school board trustee for 12 years. However, this involves powers that cannot be used here, including spending power. Commitments affecting the Consolidated Revenue Fund cannot be made. I stand to be corrected by the Speaker. I asked the chair of the committee this same question, as to whether this motion is in order under the conventions or the rules. I did not obtain a clear answer, and I voted against this motion in committee. I have not been convinced today. I ask the Speaker to rule if this motion is in order and is votable.

Hon. Lowell Murray: Honourable senators, Senator Gauthier is not satisfied by the answer that I, as chair of the committee, gave to him the other evening. I would like to try again. Before answering him, I want to say that the question is whether it is appropriate to call a point of order after the Speaker has received the amendment from Senator Beaudoin and put the question to the Senate.

[*English*]

Having already received the amendment and called the question and heard debate, the first question is whether it is in order now to reflect on its "receivability" for procedural reasons.

Second, as to the substance of the point of order — if the point of order is in order — this provision of Bill C-28 seeks to limit the liability of the Crown. The amendment of Senator Beaudoin would somewhat change the applicability of that provision of the law.

There are ample precedents, as Your Honour will be told by those at the Table who were here at the time, for doing very directly what my honourable friend Senator Gauthier has suggested. As one example, I give the long GST debate that we had here in 1990. Various amendments were proposed at that time to lessen the incidence of that tax. Those amendments would surely have resulted in, if not a direct charge on the treasury, the treasury being able to collect less tax than it had proposed to collect by way of the GST. One of those amendments that comes to mind — I am sorry that the honourable senator may not be able to intervene at this moment because I am sure she would support me if she were — was the attempt by Senator Fairbairn in a motion to remove the GST from reading materials. That amendment was defeated, but it was certainly receivable and was received, quite in order, by the Chair.

This is a far less direct attack, it seems to me, on the treasury, and it certainly does not impose any new tax on the taxpayers of Canada.

In my opinion, the precedents are abundant and are all to the effect of supporting the "receivability" of the amendment that Senator Beaudoin has proposed.

Also, His Honour might rule on whether, at this stage of the debate, it is in order to hear Senator Gauthier's point of order at all.

[*Translation*]

Hon. Gérard-A. Beaudoin: Honourable senators, as far as the point of order is concerned, Senator Gauthier is forgetting that we parliamentarians are not the ones who are going to increase the budget. If that were the case, we might wonder about this. It is the court that said: "You have paid back 68 per cent of the excise tax paid, but you need to raise that to 100 per cent."

Since when, in a democratic system such as ours, which is a constitutional masterpiece, must a court of justice abstain from judging and from interpreting legislation? Since when do we say: "If the constitutionality of legislation is to be determined, that is going to cost money, so you cannot do it"? You are ruining our system. It is amazing. There will be no system left. The legal system is in place in order to interpret legislation and determine its constitutionality. If this impacts on the budget, so be it.

It is not contrary to any principle of parliamentary democracy and not contrary to any principle set out in the Constitution. The court does its duty and we follow up on the court's decisions. There have been hundreds of court decisions about the division of powers. In 20 years, there have been 450 cases involving the Charter of Rights in the Supreme Court, and of course, that costs money. But that is our system. Our Charter of Rights and Freedoms is wonderful and the Supreme Court does its work well. I cannot understand how such a point could be raised. If it were a parliamentarian — a member or senator — who said: "I do not like the budget; I would like to add another $50 billion," then we could perhaps discuss it. But such is not the case. The court said: "You must reimburse the tax and you must reimburse 100 per cent and not 68 per cent." It will cost $18 million. So? That is our system. If the court says that our law is poorly drafted, then we must start over and abide by the division of powers. The Constitution is important; it is the foundation for everything.

Oh, heavens, it is going to cost money! So what? I cannot see how we can say it goes against the principles of parliamentary democracy. The court has simply done its duty, and we must do ours. And that is what we are doing.

[*English*]

The Hon. the Speaker: Do any other honourable senators wish to speak to the point of order? If not, I will ask Senator Gauthier for a final word.

[*Translation*]

Senator Gauthier: Senator Beaudoin is right, except that he is forgetting a fundamental principle: we do not have the authority to spend. The authority to incur public expenditure requires a recommendation. There is no recommendation here. We all agree that there were probably difficulties and disagreements with regard to this issue. I agree.

• (1030)

In my view, we do not have the right to incur expenditures to the tune of $18 million without a recommendation.

Hon. Roch Bolduc: They should do their work properly. What they have done is disgraceful. It is disgraceful to do that in the House. They are lawyers to boot. John Manley is a lawyer and Martin Cauchon is a lawyer. It is indefensible to do such things.

[*English*]

Hon. Francis William Mahovlich: Honourable senators, I was present at the committee, and in my simple way, I expressed my feelings on this matter. I see it as if a tub was filled with water, we knocked out the little plug, half the water was left, and, in the wisdom of the government, we put the plug back in. That is what really happened. It is that simple. I would rather take a bath in half a tub than no water at all. That is what we are voting on here.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, on the point of order, it is important that His Honour seize himself of the timing of the raising of this point of order. The time for it to have been raised was when the matter was introduced, not after a debate on the content of the motion was well underway. There is a reason for that rule in parliamentary procedure. In other words, you cannot raise a point of order after debate if you do not like the way a debate is going and try to undermine the debate by saying that debate ought not to have occurred at all.

The fact is that this matter was not raised as an issue of order. The proceeding was well underway, argumentation has been advanced, and to attempt to use a procedural technique to defeat the argumentation is not what is envisaged in the procedural literature.

Second, with reference to the Royal Recommendation, a bill coming from the other place must have the Royal Recommendation, and the bill before us has a Royal Recommendation. We do not initiate money bills in this house. We cannot do it.

However, before us is a bill with a Royal Recommendation, and that bill is being studied by the Senate. The Senate has the full right to examine any aspect of that bill that has been sent to it from the other place. If we see flaws in that bill, we are to act upon those flaws. We are the house of review. To try to hide behind a flaw that we have identified and are attempting to remedy, because the remedy that we would propose in and of itself does not have a Royal Recommendation, is faulty on several grounds. It is faulty on the grounds of species and genus. The Royal Recommendation applies to the genus of the bill; therefore, it is the umbrella under which any aspect of that bill that has been referred to this house is totally subject to review.

SPEAKER'S RULING

The Hon. the Speaker: I thank Senator Gauthier for his point of order and all honourable senators for their contributions to the matter.

I should like to point out that the bill we are debating has received the Royal Recommendation. The second thing I should like to do is to read the rule of the Senate that, I believe, is relevant to this point of order. Rule 81 states that:

> The Senate shall not proceed upon a bill appropriating public money that has not within the knowledge of the Senate been recommended by the Queen's representative.

I will deal first with the timeliness of Senator Gauthier raising the point of order because it is an important question. Senator Murray argues that once debate has commenced, it is not within the practices of this place, either by the rules or by the precedents, to do something to interfere with that debate for procedural reasons. I find that this is not what Senator Gauthier is doing. He raised this matter in committee and explained that he voted in a certain way because of his reservation about the Senate being able to proceed as we are on this question, and he is simply raising it again here at this point.

The real question is this: Is this amendment to the bill that carries the Royal Recommendation one with which we can deal?

The other interesting argument is that once the Royal Recommendation is given to a bill, does that open the door for Parliament, including the Senate, to do anything with it by way of spending additional money, simply because the bill carries the Royal Recommendation? My ruling on that question would be that the Royal Recommendation being given to a bill — a money bill, as we call it — does not open the door for this place to pass amendments to spend more money, or as our rule indicates, to appropriate public money. That is the province of the House of Commons, in my interpretation of this rule.

I do not want to get into the Constitution or into questions of law because it is not proper for me to do so. However, let me accept that Senator Beaudoin's point is to address something that is *res judicata*; that is, a court has decided that Canada is obliged to do something that involves the expenditure of money. Is it something that takes the Senate to a place where it could introduce a measure such as an amendment to a money bill, which Senator Beaudoin's amendment is, that removes the impediment to the Senate of not being able to appropriate money? My finding is that it does not do that. The spending of money, or appropriation of money, to use the wording of the rule, is not something we can do.

That brings me to Senator Murray's point, which is that the Senate has, in the past, received amendments which, if passed, would mandate the reduction of monies flowing to the general revenue for whatever reason. I do not believe that falls within the wording of "appropriation." That matter, I believe, is quite well settled; that is, the Senate could defeat a money bill or reduce expenditures. However, increasing the expenditures is the question.

I premise my ruling on my belief, based on my close attention to the comments of senators who spoke to the bill, that the amendment would involve the spending of additional monies to comply with, as has been described in the debate, a decision of the court that Canada is obliged to follow.

As painful as it is for me to do this, I find that the motion in amendment is not in order in that it is not in compliance with our rules because it does not carry the Royal Recommendation as to the additional expenditure of money that would be required. The fact that the question is *res judicata* does not change our rule in respect of dealing with an amendment that would involve appropriating or spending more money.

Honourable senators, I rule the motion in amendment out of order. We will now resume debate on the main motion.

Some Hon. Senators: Question.

On motion of Senator Nolin, debate adjourned.

• (1040)

PUBLIC SERVICE MODERNIZATION BILL

SECOND READING

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, 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. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I rise to participate in the second reading debate on Bill C-25, and in so doing I would like to touch on the following issues in the 15 minutes available to me. The first is the right of all Canadians to participate in the Public Service of Canada. The second is the need to respect geographic participation and mobility rights, which is a fundamental value expressed in our Canadian Charter of Rights and Freedoms. Third, I would like to touch on the proposition that is contained in the bill to have part-time Public Service Commissioners, and fourth, the issue of the need for a strong whistle-blowing mechanism in any modernized public service.

Honourable senators, I will turn to the first matter because it speaks to the culture of a public service. It speaks to the fact that the public service is not an industry, it is not a corporation, and that the people who are served by public servants are not clients, they are not customers, but rather are the citizens of the country.

The citizens of the country are not only in a special relationship with its public service, but equally every citizen has the right to be a participant in that public service itself. I draw to the attention of honourable senators that the Universal Declaration of Human Rights, at article 21(2), provides:

> Everyone has the right of equal access to the public service of his country.

That is carried forward as a human right in the world community, and finding protection under international treaty law binding Canada, for Canada ratified, many years ago, the United Nations International Covenant on Civil and Political Rights. We read, honourable senators, in article 25(c) of the International Covenant on Civil and Political Rights that:

> Every citizen shall have the right and the opportunity...to have access, on general terms of equality, to public service in his country.

I was impressed by the speech that was given recently by our colleague Senator Ringuette, who spoke and drew our attention to some of the problems that exist in this country in terms of the geography and the place where Canadians are living, and how this principle of equal access to not only the service received from but, more important, the right to participate in the public service. Senator Ringuette's statement deserves further reflection. It is important that if we are modernizing the public service, this is an opportunity that we have to deal with the issue of the adequate and fair geographic opportunity for all Canadians to participate in the Public Service of Canada.

I will turn to my third point, namely, my concern for having a change that is proposed in this bill from a Public Service Commission that provides the necessary oversight to a commission wherein some of the members of the commission are part-time. This concerns me because I am afraid that the merit principle might very well unintentionally be watered down if we reduce the role of the Public Service Commission in overseeing staffing decisions, and turn part of the oversight role of the Public Service Commission into a part-time job.

The Public Service Commission has traditionally been responsible for hiring and promotions within government departments. It is tasked with making employment equity become a reality. It is where employees turn to appeal when they feel they have beeb unjustly denied an appointment. It is also the commission that is responsible for ensuring that the rights of public servants to participate in the political process, as provided for in sections 32, 33 and 34 of the existing Public Service Employment Act, are respected.

Honourable senators, in a speech before the Public Service Commission on March 21 of last year, the former clerk of the Privy Council, Jocelyn Bourgon, made this statement that I think deserves our attention. She stated:

> The Public Service Commission was created by an act of Parliament in 1918, originally named the Civil Service Commission of Canada. This action by the Parliament of Canada represented a significant step towards creating a professional, non-partisan public service that has become known as one of the best in the world. The mandate of this Commission is rooted in the merit principle.

Ms. Bourgon went on to say:

> Merit in the Public Service means competence, but it also means the absence of patronage [...], and non-partisanship, the requirement for political neutrality in serving the duly elected government of the day. In carrying out its responsibility, the Public Service Commission has been instrumental in building a professional, non-partisan public service; a great Canadian strength.

Why, then, does the government want to water down the mandate of the Public Service Commission? Why does it want to take the commission out of the day-to-day supervision of competitions for public service positions? How is it to play its role in promoting employment equity if it has limited say in the hiring process?

Currently, the Public Service Commission is headed by a president and two full-time commissioners who serve for 10-year terms. The commissioners all enjoy the rank of a deputy head of a department, and they are prohibited, honourable senators, from taking on any other employment as, in the words of the current Public Service Employment Act:

> A commissioner shall not hold any other office in the Public Service or engage in any other employment.

They are able to devote, therefore, under the current model, their undivided attention to the mandate of the Public Service Commission.

Under this bill, we will have only one full-time president and two or more part-time commissioners. Part-time commissioners will be able to take on other work, subject only to the stipulation that it not be inconsistent with their duties. Why, at the same time that Bill C-25 waters down the merit principle, does it water down the ability of the Public Service Commission to carry out its mandate by replacing commissioners with full-time appointments with part-timers who will not be able to devote their full attention to the role of the commission? I find that not to be a move in the right direction, if indeed we are really intent on modernizing our public service and building on the strengths of the past.

Honourable senators, I will now turn to my final point in the remaining time available to me. In late 2001, the government put in place, perhaps with some urging from this house, a policy on the internal disclosure of information concerning wrongdoing in the workplace or, in other words, the government set in place a policy on whistle-blowing in the public service. It appointed Dr. Edward Keyserlingk as the federal Public Service Integrity Officer under that policy.

Internal policies on whistle-blowing are much more effective, however, when they go hand in hand with concrete and specific legislation that clearly sets out the protections extended to employees who report wrongdoing. In other words, whistle-blowing mechanisms are only as good as the anti-retaliation measures that are attached thereto.

• (1050)

The existence of such legislative protection is a critical factor in making employees confident that they can safely come forward without fear of repercussions to their own career paths or, indeed, their own employment.

The current integrity officer who has been operating under the policy has been quoted as saying that with the existing policy "...we do not have subpoena powers. We do not have a tribunal whereby we make a ruling and then make it stick according to some established form of legislation." Honourable senators, this bill before us puts that policy into legislation. You will find that in clause 11.1(1)(*h*), which states that the Treasury Board may:

> (*h*) establish policies or issue directives respecting the disclosure by persons employed in the public service of information concerning wrongdoing in the public service and the protection from reprisal of persons who disclose such information in accordance with those policies or directives;

Honourable senators, good whistle-blowing legislation is unlikely to be successful if it is not very carefully drafted to include certain critical requirements. Those critical requirements, *inter alia*, include: one, protection for an employee who comes forward in good faith with information about wrongdoing in the workplace; two, protection for public servants who are the subject of vexatious complaints, or complaints made in bad faith by those who purport to be whistle-blowers seeking the protection of legislation; and, three, a complete set of appropriate remedies for the whistle-blowing employee who ought to have both the remedies available in legislation and all existing remedies provided in both the civil courts and by any grievance process.

Although Bill C-25 says that the policy would "provide protection from reprisal" for the whistle-blower, it does not actually include a mechanism for that protection, nor does it make it an offence in law to retaliate. The bill does not even mention protection for the employer when an accusation of wrongdoing by an employee is made in bad faith.

The Professional Institute of the Public Service and the Canadian Taxpayers Federation appeared before the Standing Senate Committee on National Finance during its hearing on Bill S-13, the Public Service Whistle-blowing bill. Both PIPS and the federation wanted to see the then Bill S-13 broadened to include a larger number of federal employees. Bill C-25 does not include any of the many Crown corporations.

The taxpayers federation believed that any whistle-blowing legislation must be guided by six principles. They are that the whistle-blower must have reasonable belief of unethical activity, and that this belief be supported through physical evidence and evidence of gross mismanagement in the supervisory chain; that the whistle-blower must be able to make his or her claim to an independent body that is not subject to political influence; that the whistle-blower must be protected from any form of reprisal; that adequate legislative protection must exist to ensure that investigations are carried out in a manner consistent with Canada's key criminal justice provisions of being innocent until proven guilty; that there should be adequate retribution and disciplinary measures for those individuals who seek to use the legislation as merely a shield to attack government policy or abuse the legislation with intent to personally harm others; and there should be a mechanism that allows for reporting through to appropriate legislative officials on recommendations for changes to various statutes.

Honourable senators, I would like to draw your attention to an important development. Yesterday, the Minister of Justice introduced a bill in the other place to deal more effectively with the issue of capital markets fraud. The government has made it a criminal offence for an employer of a private corporation to retaliate against a whistle-blower. The government now has its own document introduced into the other House. They have bought into the principle. The government itself, in its documents, states that:

> Currently, these individuals who play a pivotal role in exposing fraud can be threatened by their employer in many ways, including loss of employment. The new Criminal Code offence is designed to protect those who expose wrongdoing.

Honourable senators, this chamber has played a helpful role in the ongoing sensitization process of alerting the government to the importance of having whistle-blowing mechanisms available, and having them available in the Public Service of Canada. The one paragraph of the bill that alludes to the principle, together with the bill that was introduced by the government yesterday in the other place, should fortify the committee to which this bill will be referred to take a hard look at improving the whistle-blowing mechanisms in Bill C-25.

Hon. Rose-Marie Losier-Cool (The Hon. the Acting Speaker): If there are questions of Senator Kinsella, it will be necessary for him to ask for leave to answer, since his time has expired.

Is leave granted, honourable senators, for Senator Kinsella to answer questions of honourable senators?

Hon. Senators: Agreed.

Hon. Donald H. Oliver: Honourable senators, Senator Kinsella commented on the fact that two of the commissioners who are now on the Public Service Commission will become not full-time but part-time. The honourable senator spent some time in his remarks discussing that, suggesting that it seems to be a problem.

Could the honourable senator give us some public policy reason why two of the three commissioners of the Public Service Commission should be removed from full-time to part-time? What can possibly be the rationale for something like that?

Senator Kinsella: I thank the honourable senator for his question. In my judgment, it is a critical issue. I do not know what could possibly be the public policy or public administration principle upon which such a proposal could rest. From the public administration standpoint, the work that has to be done by the Public Service Commission is onerous. It certainly is serious and has proven itself to be such from the time the Public Service Commission was founded back in the second decade of the last century.

It speaks to a mechanism that guarantees the merit principle. It speaks to a mechanism that has worked. It also speaks to the public service having a full-time and robust commission to provide the kind of oversight that the Treasury Board itself cannot provide. There is the assumption that the managers throughout the machinery of government, starting with Treasury Board, can manage things themselves.

As I said in opening my remarks, the public service is not like a corporation. The people of Canada who receive the service from the public service are not customers. The citizens of Canada are not clients. We are the citizens of Canada.

There is an important cultural difference between a public service commission and an ordinary private sector corporation in that the management principles, the public administration principles, which are encouraged, developed and, indeed, creatively developed by the senior managers at Treasury Board, permeate the public system, and well they should.

• (1100)

However, it is the Public Service Commission that protects the culture of the public service from being an ordinary business. Rather, it is there to protect such rights as the right of every citizen of Canada to have access to participate, himself or herself, as a public servant in the Public Service Commission. That principle flows from our sense of citizenship rather than from business management principles.

Hon. Pierrette Ringuette: Honourable senators, I wish to give my appreciation to Senator Kinsella for expressing the right of every citizen in our country to participate and the influence that this participation has in policy development. The commission is a formal institution. It has a life of its own and it has its own way of contributing, not necessarily through Parliament, but through its own means.

I also listened carefully to my honourable colleague's remarks in regard to full-time commissions and part-time commissions. I have read that a new arm's-length tribunal has been created with its own people to ensure the process of listening to complaints from the internal mechanism of the public service. The Public Service Commission has acted sometimes as employer vis-à-vis the unions and negotiating units and sometimes as the employees' representative toward the Treasury Board. There were conflicting mandates here.

Responsibilities and time requirements are being moved from the commission, per se, to this new tribunal. It will hear internal complaints. I agree that we have to seriously look at the new tribunal and how it will create an arm's-length distance from the commission. It will have to deal with conflicting mandates from the commission.

Senator Kinsella: I thank the honourable senator for her comments.

Let me begin by making comments based on my limited experience as a deputy minister in the federal public service. It is certainly to be encouraged at the departmental level that labour relations and the cultural issues within a given ministry be resolved within that ministry. I believe that in recent years we have seen that effort increased and encouraged by policies of the Treasury Board.

With regard to the participation that occurs at the public servant level in the formulation of public policy, it was my experience that unless a given department had good participation from public servants who came from all parts of Canada, there was a tendency for a policy, a program or advice to the minister to be shaped with a very narrow mindset. I would not want to particularize matters, but it has happened that if something works in the axis of Montreal, Ottawa and Toronto, then we just make it fit in with the other parts of Canada. However, if public servants who come from the breadth of Canada are sitting around the planning table — and for me that was so terribly important — we would not end up with ministers receiving policies shaped by a narrow band, but rather a broad one. No one should be shoehorned into a policy developed with a limited view of the country.

I remain convinced that the role of the Public Service Commission, the civil service commission, is radically distinct from the management role of Treasury Board and that it operates on different principles. As far as public service labour relations are concerned, they must be developed. With regard to our experience of the Public Service Labour Relations Act and the history of labour relations in the public service, there has been arrogance along the way, but by and large, public service labour relations in Canada have not been too shabby.

Hon. Anne C. Cools: Honourable senators, I wish to join briefly in the debate on Bill C-25 and, in particular, the subject matter that we call the oath of allegiance. I am a great supporter of our system of governance in Canada, and I believe quite strongly that we should maintain the oath of allegiance. I would hope that the Senate committee would look at this particular matter.

I begin by reading Psalm 72. Remember, Canada is a dominion. Originally, the Fathers of Confederation had wanted to name Canada a kingdom. There was some concern that the sensibilities of the Americans would be wounded. Instead, Canada was named a dominion. The words were taken from Psalm 72, verse 8. Reading from the King James version:

> He shall have dominion also from sea to sea, and from the river unto the ends of the earth.

That is a Psalm of Solomon. As we know, all the Psalms are beautiful, but the Psalms of Solomon are especially precious.

I wish to speak, if I could, a little about allegiance. It is called the law of allegiance. In particular, I should like to speak about the requirement that all of us here must take an oath of allegiance. I would begin by defining "allegiance." This word is derived both from Norman French and also from Latin, particularly the Latin word *ligare*, to bind, and the Norman French "allegiance," which was spelled a-l-e-g-g-e-a-u-n-c-e. "Allegiance" is defined as the natural, lawful and faithful obedience that every subject owes to the supreme magistrate who will not overstep his or her prerogatives. It is the tie or *ligamen* that binds the subject to the sovereign in return for that protection which the sovereign affords the subject.

We must understand that much of the moral fabric of the system is born from the oath of allegiance or has its source in the oath of allegiance, in that mutual set of duties that are owed back and forth, particularly if we look at issues such as the Queen's peace, mercy, justice and honour, the whole business of taxing, trials, courts and so forth. These mighty powers of allegiance and great duty are also buttressed by the awesome and frightening powers of the law of treason. The law of treason is born out of violation of the law of allegiance.

• (1110)

In Canada, allegiance was extremely interesting and extremely important. We must remember that Canada, as a country, has two origins. It has origins of a settled territory and it also has origins of what we would call conquered territory. If one were ever able to look at the discussions, for example, on the question of the 1763 Treaty of Paris and what was called the settlement around capitulation, we would discover that there was much debate and much discussion on the question of allegiance. In the conquered territories at the time, there were large numbers of French Canadians, Acadians and many other persons who were affected one way or the other.

Most honourable senators here will know that His Britannic Majesty granted permission to leave to all those who wished to leave and was able to provide passage for them if they wanted to return to France, or wherever. To those who opted to stay, we also know that the grand grants that were given in respect to the rights to religion and the rights to the French language were later embodied in the Constitution Act of 1791, essentially civil law, language and religion.

I have a quotation that I want to read. On the question of allegiance, there was some concern that some people might be allowed to stay and live in a neutral state of allegiance. To those people, the very mighty British general replied: "They become subjects of the King." In other words, whoever opted to stay in Canada would become subjects of the King.

Allegiance in Canada has a slightly different history than that in some other countries because of the conquests and capitulation, as some have called it. At some point in this discussion, perhaps we can look again at the dialogue of Major General Amherst and the Marquis de Vaudreuil on the question of allegiance. It was a very difficult period of time, especially after they combined the civil and military rulers in the person of one governor. I believe his name was General Murray.

In any event, I want to say strongly that this is part of our heritage, and it is a part of our system. It is something that should be maintained, fostered and held as a sacred thing. I know that when I first walked into this chamber and put my hands on a Bible and swore my oath of allegiance, I took that as a very solemn occasion. I took it very seriously then, and I take it very seriously now.

I shall be appealing to Minister Lucienne Robillard to seriously consider the reinstatement of the oath of allegiance in this particular bill. We must understand that everyone is not obligated to take the oath of allegiance, but it was always thought that higher officers of state or higher officers of the public service should have to take the oath of allegiance. In any event, I do think it is important that the oath of allegiance be given serious attention.

I wish to raise another point, which I hope the committee will examine. It has to do with the fact that this particular Bill C-25, by touching the oath of allegiance, is wandering into the area of Royal Prerogative. The relationship between Her Majesty in Canada, the Governor General and the Parliament of Canada demands, as is the law of Parliament, that any bill that touches the Royal Prerogative requires the Royal Consent. I have heard no mention of that yet. I thought that I should put it on the record.

If honourable senators will recall, some years ago we had a bill called Bill C-20. I think that it was known as "the clarity bill." At that time, Senator Joyal was one of several senators, including myself, who kept raising the question of the Royal Consent. In point of fact, the then government leader in the Senate, Senator Boudreau, at one point in time rose in this chamber and gave the Royal Consent. The committee should be mindful that, to date, there has been no indication that the Royal Consent has been granted in this instance.

I wish to read from Beauchesne's 6th edition. Paragraph 726 states as follows:

> The consent of the Sovereign (to be distinguished from the Royal Assent to Bills) is given by a Minister to bills (and occasionally amendments) affecting the prerogative, hereditary revenues, personal property or interest of the Crown.

Later, paragraph 727(2), states:

> The procedure with respect to signifying the consent is different from that in giving the recommendation of the Crown. The recommendation precedes every grant of money, the consent may be given at any stage before final passage, and is always necessary in matters involving the rights of the Crown, its patronage, its property and its prerogatives.

To the extent that the oath of allegiance is taken to the sovereign and is taken to Her Majesty, it is very clear that this bill touches on that particular Royal Prerogative. I would hope that the committee would take care to examine that in actual fact Her Excellency Adrienne Clarkson, the Governor General of Canada, has been consulted on this matter and has given her agreement, because the Royal Consent is a kind of a Royal Assent that comes first, although it is a different process. If perchance Her Excellency Governor General Adrienne Clarkson has not been consulted, perhaps this committee will find it in its wisdom to bring forth recommendations to see that that happens. What we are talking about here, as I said before, is explicitly the business of the sovereign.

Honourable senators, I should like to say that, quite often, there is so much misunderstanding about allegiances and loyalty. Allegiance is not interchangeable with loyalty. Allegiance is a peculiar, high form of loyalty coming out of the phrase "loyalty to the lord liege" — loyalty to the lord king.

In Canada, allegiance is not owed to governments or countries. Allegiance is owed to Her Majesty the Queen, the sovereign. The system has always comprehended that allegiance has to be owed to a single person undivided, a sovereign. That single person is the actuating power of the Constitution. In Canada, every aspect of our Constitution is actuated by Her Majesty the Queen. Whether it is a criminal proceeding in a court, a decision to prosecute, an appointment of a judge, an appointment to the Senate — whatever it is — the actuating power of the Constitution is the sovereign, in this instance, Her Majesty the Queen.

In many recent years there have been many serious attempts to lessen that power, to such an extent that large numbers of Canadians now believe that the role of the Governor General is a ceremonial one. I tell you, the Governor General in this country is not an ornament. Rather than mislead people and describe it as ceremonial, I say that Government House is no ceremonial home. Government House is a power house. What the Governor General does all day is sign instruments of power. This is something I feel quite strongly about.

• (1120)

Honourable senators, it is important that we understand that governments represent really the politics of the day and a decision of the day, but it is the sovereign who represents the entire country and the people of the country. The oath of allegiance is about that relationship between the individual citizen and the sovereign, the individual subject and that Queen. A characteristic of our system is the fact that every single individual has a particular and a peculiar individual relationship with the Queen. Every citizen is open to petition the Crown on any issue at any time. This is one of the marvellous things about our system — that almost personal relationship that is supposed to exist between subject and Queen.

Honourable senators, in view of all of that, I just plead that we will take a look at what I call this "law of allegiance," this particular change, and do our best with the subject-matter.

In closing, I would also like to say that I have had a conversation with Madame Robillard about this matter. I have already spoken with the chairman of the committee, and I shall attend the committee meetings to raise the issue.

Senator Murray: You are most welcome.

Senator Cools: Thank you so much, my dear honourable chairman, one of the finest chairmen anywhere.

I would like to close by saying a few simple words: Long live the Queen! God save the Queen! Long may she reign over us!

The Hon. the Speaker: Do other honourable senators wish to speak?

Hon. Senators: Question!

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

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Carstairs, bill referred to the Standing Senate Committee on National Finance.

CRIMINAL CODE

BILL TO AMEND—MESSAGE FROM COMMONS—REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the fifth report of the Standing Senate Committee on Legal and Constitutional Affairs (motion and Message concerning Bill C-10B, to amend the Criminal Code (cruelty to animals)) presented in the Senate on June 12, 2003.

Hon. George J. Furey: Honourable senators, I have the unusual opportunity of rising today to speak to you a second time in support of your committee's amendments to Bill C-10B.

This house instructed the Standing Senate Committee on Legal and Constitutional Affairs to consider and report on a motion of Senator Carstairs and on the message from the other place. Your committee heard certain witnesses explaining the reasoning of the other place.

I must say, honourable senators, that I feel that we are at a delicate stage in the legislative process. Bill C-10B is a good and popular bill for reasons that have nothing to do with the suggested amendments. It would be unfortunate in the extreme if our legislative process did not produce this bill at its ultimate conclusion.

I commend Senator Joyal's book to any senator seeking guidance on when and how this chamber has amended bills in the past. I was particularly happy to see that amending bills is a well-accepted function of this house in its modern constitutional form. I was also careful to note that Senate insistence on amendments is a much less common legislative fact. I take from this that there must be good, sound reason supporting Senate insistence on amendments.

It is with the greatest of caution that I suggest that in the present case such reasons exist to request that the other place consider our amendments at least one more time before this house takes a final decision on whether insistence is a wise policy. I would like to add, honourable senators, that I believe in and accept the concept and the principle of sober second thought. However, I also feel that it ought not to be translated into an unnecessary legislative roadblock.

That being said, there are good reasons to support your committee's amendments. For example, the present Criminal Code contains sections 444 and 445, clauses that prohibit killing commercial animals and domestic animals. Two courts in this country, the Court of Appeal in Quebec in the case *R. v. Ménard,* and the Court of Appeal in British Columbia in the case of *R. v. Brown,* have told us that these two provisions are in the Criminal Code as protections benefiting, not the animals, but the owners of the animals. The new bill introduces a new offence of killing all animals. It will now be an offence, if this bill is passed, to kill wild animals. That has never been the case before. Your committee amended this by removing this killing provision.

The reasons of the other place for rejecting our amendment focused on the fact that persons charged under the new offence can come to court and say that they have a lawful excuse. The reasons of the other place suggest that the phrase "lawful excuse" is a concept capable of allowing all of the legitimate animal killing that we have presently going on in our country today. With the greatest of respect to the other place, there are strong reasons to question this thinking.

First, Justice Sopinka in the Supreme Court of Canada decision *R. v. Jorgensen* says that holding a provincial permit will not constitute a lawful excuse in a Criminal Code offence. Second, Justice Dixon in the Supreme Court of Canada case *R. v. Holmes* says that the phrase "without lawful excuse" in most cases is just a representation of the ordinary common law defences, like mistake of fact or duress. The reasoning of the other place makes references to this Justice Dixon reasoning, but the other place fails to recognize that the *Holmes* case was a Supreme Court split decision on whether the phrase "without lawful excuse" meant anything at all.

In other words, this supposed protection upon which the other place is asking us to rely to defend all the accepted legitimate animal killing practices in the country, in my humble opinion, and in the humble opinion of the committee, is not a strong foundation.

Third, the Justice Department, under the reasoning of the other place, persists in the notion that this new set of words "wilfully killing an animal without lawful excuse" is simply a restatement of the present Criminal Code. Honourable senators, this is not the case.

• (1130)

The clauses in the present Criminal Code have been explained by courts of appeal in *Brown* and *Menard,* and these explanations rest on the ownership of a particular animal. These ownership clauses are now eliminated. The courts will be required to produce a new interpretation. I am not confident, nor is your committee, that the courts will simply reproduce the old understanding, because the words have been radically altered and are no longer related to animal ownership.

Honourable senators, your committee carefully considered the message sent by the House of Commons on the subject of Bill C-10B. The committee held meetings, as was pointed out, on the arguments contained in the message as well as on the debates that took place in the House of Commons on the Senate amendments. The committee heard from Mr. Paul Macklin, Parliamentary Secretary to the Minister of Justice, in order to fully assess the rationale for the decisions of the House of Commons on the Senate amendments. It was clear from this latter meeting that there is a fair amount of agreement in both Houses on the need for cruelty to animals legislation that recognizes reasonable and generally accepted practices involving animals, that is scientific research conducted in accordance with generally accepted standards, traditional hunting and fishing practices of Aboriginal peoples, reasonable and generally accepted practices of animal management, husbandry or slaughter. Where the Houses differ, however, is on the methodology that should be adopted to ensure the legal recognition of such practices.

Therefore, in a spirit of cooperation, the committee has tried to make some accommodation to the other place. It accepts, with modification, amendment 4 dealing with colour of right. With respect to amendment 2, your committee has insisted on its original amendment because it remains convinced that this amendment offers better protection to individuals engaged in generally accepted practices involving animals, as referred to above.

The committee also remains convinced as to the merits of amendment number 3, dealing with Aboriginal peoples. However, the committee did make a change to the amendment in order to address concerns raised in the House of Commons that the Senate amendment as originally proposed would allow an Aboriginal person from one geographic area to go to another area where Aboriginal peoples have rights and make a claim under the proposed provision.

Honourable senators, your committee feels that the changes they have proposed are in the best interests of all Canadians, and hopes that this chamber and the other place eventually will be persuaded of this as well. As chair of the committee, honourable senators, I humbly request your support for our report.

[*Translation*]

Hon. Gérald-A. Beaudoin: Honourable senators, Bill C-10B is destined to go down in history. It began as Bill C-10. Over time and at the Senate's invitation, it was split into two bills, called Bill C-10A and Bill C-10B. The Senate sent the bill to the other House, which concurred in the division of the bill.

In my opinion, a precedent has been created. It should be noted that, subsequently, Bill C-10A received Royal Assent. The Standing Senate Committee on Legal and Constitutional Affairs was already considering Document C-10B, and the committee completed its work on this bill and then reported it to the Senate with five amendments.

The Senate adopted the amendments and sent a message to the House of Commons, which returned it to the Senate with a message. We are pleased that the House of Commons has accepted amendments numbers 1 and 5. With regard to amendment number 2, we insist on our original amendment, because we are convinced that it provides better protection to individuals engaging in activities involving animals.

[*English*]

Our committee also remains convinced as to the merit of amendment number 3 dealing with Aboriginal people, as we have said in our report. However, and I am quite sure that some other colleagues will intervene on this, the committee did make a change to the amendment in order to address the concerns raised in the House of Commons that the Senate amendment, as originally proposed, would allow an Aboriginal person from one geographic region to go to any area where Aboriginal peoples have rights and make a claim under the proposed provisions. We had a very interesting discussion in committee on this, with Senator Andreychuk and Senator Joyal *inter alia*.

[*Translation*]

So, there is agreement and a certain amount of disagreement. We had been considering Bill C-10A and Bill C-10B for nearly a year, and much of the work was done in committee. I am very proud of the committee's work, during which we heard from well-known experts, particularly scientists.

[*English*]

As far as the protection of Aboriginals is concerned, it has always been my intention to study this problem more deeply. We made a mistake in 1867, in the Constitution. We did not give enough power to the Aboriginal nations. We corrected that in 1982, and now we have to do something more. I am quite glad that Senator Carstairs, the Leader of the Government in the Senate, has referred to our Legal Committee the task of studying the non-derogation clause. We have to find a solution. However, the fact that our Legal Committee is to study the question of non-derogation clauses does not solve the actual problem. The study that will start in the committee this summer will take a certain time, and pending that interval it is mandatory to vote our amendment as improved in the committee.

On the whole, this was a very interesting mandate that we received one year ago on this question of Bill C-10A and Bill C-10B, and I am quite confident that we may reach an agreement with the House of Commons. I gladly leave time for the other members of our committee because the committee has worked tremendously well and long. I leave to them the pleasure of speaking on the five amendments.

Hon. A. Raynell Andreychuk: Honourable senators, I want to associate myself with the comments made by the two previous speakers, the chair and the deputy chair of the committee. This has not been an easy process, but I think that there was absolutely no disagreement in the committee at any time as to the objectives of the bill, and the government's objective in attempting to bring more focus to the fact that inhumane treatment of animals will not be tolerated, and that our view has evolved into how the treatment of animals should be taken care of today.

• (1140)

Because of this evolving standard, there are certain practices for cultural, religious, historical and practical reasons upon which we should not intrude. This bill, therefore, caused great difficulty for the committee in ensuring that current practices continue by virtue of this act and that the wording itself not preclude what we intended. Therefore, the first series of amendments was put forward. A second series of amendments, which we are respectfully asking the House of Commons to consider, have now been put forward.

I will not go through all the other amendments, but I do want to focus on the Aboriginal amendment. Previously, I raised some concerns about this amendment because, in all our discussions, we look at the wording. I think it is only fair that we not accept only one interpretation of the wording. In fact, the department would come and say that this is the interpretation that would flow in the courts. In my respectful opinion, the department's opinion is just one opinion, not the definitive opinion. If the department's opinion were the only opinion, then we would not have the myriad of cases and the number of times that citizens find themselves having to go to the courts for decisions. The department's opinions are not always upheld in the courts.

It is particularly important when we intrude on people's practices and livelihoods, as we are with hunters, trappers, fishermen and those involved in agriculture and animal husbandry, that we be very careful to canvass all possible and probable approaches and that we take the safest route in ensuring that those practices continue. Equally, we must be very careful not to intrude unduly on religious practices. I believe that the wording we have come up with and the reasons for the colour of right defence are the best protection for these situations.

With respect to the Aboriginal amendment, I commented last time on why we needed a reverse onus situation. I did not intend that to mean that Aboriginal people should not have a non-derogation clause. My frustration was, and continues to be, that we gave Aboriginal people their rights in the Constitution and that we continually, by process, by law, ignore their rights. In fact, in practice the government often passes legislation without full and adequate consultation and without full regard for the section 35 protections for Aboriginal peoples.

These are not just practices that we in our society wish to uphold. They are constitutionally guaranteed rights. We must be conscious to give effect to them. It is a sad statement in Canadian society that we have reached for non-derogation clauses to remind ourselves of our rights. Surely, we can do better. I hope that the committee, in studying non-derogation clauses, looks not only at the issue of non-derogation clauses but at how we can impress upon ourselves, the government and the bureaucracy that it is not tolerable in 2003 to continue to pay lip service to Aboriginal rights while we go on about the business of forming and defining our society without due regard for their rights and protections as stated in the Constitution.

It is not an answer for the rest of society to say that we think these are the best practices and rules by which we wish to live, when we have said to the Aboriginal people in the Constitution that they have a right to determine their own destiny, subject only to the identifiable qualifiers in the Constitution, not a qualifier of disregard and disrespect for those sections of the Constitution.

I thank Senator Joyal for his consideration when he originally proposed the Aboriginal amendment. There was a phrase used about protecting the harvesting rights of Aboriginal peoples in any area in which they have harvesting rights. Because there are so many examples of Aboriginal treaties, agreements and practices, one interpretation of the words "any area" — perhaps not the most important interpretation or perhaps not one the courts would have brought against this area — could have meant that once Aboriginal people have gained rights for hunting and trapping, they could go anywhere in Canada and exercise those hunting and trapping rights. In fact, that would not be in keeping with previous agreements, practices, traditions and rights. This could lead to some confusion.

The committee accepted that it would be more appropriate to say "in the area in which the Aboriginal person has harvesting rights," thus protecting the existing rights of all Aboriginal peoples to hunt, trap and fish where they have traditionally carried out those practices. Thus, where they are undefined, Aboriginals will continue to have the discretion to hunt, trap and fish as their ancestors had. Where Aboriginal people have overlapping rights, and I recall Senator Gill discussing this issue, the customary practices of Aboriginal peoples would apply. Consequently, there would be no intrusion on those rights.

Where Aboriginal rights have been clearly defined and accepted within treaties, those will be the hallmarks of how Aboriginals will hunt, trap and fish. The new wording clearly states that we support all Aboriginal rights for harvesting in the traditional manner, where they have done so before, without intrusion. Therefore, there should not be any misunderstanding or confusion by this further amendment. I accepted that the House indicated there was some confusion. I believe they should now accept our amendment because it erases the confusion.

Surely, the House did not mean that the confusion is that there are still existing treaty rights to be negotiated. In fact, we are in that process. However, in those cases, there are protocols for the administration of justice in each province as to how they enforce the criminal law, and those will apply. This will not open up a new area or set a precedent. For example, in Saskatchewan, where the administration of justice follows a protocol as to how to approach the Metis in regard to their hunting, fishing and trapping rights, this section will now follow suit and be part of those protocols.

With the further consideration of the comments made by the House of Commons, I think we have cleared away any misunderstandings and any legitimate differences of opinion that could be raised by the interpretation of this section. I believe that we should put this Aboriginal section back into the act.

The Canadian government continues to say, and Senator Carstairs very strongly expressed this point, that it is the will of the government to look at non-derogation clauses. This would not be the time to pull a non-derogation clause away from Canadians. This would be seen as the government acting differently from the way it has in the past.

• (1150)

The Prime Minister has said, in his own speeches, that he is committed to Aboriginal issues. While non-derogation clauses seem to be a stopgap measure, they are nonetheless a positive sign that we do care what we put into our Constitution, and that we do place great emphasis on it. To remove such a clause now would be to send the wrong signal to Aboriginal people. Therefore, I strongly suggest that this house accept the amendments that we have put forward, and that the House of Commons and the government take the lead in encouraging, where they can, both this house and the other House to accept our amendments. There would then be consistency when we say we respect Aboriginal rights, and that we need this legislation to protect animals in the future in a more humane way than perhaps we have in the past.

On motion of Senator Robichaud, debate adjourned.

ANTARCTIC ENVIRONMENTAL PROTECTION BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-42, respecting the protection of the Antarctic Environment.

Bill read first time.

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

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

INJURED MILITARY MEMBERS COMPENSATION BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-44, to compensate military members injured during service.

Bill read first time.

SECOND READING

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

Hon. Senators: Now.

Hon. Joseph A. Day: Honourable senators, I therefore move, with leave of the Senate and notwithstanding rule 57(1)(f), that Bill C-44 be read the second time now.

The Hon. the Speaker: Is leave granted to hear this matter now?

Hon. Senators: Agreed.

Senator Day: Almost eight years ago, honourable senators, a Canadian soldier serving in Croatia was travelling on a road that was supposed to be cleared of land mines, but his vehicle hit a land mine. When he woke up in hospital, he had lost both legs.

Honourable senators know about land mines. We do a lot of work with respect to them, and I am very proud of being part of the work that we do. With respect to this particular situation, we have an opportunity to rectify another wrong.

That officer's name is Major Bruce Henwood. As he began his struggle to learn to walk with two artificial legs, he found that he had another difficult struggle ahead of him. He learned that he was not covered by insurance and he did not receive a lump sum payment for the dismemberment that he had suffered. He had been forced to pay into this program, like all officers. He learned, as he proceeded through this struggle, that generals had that insurance coverage. Had there been a general in that vehicle, the general would have received compensation for the loss of his legs. Had it been any one of us, honourable senators, we would have received compensation. However, non-commissioned officers were not covered by the same insurance.

Major Henwood felt that this was wrong. He felt that this injustice needed to be corrected, so he began a long struggle to convince the Department of National Defence to change the rules to make the insurance coverage the way he felt, and the way all of his colleagues felt, it should be. He was doing this not for himself but for all of the other members of the Armed Forces.

The Senate committee took up this matter when it was brought to its attention. Honourable senators have heard from several members of our Subcommittee on Veterans Affairs, pointing out the injustice of this situation. To his credit, when the Minister of National Defence, the Honourable John McCallum — and he was fairly new to this ministry, as honourable senators will recall — learned of this situation, he stated that this situation was not acceptable. He said that, like other Canadians, he was struck by the unfairness, and he immediately started the process of changing the situation.

He also assured the committee that he fully believed that if the anomaly was unfair today, it had been unfair since 1972 when this insurance program was first implemented. He stated, however, that the implementation of retroactivity was difficult and would take some time. The Minister of National Defence, at the time of our hearing, as seen in the Senate report of April of this year, announced immediately that coverage for dismemberment would be a lump sum payment. Had this accident happened after April of this year, Major Henwood and any other individuals would be covered. The retroactivity from 1972, when the insurance program first went into place, and the time of the announcement this year, has now been covered by Bill C-44. That is what it deals with. This is a commitment by the Minister of National Defence, which he has met, yet it applies for the period of time from 1972 through to February 12 of 2003, when the other announcement was made.

This is not a complicated bill, honourable senators. It is exactly what was asked for by your committee and brought back to this chamber, and no more.

Honourable senators, this is a triumph for the work of the Senate. This is a triumph for the Minister of National Defence in his understanding of and compassion with regard to correcting a serious injustice. Most of all, this is a triumph for Major Bruce Henwood and his wife.

• (1200)

Hon. J. Michael Forrestall: Honourable senators, it is an honour to participate in this debate on Bill C-44, to compensate military members injured during service.

As honourable senators know, Canadians have been actively in harm's way for a long time now. This bill, hence, is long overdue. If there were one immediate criticism of the bill, it would be that it took this long for not only the present government but a series of governments to deal with it, to move and to compensate Canadian Forces members for loss of limb or other dismemberment.

Honourable senators, soldiers, sailors and aircrew are different from the rest of us. They operate under a contract of unlimited liability, which, in essence, means that they sacrifice themselves, if need be, so that other Canadians might live a normal and peaceful life. General Sir John Hacket once mused that the whole essence of being a soldier was "to offer yourself up to be slain and not to be the slayer." Honourable senators, soldiers sacrifice themselves for the rest of Canadian society and for the rest of the world. That, to me, and I am sure to all of you, is a pretty selfless position.

In 1995, as Senator Day has just indicated, Major Bruce Henwood tragically lost both legs while serving with the United Nations in Croatia. Some of you might wonder why I ask, sometimes almost rhetorically, are our men and women protected? Do they have all the protections they need for themselves and their families? I ask that because, in this case, the United Nations did not help. Their program did not help. We must always be alert and conscious of these men and women that we place in harm's way so that we might enjoy peace here.

To people such as Major Henwood, a good man, a fine soldier, a true, unsung Canadian hero, go the credits and the laurels for bringing this matter to pass.

In the past, under the Service Income Security Insurance Plan, SISIP, as Senator Day has indicated, everyone below the rank of colonel received income protection to the tune of 75 per cent of their salary in the event that they suffered long-term disability or dismemberment in the line of active duty — 75 per cent. How is that for a grateful nation? Imagine losing your legs or an arm, and the nation decides that it is worth 75 per cent of your salary.

I would be somewhat remiss in not telling the chamber that Major Bruce Henwood appeared before the Subcommittee on Veterans Affairs, not for himself, as Senator Day has indicated, but on behalf of other Canadian Forces personnel, to ensure that they received the compensation they required and deserved in the event of tragedy. That is courage. In committee, we found that parliamentarians, colonels and general officers, the RCMP and senior executives of the public service received a lump sum payment in the event of accidental death and/or dismemberment. Why the difference for our soldiers, sailors and aircrew, who put their lives on the line year in and year out, day in and day out? Are Major Henwood's legs less valuable than, say, yours or mine? Does he and veterans like him in Canada's foreign wars not deserve our highest considerations for such losses?

I am glad to say that the government has seen the lack of wisdom in the past, and this government, on behalf of several governments before it who failed to see the devil in their ways, has moved to address this issue and to right these human tragedies through Bill C-44. Its stated purpose is:

> ...to provide compensation to serving and former members of the Canadian Forces who suffered an injury attributable to service that resulted in dismemberment or the loss of sight, hearing or speech, and who were not entitled to a lump-sum payment under an insurance plan provided by the Government of Canada.

I am also relieved and indeed happy to say that this bill applies to all members of our reserves as well as our full-time soldiers.

The terms of compensation are set out in clause 4 of the bill. I commend its reading to all honourable senators. We are here, after all, to help protect those elements of society that cannot do it for themselves.

Clause 5 states that lump sum payments are limited to $250,000 for members of the regular force, Class "C" and Class "B" reservists, but it limits compensation to $100,000 for Class "B" reservists under 180 days and Class "A" reservists in the same category. At the risk of infringing upon prerogatives, let me just add, parenthetically, if you will, that this is perhaps short-sighted but does not, in any way, detract from what is a very welcome piece of legislation.

Clause 7 makes compensation retroactive. Indeed, for those personnel who have passed away, it provides their estates with a mechanism to seek compensation.

The bill leaves great discretion to the Minister of National Defence, a problem found in a number of the government's recent pieces of legislation. Let us hope that the ministers, both the Minister of National Defence and the Minister of Veterans Affairs, use their powers with God's guidance to speed compensation, to cut through red tape, and to clear up matters that constitute the backlog. It, incidentally, is not over-burdensome.

Bill C-44 also makes coordinating amendments to several other acts, including the Aeronautics Act, the Canada Shipping Act, the Canada Courts Administration Act, and later, when given Royal Assent, the Public Service Modernization Act.

No bill is perfect, but this Bill C-44 is, sadly, much needed now. Today, honourable senators, we will be able to look Major Henwood, a Canadian hero, in the eyes and say thank you for this bill. I know that Senator Meighen and other senators on the Subcommittee on Veterans Affairs of the Standing Senate Committee on National Security and Defence will salute the ministers for their prompt response to Major Henwood's plea for justice. I appreciate it very much indeed.

Hon. Douglas Roche: Honourable senators, I wish to go on record as fully supporting this bill. I align myself with the speeches of Senator Day and Senator Forrestall.

[*Translation*]

Hon. Marcel Prud'homme: Honourable senators, we have an expression in French that I think is the same in English: "Better late than never."

I am very pleased with this bill. It will help me somewhat in accepting two major errors of the past.

[*English*]

I never accepted the dismantling of the Airborne Regiment. I especially never accepted the closing of the military college at St. Jean. If I had been the chairman of the Quebec caucus, I can tell you that there would have been a fight like you have never seen, because I can still organize demonstrations for a very special purpose. We now are making up for errors made in the past. There is a debate in the military because of the diminution of bilingual officers that is directly related to the closure of the Collège militaire royal de Saint-Jean. The dismantling of the Airborne Regiment was a fatal mistake that could have been corrected. We need that regiment in Afghanistan, and I am extremely worried about what could happen to Canadian soldiers posted there without the benefit of the regiment's presence. Kabul is a very dangerous area. Surely honourable senators would join with Senator Day, Senator Forrestall and me to applaud this proposed repair of a past mistake.

• (1210)

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

Hon. Senators: Question!

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

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. Joseph A. Day: Honourable senators, at second reading we would normally ask that the bill be referred to committee. However, I would move that we proceed to third reading at this time.

Hon. J. Michael Forrestall: I had thought that if it were the wish of government to proceed in that way, then certainly from this side, that would be in keeping with the process to deal with the matter at all stages.

I am uncertain as to whether the House of Commons will adjourn today. If it does, will it be at the call of the Chair to deal with matters such as this? If that is not the case and the House has not adjourned, let us proceed to third reading and send the bill back to the other place.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, it will not matter whether the House rises today. As a matter of principle, we should refer this bill to committee. The committee is meeting on Monday. I believe they can meet, deal with this bill quickly and return it to the Senate for third reading as early as Monday evening or Tuesday afternoon. There would have to be, of course, Royal Assent, for which we do not need the other place. The committee should have the opportunity to examine the bill to ensure that it meets with the committee's expectations. The committee could then return it to the house quickly for third reading.

Senator Robichaud: With no amendments.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I had planned to rise after Senator Day and Senator Forrestall had spoken at second reading to ask a matter of detail. However, I assume that this matter of detail could be asked in committee, but I would raise the matter now in respect of clause 4(1) and clause 4(2) of Bill C-44. Clause 4(1) states:

> A person who, while serving as a member of the regular force, or a member of the reserve force performing Class "B" Reserve Service for more than 180 days or Class "C" Reserve Service, suffered an injury that resulted in a loss set out in column 1 of the schedule during —

The reader is referred to a column in the schedule at the back of the bill and finds that the soldier would receive $125,000.

Clause 4(2) states:

> A person who, while serving as a member of the reserve force performing Class "B" Reserve Service for 180 days or less —

The reader is referred to a different column in the schedule and finds that the soldier would receive $50,000.

My concern is technical. Compensation for a soldier's loss of a hand while serving less than 180 days, perhaps because the soldier had just been assigned, would be worth $50,000. However, if the soldier had been serving more than 180 days, compensation for the same injury would be greater. I do not understand why that is. There must be a reason.

We only deal with the principle of a bill at second reading, unless Senator Day would care to speak to that now. There is a reason why a committee would deal with that.

Senator Day: The committee would be pleased to look into that on Monday.

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

[*Translation*]

NATIONAL DEFENCE 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-35, to amend the National Defence Act (remuneration of military judges).

Bill read the first time.

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

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

[*English*]

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

ELEVENTH REPORT OF COMMITTEE ADOPTED

On the Order:

> Resuming debate on the motion of the Honourable Senator Milne, seconded by the Honourable Senator Joyal, P.C., for the adoption of the eleventh report of the Standing Committee on Rules, Procedures and the Rights of Parliament (Senators Attendance Policy) presented in the Senate on June 12, 2003.—(*Honourable Senator Cools*).

Hon. Serge Joyal: Honourable senators, Senator Cools has informed me that she had to leave the chamber because she is travelling to Edmonton. The honourable senator asked me to inform the house that she had the opportunity to review the report of the committee, that she is satisfied with its content, and that she would concur with the decision of this house to adopt the report.

Hon. Marcel Prud'homme: Honourable senators, I am able to concur with Senator Joyal's comments.

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

Hon. Senators: Question!

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

Motion agreed to and report adopted.

• (1220)

TRANSPORT

STATE OF AIR TRAVEL IN CANADA—INQUIRY

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Cochrane calling the attention of the Senate to the state of air travel in Canada.—(*Honourable Senator Comeau*).

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I rise to speak today to Senator Cochrane's inquiry to call the attention of the Senate to the state of air travel in Canada.

Honourable senators will recall that the Air Travel Complaints Commissioner's report that came out earlier this year went to the Minister of Transportation. This recent report made four recommendations. The first recommendation was that air carriers should show the true cost of an airline ticket, and second, that air carriers should avoid advertising that can be misleading. Some carriers have been advertising fares one-way when the actual ticket can only be purchased on a round trip basis. Therefore, the real fare for the trip is double what the advertising reads.

The third recommendation is that air carriers should publicly and prominently display the air carrier's liability. With the growing popularity of electronic tickets, this information is no longer provided in a manner that attracts the passenger's attention. The fourth recommendation is that the air carrier should compensate a passenger downgraded from full service to no-frills service.

During the period covered in the report, the Air Travel Complaints Commissioner received 4,950 complaints. That, in itself, sustains the issue that Senator Cochrane raised.

I was surprised to see that the report did not address some areas, including the area of public health aboard aircrafts flying within and across Canada. Honourable senators may recall that I had asked a question of the government leader about the responsibility for public health aboard aircraft. That question was asked just before the Christmas break. I did receive a written response prepared by Health Canada that said, in part:

> Health Canada is in the process of completing an integrated public health program to protect the health of passengers on conveyances operating in Canada.

It went on to say:

> The airline industry is one of the last remaining aspects of the travel industry to participate in this fully integrated public health program. Health Canada is currently in negotiations with the airline carriers and anticipates the implementation of the voluntary compliance program within the next year.... The public health guidelines will address water and food safety, general sanitation and disease surveillance on board aircraft.

Honourable senators, I fail to understand why Health Canada would be currently negotiating voluntary compliance in the area of public health, particularly in light of the current crises in the area of public health. Let me repeat the areas for which the department is preparing these voluntary guidelines: water and food safety on aircraft, general sanitation and disease surveillance on board aircraft.

Honourable senators, not too long ago, I was waiting to board a flight at Dorval airport. Before my departure, there was a flight going to Bathurst, New Brunswick. The public announcement system carried an announcement to tell the passengers on the flight from Dorval to Bathurst that the washroom was not working on that airplane. I noticed some passengers making a rush for the public washroom at the airport. I know that that flight is longer than an hour and a half. I also know Bathurst, New Brunswick. It is a wonderful community, and I invite you to visit it in my province of New Brunswick. However, Bathurst is not an aeronautical maintenance centre by any stretch of the imagination. If the washroom could have been repaired, it would have been more easily repaired at Dorval than at Bathurst, New Brunswick.

What would have happened if someone had used the washroom on that flight between Dorval and Bathurst? There are serious public health issues that are associated with air travel.

The Minister of Health has the authority under the Department of Health Act to provide the necessary protection to the flying public as stated in section 4.2 of that act. The minister's functions and responsibilities relate to the following matters:

> (*e*) the protection of public health on railways, ships, aircraft and all other methods of transportation, and their ancillary services;

Honourable senators, not only does the Minister of Health already have the authority, and indeed the responsibility, to ensure public health for air travellers in Canada, but also, let us consider what the Canada Labour Code provides in terms of a safe working environment for those who work on those aircraft. I invite you, honourable senators, on your next flight, to pay a visit to the washroom and make your personal assessment.

Honourable senators, international carriers flying into Canada and departing Canada should be subject to the standards set out by Health Canada in the area of public health. Again, I come back to the fact that, according to the department, they are only at the negotiation stage and, indeed, only at the voluntary compliance level.

The Health Canada Web site states that:

> The Public Health Bureau provides potable water, food safety and general sanitation consultation and advice. The Bureau also implements voluntary compliance programs and carries out food & sanitation inspections on airlines, ferries, cruise ships, trains and federal lands facilities.

However, when I return to the response provided to me by Health Canada, it states that the department is only at the negotiation stage with the airline industry for the general sanitation components, which "will address availability of toilets, hand basins, hot and cold running water, and cleaning of washrooms."

The response from the department continues: "Furthermore, the general sanitation component will address the cleaning of air vents."

Can you imagine that, as of today, there is no regulation for the cleaning of air vents on aircraft? It would be interesting to take a swab from inside an air vent and have it tested. Then again, perhaps we do not want to know, as we are all captives of that particular industry.

Honourable senators, we have had an airline industry in this country since 1937 when TransCanada Airlines Incorporated took to the skies. We have had public health laws since Confederation. I find it difficult to believe that we are only at the negotiation stage for public health for the flying public. Furthermore, when this process is finished, it will only be a voluntary compliance program. Voluntary compliance may have been good enough in the past when the airline industry was in a position to provide first-class service to the travelling public. That is no longer the case. I fear that the corner-cutting may jeopardize the health of Canadians flying.

I am sure that if the Canadian public were aware of the lack of regulation in the area of public health aboard aircraft in Canada, the Air Travel Complaints Commissioner would be hearing from a lot more than the 4,950 people he heard from in his last reporting period.

● (1230)

The Hon. the Speaker: I must advise honourable senators that if Senator Cochrane speaks now, her speech will have the effect of closing the debate on this inquiry.

Hon. Ethel Cochrane: Honourable senators, I rise today to turn the attention of the Senate once again to the problems, as did Senator Kinsella, plaguing air travel in this country. When I last rose on this topic, I spoke in some detail about the much-maligned Air Travellers Security Charge.

Honourable senators, as you heard Senator Carstairs today on Bill C-28, she alluded to the fact that there was a little relief in regard to this Air Travellers Security Charge. The cost now sits at $14 for a return trip within Canada. I remind honourable senators that this fee is still significantly higher than the $7.65 Canadian that our neighbours to the south pay. It is more than the roughly $8 Australians pay, and still more than the $12.42 security charge that is levied even in Israel. Still, I suppose Canadian air travellers welcome any reduction. It is important to recognize, however, that it is merely a first step, a baby step, on the long road to making air travel available to all Canadians.

Now more than ever, Canadian air travellers are relying not on government but on industry for relief to the high cost of air travel. While the advent of WestJet, CanJet and other so-called no-frills airlines seems to have helped make flying somewhat more affordable, today many Canadians are finding short-haul flights to be too expensive. Indeed, many business and leisure travellers have stopped taking them when at all possible. This has caused, as was warned prior to the implementation of Air Travellers Security Charge, certain routes to become wholly unprofitable. Naturally, the profit-driven airlines have begun cutting such costly routes, and the end result, as predicted, is that some communities have been left with little or no air service.

The Air Transport Association of Canada attributes this reality to the crushing burden of fees and expenses. In the report it released last November, it states: "The cumulative effects of an increasing number of taxes and fees jeopardize small airports and the economic prosperity of the regions surrounding these airports."

In my own community, we are experiencing this firsthand. In September, Air Canada announced it was discontinuing service to Stephenville altogether, beginning in early January 2003. The airline has also ended service between Goose Bay and St. John's, Goose Bay and Deer Lake, Deer Lake and St. John's, Deer Lake and Wabush — no more.

Today, my community is in peril, but we are not alone. Consider, for instance, that in the wake of September 11 WestJet cancelled 14 flight offerings and pulled out of one community altogether. By last Christmas, Air Canada had already cut capacity by more than 20 per cent, and Air Canada Jazz, formerly known as Air Nova, cut capacity by 26 per cent over that same period.

Make no mistake about it; there is growing evidence to suggest that the impact of declining air service to my province is already evident. For instance, in the latest tourism sector update, while the province's Minister of Tourism, Culture and Recreation, Minister Julie Bettney, noted largely positive indicators of growth in the province's industry, she could not ignore the damaging air travel numbers. Fewer people are using our airports. In fact, air passenger movements are down 7 per cent in my province. Tourism is a $700-million industry in my province, and its success depends largely on transportation links within the province and to mainland Canada.

Clearly, the air service situation is not unique to Newfoundland and Labrador. Indeed, evidence of Canadian frustration and the general move away from air travel began appearing before the introduction of the Air Travellers Security Tax. For example, the Canadian Tourism Commission's latest statistics for the year 2001 show an 11 per cent drop in domestic travel. The data also indicates that the number of Canadian tourists to the United States and overseas destinations were down more than 8 per cent and 10 per cent respectively in March 2002.

International travel to Canada is also significantly down. According to numbers released by Canada Tourism this month, international travel survey numbers recorded in March were the lowest recorded over the past five years. So far, for 2003, international overnight travel is down almost 6 per cent over 2002. Tourist traffic from Europe has dropped 12.8 per cent, while travel from the Asia-Pacific region has dropped almost 8 per cent.

Yes, some people may say that the cause is SARS or mad cow disease, but there are more problems than that. Clearly, an unfair burden has been placed on all Canadians and all those industries associated with air travel in Canada. It is not just the Air Travellers Security Tax; it is all the government-imposed charges and the whole fee structure.

Cliff Mackay, President and CEO of the Air Transport Association of Canada said that "government is taking the cash, passengers are paying the bills and the airlines are left holding the bag." He added, "Canada's airlines are taking the blame for higher ticket prices, but all of these extra fees are doing little to benefit the air sector or our passengers."

In its recent report, ATAC observed that Ottawa took $308 million out of the aviation industry in the 2001-02 fiscal year. They maintained that of that amount only $77 million went back into aviation. Interestingly, they note that while government took money away from the troubled aviation sector, it handed $310 million to VIA Rail to subsidize rail services to Canadian communities. Of course, I do not need to remind honourable senators that rail service does not extend from coast to coast to coast. Indeed, not all provinces are afforded the luxury of rail service — mine especially.

It is obvious to everyone, with the exception of the government it seems, that these are critical concerns that need to be addressed. Now we ask the question, why is that? After all, these are issues with grave implications for all Canadians, their communities, their industries and their economies. Despite all of this, nothing has been done to alleviate the largely government-imposed hardships.

I suggest a necessary first step is to begin a legitimate review and re-evaluation of the air sector, paying particular attention to the burdensome fee structure. There are a number of important factors that I believe should figure prominently in this discussion, and I would like to briefly highlight some of the main points that ought to be considered.

Our airports are charged what ATAC calls "excessively high rents" by the federal government. Last year, the federal government raised nearly $250 million from airport rent charges.

Second, airport improvement fees charged to passengers at the country's eight largest airports alone raked in over $225 million last year.

Third, aircraft insurers have increased hull insurance by an average of 300 per cent. Fourth, the federal excise tax on aviation fuel accounts for an estimated $70 million to $90 million each year.

• (1240)

Air carriers are facing double-digit increases in landing and terminal fees at most airports. Government-imposed costs on airlines are based on operations, not results. According to ATAC, whereas most industries are taxed after their business results are known, the airline industry is heavily taxed on its inputs while consumers are increasingly charged directly.

A comparison of federal government operating, maintenance and capital expenditures on transportation in the fiscal years 1996-97 to 2001-02 reveals that support to airports has plummeted from $396 million to only $77 million.

Honourable senators, the Canada Transportation Act of 1996 recognizes transportation as a key to regional economic development. It stresses that the commercial viability of transportation links should be balanced with regional economic development objectives so that the potential economic strengths of each region may be realized. This is crucial.

Today, communities and regions across the country are witnessing what happens when this balance is definitely not respected. I humbly suggest to you, honourable senators, that air transport is not meant to be a privilege in this country; it is a right. On this front, we are failing Canadians terribly.

The Hon. the Speaker: With Senator Cochrane's speech, the debate on this inquiry is concluded.

[*Translation*]

LEGAL AND CONSTITUTIONAL AFFAIRS

MOTION TO AUTHORIZE COMMITTEE TO STUDY LEGAL AID—ORDER STANDS

On the Order:

Resuming debate on the motion, as modified, of the Honourable Senator Callbeck, seconded by the Honourable Senator Bacon:

That the Standing Senate Committee on Legal and Constitutional Affairs be authorized to study the status of Legal Aid in Canada and the difficulties experienced by many low-income Canadians in acquiring adequate legal aid for both criminal and civil matters; and

That the Committee report no later than December 31, 2003.—(*Honourable Senator Andreychuk*).

Hon. Maria Chaput: Honourable senators, I would like to make my contribution to the Senate, so I will move that the debate stand in my name until the next sitting for the remainder of my time.

On motion of Senator Chaput, debate adjourned.

ADJOURNMENT

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

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

That when the Senate adjourns today, it do stand adjourned until Monday, June 16, 2003, at 6:01 p.m.

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

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Monday, June 16, 2003, at 6:01 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(2nd Session, 37th Parliament)
Friday, June 13, 2003

GOVERNMENT BILLS
(SENATE)

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-2	An Act to implement an agreement, conventions and protocols concluded between Canada and Kuwait, Mongolia, the United Arab Emirates, Moldova, Norway, Belgium and Italy for the avoidance of double taxation and the prevention of fiscal evasion and to amend the enacted text of three tax treaties.	02/10/02	02/10/23	Banking, Trade and Commerce	02/10/24	0	02/10/30	02/12/12	24/02
S-13	An Act to amend the Statistics Act	03/02/05	03/02/11	Social Affairs, Science and Technology	03/04/29	0	03/05/27		

GOVERNMENT BILLS
(HOUSE OF COMMONS)

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-2	An Act to establish a process for assessing the environmental and socio-economic effects of certain activities in Yukon	03/03/19	03/04/03	Energy, the Environment and Natural Resources	03/05/01	0	03/05/06	03/05/13	7/03
C-3	An Act to amend the Canada Pension Plan and the Canada Pension Plan Investment Board Act	03/02/26	03/03/25	Banking, Trade and Commerce	03/03/27	0	03/04/01	03/04/03	5/03
C-4	An Act to amend the Nuclear Safety and Control Act	02/12/10	02/12/12	Energy, the Environment and Natural Resources	03/02/06	0	03/02/12	03/02/13	1/03
C-5	An Act respecting the protection of wildlife species at risk in Canada	02/10/10	02/10/22	Energy, the Environment and Natural Resources	02/12/04	0	02/12/12	02/12/12	29/02
C-6	An Act to establish the Canadian Centre for the Independent Resolution of First Nations Specific Claims to provide for the filing, negotiation and resolution of specific claims and to make related amendments to other Acts	03/03/19	03/04/02	Aboriginal Peoples	03/06/12	5			
C-8	An Act to protect human health and safety and the environment by regulating products used for the control of pests	02/10/10	02/10/23	Social Affairs, Science and Technology	02/12/10	0	02/12/12	02/12/12	28/02
C-9	An Act to amend the Canadian Environmental Assessment Act	03/05/06	03/05/13	Energy, the Environment and Natural Resources	03/06/04	0	03/06/05	03/06/11	9/03

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-10	An Act to amend the Criminal Code (cruelty to animals and firearms) and the Firearms Act	02/10/10	02/11/20	Legal and Constitutional Affairs	02/11/28	Divided Message from Commons concurring with division 03/05/07			
C-10A	An Act to amend the Criminal Code (firearms) and the Firearms Act	–	–	Legal and Constitutional Affairs	02/11/28	0	02/12/03	03/05/13	8/03
C-10B	An Act to amend the Criminal Code (cruelty to animals)	–	–	Legal and Constitutional Affairs	03/05/15	5	03/05/29 Message from Commons- agree with 2 amendments, disagree with 2, and amend 1 03/06/09 Referred to committee 03/06/11 Reported 03/06/12		
C-11	An Act to amend the Copyright Act	02/10/10	02/10/30	Social Affairs, Science and Technology	02/12/05	0	02/12/09	02/12/12	26/02
C-12	An Act to promote physical activity and sport	02/10/10	02/10/23	Social Affairs, Science and Technology	02/11/21	0 + 1 at 3rd 02/12/04 2 at 3rd 03/02/04	03/02/04	03/03/19	2/03
C-14	An Act providing for controls on the export, import or transit across Canada of rough diamonds and for a certification scheme for their export in order to meet Canada's obligations under the Kimberley Process	02/11/19	02/11/26	Energy, the Environment and Natural Resources	02/12/04	0	02/12/05	02/12/12	25/02
C-15	An Act to amend the Lobbyists Registration Act	03/03/19	03/04/03	Rules, Procedures and the Rights of Parliament	03/05/14	1	03/05/28 Message from Commons- agree with amendment 03/06/09	03/06/11	10/03
C-21	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2003	02/12/05	02/12/10	–	–	–	02/12/11	02/12/12	27/02
C-24	An Act to amend the Canada Elections Act and the Income Tax Act (political financing)	03/06/11							

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
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	03/06/03	03/06/13	National Finance					
C-28	An Act to implement certain provisions of the budget tabled in Parliament on February 18, 2003	03/05/27	03/06/04	National Finance	03/06/12	0			
C-29	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2003	03/03/25	03/03/26	–	–	–	03/03/27	03/03/27	3/03
C-30	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2004	03/03/25	03/03/26	–	–	–	03/03/27	03/03/27	4/03
C-31	An Act to amend the Pension Act and the Royal Canadian Mounted Police Superannuation Act	03/06/03	03/06/11	National Security and Defence					
C-35	An Act to amend the National Defence Act (remuneration of military judges)	03/06/13							
C-39	An Act to amend the Members of Parliament Retiring Allowances Act and the Parliament of Canada Act	03/06/03	03/06/11	Legal and Constitutional Affairs					
C-42	An Act respecting the protection of the Antarctic Environment	03/06/13							
C-44	An Act to compensate military members injured during service	03/06/13	03/06/13	National Security and Defence					
C-47	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2004	03/06/13							

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-227	An Act respecting a national day of remembrance of the Battle of Vimy Ridge	03/02/25	03/03/26	National Security and Defence	03/04/02	0	03/04/03	03/04/03	6/03
C-249	An Act to amend the Competition Act	03/05/13							
C-300	An Act to change the names of certain electoral districts	02/11/19	03/06/03	Legal and Constitutional Affairs					
C-411	An Act to establish Merchant Navy Veterans Day	03/06/12							

SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-3	An Act to amend the National Anthem Act to include all Canadians (Sen. Poy)	02/10/02	03/06/10	Social Affairs, Science and Technology					
S-4	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	02/10/02							
S-5	An Act respecting a National Acadian Day (Sen. Comeau)	02/10/02	02/10/08	Legal and Constitutional Affairs	03/06/03	2	03/06/05		
S-6	An Act to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers (Sen. Kinsella)	02/10/03							
S-7	An Act to protect heritage lighthouses (Sen. Forrestall)	02/10/08	03/02/25	Social Affairs, Science and Technology					
S-8	An Act to amend the Broadcasting Act (Sen. Kinsella)	02/10/09	02/10/24	Transport and Communications	03/03/20	0	03/04/02		
S-9	An Act to honour Louis Riel and the Metis People (Sen. Chalifoux)	02/10/23	03/05/06	Legal and Constitutional Affairs					
S-10	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	02/10/31	03/02/25	Energy, the Environment and Natural Resources					
S-11	An Act to amend the Official Languages Act (promotion of English and French) (Sen. Gauthier)	02/12/10	03/05/07	Official Languages					
S-12	An Act to repeal legislation that has not been brought into force within ten years of receiving royal assent (Sen. Banks)	02/12/11	03/02/27	Legal and Constitutional Affairs					
S-14	An Act to amend the National Anthem Act to reflect the linguistic duality of Canada (Sen. Kinsella)	03/02/11							
S-15	An Act to remove certain doubts regarding the meaning of marriage (Sen. Cools)	03/02/13	Dropped from Order Paper pursuant to Rule 27(3) 03/06/05						
S-16	An Act to amend the Constitution Act, 1867 and the Parliament of Canada Act (Speakership of the Senate) (Sen. Oliver)	03/03/18							
S-17	An Act respecting the Canadian International Development Agency, to provide in particular for its continuation, governance, administration and accountability (Sen. Bolduc)	03/03/25							

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-18	An Act to amend the Criminal Code (lottery schemes) (Sen. Lapointe)	03/04/02							
S-20	An Act to amend the Copyright Act (Sen. Day)	03/05/15							

PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-19	An Act respecting Scouts Canada (Sen. Di Nino)	03/05/14	03/06/09	Legal and Constitutional Affairs					
S-21	An Act 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 (Sen. Kirby)	03/06/03	03/06/09	Banking, Trade and Commerce					

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