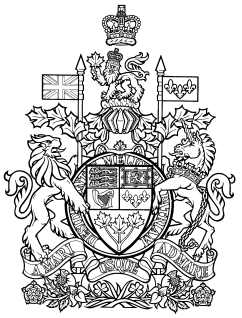

CANADA

Debates of the Senate

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OFFICIAL REPORT
(HANSARD)

Thursday, June 19, 2003

THE HONOURABLE DAN HAYS
SPEAKER

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

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THE SENATE

Thursday, June 19, 2003

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

Prayers.

[*Translation*]

SENATORS' STATEMENTS

TRIBUTES

THE HONOURABLE ROCH BOLDUC, O.C.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, the Senate never feels light-hearted when the retirement date of one of its members approaches. This week, the last one the Honourable Roch Bolduc will spend in this place, is one of those times.

Senator Bolduc was appointed to the Senate in September 1988, while debate on the Meech Lake Accord was in full swing. He and three others from Quebec, one of whom was Senator Beaudoin, all members of the Order of Canada, were named after consultation with Robert Bourassa, who was then Premier.

[*English*]

If any proof is needed that provincial input in Senate appointments is beneficial, the 1988 appointments should dispel any doubts about that once and for all.

Roch's entire career before coming to the Senate was with the Government of Quebec at many senior levels, including the most senior, as Secretary-General of the Government, equivalent to Clerk of the Privy Council. He served premiers and ministers with the same loyalty, dedication and commitment, whatever their political leanings, be they federalist, separatist, sovereigntist or nationalist. He is recognized as a leading expert on public administration and has spoken and written much on the subject, both in Canada and abroad.

[*Translation*]

For 15 years, the Senate has benefitted enormously from his unique expertise, because Senator Bolduc has never hesitated to share that expertise with all his colleagues in this chamber and in committee. We rapidly learned to listen to him with great attention — I dare say with special respect — because he has always expressed himself as a public servant — and servant of the public — rather than as a partisan politician.

[*English*]

Indeed, Roch set his own standard of conduct and behaviour here. As a senior public servant in Quebec, he ably carried out his responsibilities, no matter what political options guided the government. Here, while a most reliable member of the PC caucus, his commitment to proper public policy and sound fiscal policy always came first, and beware those with whom he disagreed.

• (1340)

[*Translation*]

Finally, no one will forget his passionate, intelligent and knowledgeable speeches. His departure creates a vacuum that will be difficult, if not impossible, to fill. I wish him and his charming wife, Gisèle, an active and well-deserved retirement. And I must point out that the district Roch represents in the Senate is called "Golfe," the gulf.

[*English*]

All of us represent a certain district in Quebec, unlike senators from other provinces, and it just happens that Roch's district is called "Golfe."

[*Translation*]

Could this be a coincidence, because that is his favourite sport? Only he can say, but I can wish him success in reaching every golfer's ultimate goal: scoring his age.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, Senator Bolduc served his countrymen well and has received numerous honours and awards, including the Order of Canada. Whether it is from the government benches or the ranks of the official opposition, he has always had great insights to offer on issues that he believed were important to Canadians.

[*English*]

As all honourable senators know, Senator Bolduc was a distinguished civil servant in the province of Quebec. After many years in the public service, where he had to be unfailingly discreet in his pronouncements, Senator Bolduc came to our chamber, where he could allow his passions to flow.

Senator Bolduc, all of your colleagues will remember the unfettered exuberance with which you spoke and we will miss your contribution to our daily debates. As we bid you farewell, we rest in the certainty that your efforts to improve government work at all levels will not desist with your retirement.

Hon. Lowell Murray: Honourable senators, I shall be brief. No one is rushing Senator Bolduc out the door, but many would like to pay tribute before he goes — many more than time limits can accommodate.

[*Translation*]

His colleagues on the Standing Committee on National Finance will forgive me for speaking on their behalf. Roch Bolduc was indisputably the star of this committee, and his experience and knowledge, in terms of public administration in Canada, England, France or the United States, are unparalleled.

His analyses of government programs and public expenditures are brilliant, incisive, sometimes devastating, often very amusing but never malicious. He is always right on the mark. He is an expert when it comes to federalism. Furthermore, he knows Quebec like the back of his hand and Canada as a whole.

Later in life, after a long career as a senior public servant, he went into federal politics, but he quickly proved himself a fast learner.

[*English*]

He is not quite a Red Tory, but he has been a pretty progressive Conservative most of the time. I could not close without publicly acknowledging my great personal debt and gratitude to him for his support, his intellectual guidance, his loyalty and friendship to me in various positions I have occupied here over the years. He has been an ornament to the Senate, to the public service and public life of Quebec and of the entire country, and all of us are in his debt.

[*Translation*]

Hon. Lise Bacon: Honourable senators, I cannot allow Senator Bolduc to retire without saying a few words about him. I had the privilege of knowing him long before he came to the Senate. We met in Quebec, where he was a senior official in the Quebec government, before becoming a parliamentarian.

He served Quebec with loyalty and devotion and, during the Quiet Revolution, a period of transformation in Quebec society, he was instrumental in setting up Quebec's new public service as director of planning at the Public Service Commission.

Roch Bolduc's government service included appointments at various levels, among them deputy minister and Secretary-General of the Government. Integrity, intellectual rigour and hard work characterized all that he did. Not content with being a government administrator, Senator Bolduc also wanted to share his knowledge and experience.

He taught at Université de Montréal, Université Laval and the École nationale d'administration publique. He was associated with the work at the Institute of Public Administration of Canada. A skilled teacher, he trained many public servants and gave numerous lectures throughout the world.

With his departure, we are losing an expert in public finance and management. We are also losing a parliamentarian who followed Canadian government affairs closely and was always prepared to draw the Senate's attention to certain aspects of government management.

Senator Bolduc's contribution to the work and debates of the Senate was considerable. I would like to thank him for all that he has brought to our institution. I find it hard to believe that he is going to leave us now, at the top of his game. I am sure other challenges await him. Senator Bolduc, thank you for everything. Do not forget us.

Hon. Jean-Claude Rivest: Honourable senators, I was in the office of Quebec Premier Robert Bourassa when he received a call from Mr. Brian Mulroney, who reminded him that, under the Meech Lake Accord, the premiers were to suggest names for Senate appointments.

Spontaneously, Mr. Bourassa said he would think about it, and that Roch Bolduc would certainly be one of the group. I must say that Mr. Bourassa's response was a very spontaneous one, acknowledging Roch's merits. In fact, all the Premiers of Quebec since the late 1950s would have been as quick to respond, because Roch Bolduc had earned the trust and esteem of all the Premiers of Quebec, regardless of their political allegiance.

Mention must also be made of his extremely significant contribution to the building of a competent and dynamic Quebec public service, one of the major accomplishments of the Quiet Revolution, as we know, and particularly of the Premier of the day, Jean Lesage.

Roch Bolduc and many others, among them Michel Casavan, Marcel Bélanger, Michel Bélanger and Claude Morin, all great Quebec public servants, were successful in building a highly competent public service. Roch Bolduc was one of these great builders. Not only was this achievement of great importance for Quebec, for the governance of Quebec, but it was also of great importance for all Canadians.

Because of the contribution and the work of Roch Bolduc, all Canadian public servants and all Canadian governments have been able to deal with competent, dynamic and constructive counterparts in Quebec. We owe Roch Bolduc recognition for all of these accomplishments.

Senator Lynch-Staunton has, of course, referred to the strength of Roch Bolduc's convictions and opinions. Let us just say that, once in a while, he got carried away a bit, but this was just part of the sincerity and value of a very great Quebecer, a very great Canadian, a very great friend.

Hon. Gérald-A. Beaudoin: Honourable senators, I will always remember September 26, 1988. That was the day that Roch Bolduc, Solange Chaput-Rolland, Jean-Marie Poitras and myself entered the Senate.

We were on Robert Bourassa's list and were appointed by Brian Mulroney. This was at the time of the Meech Lake Accord. This group of four was appointed in the spirit of the Meech Lake Accord, which, as we well know, came to naught.

I knew Senator Chaput-Rolland, as we were on the Pepin-Robarts Commission together. I had, of course, heard of Roch Bolduc, but we became great friends only once we were in the Senate together. We sat side by side for fifteen years.

Roch Bolduc served the Senate well as a harsh critic of the budget and of the public service, which he knew like the back of his hand, having been the Secretary-General of the Quebec cabinet. He was also as a member of the Foreign Affairs Committee.

He will leave a lasting impression on the upper chamber. His career has been a remarkable one, and we always paid heed to his comments on financial matters. Roch was never one to mince his words. It was always a pleasure to hear his passionate and staccato voice. I have always wondered how the interpreters and stenographers managed to follow his fiery speeches.

We become philosophical with age. We all make judgments about current events and history. Roch is quite fond of American history: John Adams, Thomas Jefferson, Franklin Roosevelt, and the like. He also likes philosophers such as Maritain, Theilhard de Chardin and many others. He is part of a generation trained in the classical colleges that existed in Quebec before the Quiet Revolution.

Of course, Roch will not forget his Florida. He will miss the Senate, his private club as he called it, and he will continue to shake things up, to quote a phrase. His comments will always be welcome. Thanks to speakers like Roch, the Senate is never a dull place.

We wish Senator Bolduc a long, happy and healthy retirement.

• (1350)

Hon. Mira Spivak: For several years now, I have had the great pleasure to sit next to Senator Bolduc, here in this chamber.

I learned a great deal, sitting so close to Senator Bolduc; for example, how to manage a stock portfolio. I also learned about the life of an éminence grise, at different stages, within the Government of Quebec, and about the very complex world of public finances. And last, but not least, I learned about the world of golf.

Senator Bolduc impressed me with his passion, intelligence and wisdom. We will all miss him, because he has been a pillar of the Senate's Conservative caucus.

Senator Bolduc, I wish you and your family a marvellous retirement, full of all of the riches that life has to offer.

We will miss you enormously. Good-bye and good luck.

Hon. Roch Bolduc: Honourable senators, usually I am the one who exaggerates. But today, it is others who are exaggerating. Usually, I am the one who gets all hot and bothered, while others keep their cool. Today, I will keep my cool.

After fifteen years in the Senate, I am leaving with nothing but good memories of my time here in the federal capital. First, I would like to thank the former Prime Minister of Canada, Brian Mulroney, who, at the suggestion of Robert Bourassa, appointed me to the Senate. I have never regretted it.

[*English*]

I learned my trade in the chamber and in committee with some terrific colleagues, both on the government side and the opposition side. I, myself, have sat on both sides. I worked hard to become as familiar as possible with the issues placed before the Foreign Affairs Committee and the National Finance Committee and made my modest contributions to the work of both. The collaboration of the clerks and research assistants was invaluable. As a former senior member of the Quebec public service, I also appreciated the competence of the senior federal public servants who appeared before us to give evidence. Being a member of the PC caucus enabled me to get to know a remarkable group of people whose overriding concern is the well-being of our country.

I also participated in the activities of the Canada-Europe Parliamentary Association and the Canada-United States Inter-Parliamentary Group. I think the latter should be even more active, given the importance of our relations with our American friends.

[*Translation*]

I cannot leave this place without first saying a few words about the institution that the Honourable Senator Joyal just addressed in his latest publication. I am a Conservative, but I am also a reformer.

Do we, as a group, represent Canadian society? This is a difficult question to answer. However, we are quite different from the Senate that existed during the 1980s, when I was first appointed. I am pleased to note that women play a greater role today than they did in 1988.

I believe, however, that the Senate's democratic nature would benefit if senators were indirectly elected, as they are in France. The Senate's legitimacy would be reinforced and its partisan nature diminished, so that our influence on public policy would perhaps be broadened.

The number of committees has increased over the past few years. In my opinion, it would be better to reduce their number so as to increase their membership and increase their competency by setting aside more time to consider each issue, thereby ensuring more intimate knowledge of the possible options and of the interests at stake.

[*English*]

I am getting old, I guess, because I dream of it.

[*Translation*]

I thank the authorities of the Senate for their kindness to me, and in particular our distinguished Speaker and the Speaker *pro tempore*, as well as the leaders and leadership groups on both sides, both those who are present today and those who went before. I could mention the Honourable Senators Murray and Doody, among others.

I also thank all the honourable members of this house, and all the employees and managers of the institution, in all sectors including security, finance, and human resources, and especially the interpreters and translators, for whom I have, no doubt, presented quite a challenge.

A particular thank you to Hélène Lizotte, who was my admirable secretary for over a decade. A special thank you also to Claudette Houle, who replaced her with the same dedication.

Finally, I am very grateful to my wife, Gisèle. I have been very active for the last 40 or 50 years. All that time, she took care of everything at home: our four children, the twelve grandchildren, the household, our cultural and sporting life, trips and vacations — I owe her everything.

You see before you a man who is leaving with a deep sense of fulfilment and contentment.

The Hon. the Speaker *pro tempore***:** Honourable senators, with your leave and on your behalf, I want to thank the Honourable Senator Bolduc for his excellent contribution. Senator Bolduc, you will be remembered in the Senate for a long time.

THE SENATE

EXPRESSION OF GRATITUDE TO STAFF

Hon. Lise Bacon: Honourable senators, before the Senate adjourns for the summer, I feel it is appropriate to express my gratitude to all the staff of our institution. Our staff provides the support we need to perform our parliamentary duties in the best way.

The Senate's team — managers, professionals, support staff — does first class work and makes it possible for the Senate to carry out its mandate.

Senate employees are dedicated, conscientious and proud to serve a prestigious institution like ours.

• (1400)

The Committee on Internal Economy, Budgets and Administration is well aware of the dedication of the employees who help it achieve its mandate effectively. I, for one, have been impressed by the professionalism, availability and attention to detail of those who have worked with the Committee on Internal Economy, Budgets and Administration over the past few months. Their unwavering collaboration is truly to be commended.

I must mention the remarkable contribution of the key players in the work of the committee; the work of two people, in particular, stands out, that of Lucie Lavoie, coordinator of our secretariat and that of Heather Lank, director of committees.

I should also mention the essential contribution of Committee Clerk Paul Bélisle, his colleague, Catherine Pearl-Coté, Deputy Principal Clerk Blair Armitage, the directors of services — Hélène Lavoie, Serge Gourgue, Diane Boucher, Hélène Bouchard and Ann Dufour — not to mention Deputy Clerk Gary O'Brien, Law Clerk and Parliamentary Counsel Mark Audcent, and the Usher of the Black Rod, Terrance Christopher.

I especially want to underscore the fine work and merit of all the Senate employees. It is through their perseverance and determination that we are able to accomplish so much. I encourage them all to do more of the same, to continue to strive for quality and to do so with their customary energy, which is essential to the smooth administration of the Senate. After a busy parliamentary session, the summer break is certainly welcome.

I would like to wish all employees an enjoyable summer. The time has come for you take a well-deserved rest. You can be sure that the fall will bring its share of challenges.

[*English*]

THE HONOURABLE E. LEO KOLBER

ARTICLE IN *NATIONAL POST*

Hon. E. Leo Kolber: Honourable senators, effective 5 o'clock today, I will be retiring as Chairman of the Standing Senate Committee and Banking, Trade and Commerce. In that regard, I was interviewed by a number of papers yesterday. One of them carried a headline that had nothing to do with the body of the story. As a matter of fact, unsolicited, the reporter called to apologize. We asked him if he would please put his apology in writing.

I now have in my hands that letter of apology. It is on the letterhead of the *National Post* and states:

> Dear Senator Kolber
>
> I write to express regret for the headline that appeared today over my article looking back over your Senate career. The headline, written by a night editor in Toronto without consultation with me, does not in my opinion reflect the tone or main theme of either our interview or my story.
>
> I do sincerely apology for any inconvenience the headline may cause you, and hope it does not detract from what was, in the parlance of our industry, a really good yarn.
>
> With best wishes
> Ian Jack
> Financial Post
> Ottawa

I will deposit this letter with the clerk.

THE SENATE

INTRANET—LOST AND FOUND REGISTER— CONJECTURE BY MEDIA

Hon. Lowell Murray: Honourable senators, before we disperse, there is a matter that needs to be ventilated. Some weeks ago, an e-mail from the Clerk of the Senate drew our attention to a new feature on the parliamentary Intranet, namely, the posting of items lost and found in these precincts and turned over to the Senate Protective Service.

A visit to this site reveals that between January 17 and April 9 of this year, the following items, among many others, have been lost and found: a pair of navy blue pants, the key to a set of handcuffs, a small purple handkerchief and a black notebook.

Unfortunately, we live in an information age. Still, do we have to excite the lurid imaginations of our enemies by making this raw data so readily available? Mark my words, the media will get hold of this. They will try to match the dates on which some of these items were lost with the dates of Liberal, and even Conservative, social events on the Hill. Inappropriate connection will be drawn between the handcuffs and Senator St. Germain's background as a police officer. Guest lists will be obtained and scrutinized of those fortunate enough to have dined at Mr. Speaker's gourmet table. Cartoons will appear, purporting to show a handcuffed, trouserless senator of either gender wandering our corridors, asking whether anyone has seen a pair of navy blue pants, the key to a set of handcuffs, a small purple handkerchief or a black notebook.

Is this the image we wish to project? Where will it all end?

I suggest the lost and found register be available to senators only and only on a need-to-know basis, and that it be maintained in the office of that most discreet servant of Her Majesty, the Usher of the Black Rod.

[*Later*]

Hon. Herbert O. Sparrow: Honourable senators, in reference to the statement made by Senator Murray about the lost and found items on the Intranet, he did not give us the complete story. I am wondering if I could ask him: Where might I be able to pick up my blue pants?

ASIAN HERITAGE MONTH

Hon. Mobina S. B. Jaffer: Honourable senators, I rise in honour of Asian Canadians in celebration of Asian Heritage Month.

Recently, I attended the Asian Heritage Awards dinner in Vancouver, organized by the Vancouver Asian Heritage Month Society. The theme was "Exploring the Silk Route."

The amazing parallel that exists between the silk route and Asian Canadians is the tremendous way that Asians have woven into Canadian culture despite difficulties new immigrants face. Many have had to face difficult situations and have triumphed over them. In this sense, they are much like a silk garment. Their efforts may be faced with difficulty but, with persistence, a bountiful life will be produced.

A number of extraordinary people and organizations were presented with awards for the significant impact they have had in the community and beyond. Those people are Roy Miki for "Transforming Art," David Lui for "Living Heritage," the Goh Ballet for "Building Community — Individual Category" and Donna Spencer of the Firehall Arts Centre for "Building Community Organization Category." I congratulate the award recipients as well as all the nominees.

Honourable senators, the world around us is made up of a woven tapestry of people from different cultures, religions and backgrounds — each one perhaps a little different but always complementing the next.

The Vancouver Asian Heritage Month Society and other organizations like it help to foster a cross-cultural understanding among Canada's cultural communities. These efforts promote the intertwining of different cultures, helping us to see that friendship comes in all sizes and colours.

This kind of friendship is a true joy, and I am happy to be among such friends today.

Lastly, I encourage all honourable senators to celebrate the cultures that surround us every day with enthusiasm, acceptance and joy.

[*Translation*]

ROUTINE PROCEEDINGS

SENATE DELEGATION TO REPUBLIC OF POLAND

MARCH 4-9, 2003—REPORT TABLED

Hon. Raymond C. Setlakwe: Honourable senators, with leave of the Senate and notwithstanding rule 28(4), I have the honour of tabling the report of the delegation of the Senate, headed by the Speaker of the Senate, which visited the Republic of Poland at the invitation of His Excellency Longin Pastusiak, President of the Senate of the Republic of Poland, from March 4 to March 9, 2003.

[*English*]

SENATE DELEGATION TO RUSSIAN FEDERATION

MARCH 9-15, 2003—REPORT TABLED

Hon. Raymond Setlakwe: Honourable senators, I also ask leave to table the report of the parliamentary delegation, led by the Senate Speaker, that visited the Russian Federation at the invitation of His Excellency Mr. Sergei Mironov, Chairman of the Russian Federation Council, from March 9 to 15, 2003.

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

Hon. Senators: Agreed.

STUDY ON HEALTH CARE SERVICES AVAILABLE TO VETERANS

REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE TABLED

Hon. Michael A. Meighen: Honourable senators, I have the honour to table the fourteenth report of the Standing Senate Committee on National Security and Defence, which deals with the health care provided to veterans of war and of peacekeeping missions.

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

• (1410)

HERITAGE LIGHTHOUSE PROTECTION BILL

REPORT OF COMMITTEE

Hon. Marjory LeBreton, Deputy Chair of the Standing Senate on Social Affairs, Science and Technology, presented the following report:

Thursday, June 19, 2003

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

ELEVENTH REPORT

Your Committee, to which was referred Bill S-7, An Act to protect heritage lighthouses, has, in obedience to the Order of Reference of Tuesday, February 25, 2003, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

MARJORY LEBRETON
Deputy Chair

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

Hon. J. Michael Forrestall: Later this day.

Hon. Sharon Carstairs (Leader of the Government): At the next sitting.

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

Senator Carstairs: No.

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

MEMBERS OF PARLIAMENT RETIRING ALLOWANCES ACT PARLIAMENT OF CANADA ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. George J. Furey, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, June 19, 2003

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

SIXTH REPORT

Your Committee, to which was referred Bill C-39, An Act to amend the Members of Parliament Retiring Allowances Act and the Parliament of Canada Act, has, in obedience to the Order of Reference of Wednesday, June 11, 2003, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

GEORGE FUREY
Chair

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

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

CANADA ELECTIONS ACT INCOME TAX ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. George J. Furey, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, June 19, 2003

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

SEVENTH REPORT

Your Committee, to which was referred Bill C-24, An Act to amend the Canada Elections Act and the Income Tax Act (political financing), has, in obedience to the Order of Reference of Monday, June 16, 2003, examined the said Bill and now reports the same without amendment.

Your Committee notes that it instructed the Law Clerk and Parliamentary Counsel to make the following clerical corrections in the parchment, in clause 25, of the French version:

(*a*) on page 31, by replacing line 35 with the following: "405.3(2)*b*)(i);";

(*b*) on page 33,

(i) by replacing line 25 with the following: "(2.1) Par dérogation au sous-alinéa (2)*b*)(i), si deux";

(ii) by replacing line 41 with the following: "titre du paragraphe (2.1) à l'association enre-"; and

(*c*) on page 34,

(i) by replacing line 1 with the following: "(2.3) Par dérogation au sous-alinéa (2)*b*)(i), si une"; and

(ii) by replacing line 15 with the following: "titre du paragraphe (2.3) au candidat soutenu".

Respectfully submitted,

GEORGE FUREY
Chair

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

Hon. Fernand Robichaud (Deputy Leader of the Government): With leave of the Senate, later this day.

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

Hon. Senators: Agreed.

On motion of Senator Robichaud, bill placed on the Orders of the Day for third reading later this day.

STUDY ON STATE OF DOMESTIC AND INTERNATIONAL FINANCIAL SYSTEM

INTERIM REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE TABLED

Hon. E. Leo Kolber: Honourable senators, I have the honour to table the twelfth report of the Standing Senate Committee on Banking, Trade and Commerce, concerning its special study on the present state of the domestic and international financial system, entitled: "Navigating Through 'the Perfect Storm': Safeguards to Restore Investor Confidence."

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

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I draw your attention to the presence, in our gallery, of a delegation from the Kingdom of Bahrain, led by His Excellency Dr. Faisal Al-Mousawi, President of the Bahraini Shura Council, the equivalent of our Senate. He is accompanied by the Honourable Abdulrahman Jamsheer, First Vice-President of the Shura Council; the Honourable Ebrahim Bashmi, Chairman of the Legal and Legislative Committee of the Shura Council; and Mr. Ismail Akbari, Director of Public Relations, Media and Protocol for the Shura Council. They are the guests of Senator Jaffer and Senator Prud'homme.

Welcome to our Senate.

Hon. Senators: Hear, hear!

• (1420)

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

COMMITTEE AUTHORIZED TO MEET DURING ADJOURNMENT OF THE SENATE

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

That the Standing Senate Committee on Social Affairs, Science and Technology be empowered, in accordance with rule 95(3)(a), to sit on September 16, 17 and 18, 2003, even though the Senate may then be adjourned for a period exceeding one week.

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

Hon. Senators: Agreed.

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

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, can the deputy chair of the committee assure us that all members of her committee are in agreement and that the staff who will be required, as discussed here before, will not have any of their vacation or holiday time disrupted by this proposal? I am sure those days are fine, but the point that I will make, whenever a similar motion is raised, will be to ask for assurance that all members have agreed to attend and can and will attend, and that the staff required will not have their holidays disrupted as a result.

Senator LeBreton: Yes, honourable senators, I can give that assurance. We put the motion forward because that is the week Parliament is scheduled to return. In case some other event were to intervene at that time, we decided to put the motion. Everyone on the committee is in agreement. The staff, of course, will be here.

[*Translation*]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, should the Senate be sitting during the week of September 15, since our calendar indicates that we are to return on September 16, 2003, this would have the effect of nullifying Senator LeBreton's motion.

[*English*]

Hon. Marcel Prud'homme: Honourable senators, since Senator Lynch-Staunton was just on his feet, I think, in good spirit, all senators would want to join in wishing him a happy birthday today.

Hon. Senators: Hear, hear!

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

Motion agreed to.

NATIONAL SECURITY AND DEFENCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY VETERANS' SERVICES AND BENEFITS, COMMEMORATIVE ACTIVITIES AND CHARTER

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

That the Standing Senate Committee on National Security and Defence be authorized to undertake a study on:

(*a*) the services and benefits provided to veterans of war and peacekeeping missions in recognition of their services to Canada, in particular examining:

- access to priority beds for veterans in community hospitals;
- availability of alternative housing and enhanced home care;
- standardization of services throughout Canada;
- monitoring and accreditation of long-term care facilities;

(*b*) the commemorative activities undertaken by the Department of Veterans Affairs to keep alive for all Canadians the memories of the veterans' achievements and sacrifices; and

(*c*) the need for an updated Veterans Charter to outline the right to preventative care, family support, treatment and re-establishment benefits;

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

[*Translation*]

ACADIAN YEAR, 2004

NOTICE OF MOTION REQUESTING GOVERNMENT RECOGNITION

Hon. Rose-Marie Losier-Cool: Honourable senators, I hereby give notice that on Tuesday, September 16, I shall move:

That the Senate of Canada recommends that the Government of Canada recognize the year 2004 as the Acadian Year.

[*English*]

QUESTION PERIOD

HEALTH

SEVERE ACUTE RESPIRATORY SYNDROME— FUNDS TO DEVELOP VACCINE

Hon. Brenda M. Robertson: Honourable senators, there are reports that public health officials in Toronto are tracking down 120 suspected cases of SARS that possibly went previously undiagnosed. The National Microbiology Lab in Winnipeg says that these people had tested positive for the SARS corona virus but had shown only mild symptoms and had not been classified as either a suspected or a probable case. This news is combined with a report today from the World Health Organization that, although the SARS virus was previously thought to be stable, it is now mutating. The World Health Organization is calling upon governments to invest heavily in finding a vaccine.

Could the Leader of the Government in the Senate tell us if the federal government is allocating additional resources for work on a SARS vaccine?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I cannot say whether funds have been put aside specifically for the vaccine. I can assure honourable senators that I will bring the question to the attention of the Minister of Health and urge the Canadian Institutes of Health Research to do all they can to contribute to that investigation.

SEVERE ACUTE RESPIRATORY SYNDROME— INFECTION CONTROL PROCEDURES

Hon. Brenda M. Robertson: Honourable senators, the Ontario Nurses' Association has expressed concern that, as the number of SARS cases appears to be, once again, on the decline, infection control practices are being relaxed in Toronto-area hospitals. The nurses' association says that strict infection-control procedures are still needed and that hospitals must also have inspections to make sure masks and other protective gear fit properly and are effective.

Can the minister advise if Health Canada is working with its provincial and municipal counterparts to ensure that strict protective measures remain in place in all Toronto hospitals, as long as there are active SARS cases?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I can assure my honourable friend that the federal government has been working on a daily basis with municipal and provincial authorities with respect to the SARS outbreak. I have no information that would indicate that infection-control procedures have been reduced in any way. In fact, to the contrary, I have been advised that they remain at a very high level.

CANADIAN INSTITUTES FOR HEALTH RESEARCH—
STEM CELL NETWORK RESEARCH ON
SURPLUS HUMAN EMBRYOS

Hon. Wilbert J. Keon: Honourable senators, I have a question for the Leader of the Government in the Senate. The Stem Cell Network is a group of 65 researchers under the federal Networks of Centres of Excellence. That group has announced that it will proceed with stem cell research on surplus human embryos despite the fact that a bill regulating such research is still before Parliament. In fact, Bill C-13, the assisted human reproduction bill, is at report stage in the other place and may not reach this chamber for quite some time.

What is the federal government's position on this matter? Does it approve of embryonic stem cell research going forward without the legislation being in place?

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for his question. As he knows, the Canadian Institutes of Health Research is an arm's-length organization, but I have information which leads me to believe that the process of actually funding those research proposals will take a considerable length of time. The process is at a very preliminary stage, at this point. It is our hope that the legislation will be passed before the actual funding is awarded.

• (1430)

Senator Keon: I thank the minister for her response.

The mention of funding leads me to my next point. The researchers say that they will follow the research guidelines set out by CIHR. Last spring, CIHR was accused of trying to circumvent Parliament when it announced its own guidelines for funding research on aborted fetal tissue and surplus embryos. As a result of that criticism, CIHR said it would not disburse embryonic research funds until April 2003, allowing time for the passage of legislation. That date has come and gone. It now appears that CIHR will move forward on this matter on its own.

Will the federal government request that CIHR refrain from distributing research funds for embryonic stem cell research until Parliament has passed legislation? The Leader of the Government in the Senate has partially answered this question, but perhaps she would expand on it.

Senator Carstairs: I thank the honourable senator for his question. It is my understanding that Parliament cannot dictate to the CIHR what it can fund and what it cannot fund. I do know that, according to CIHR's own information, it will take a considerable amount of time to put the protocols in place before the funding is granted. I believe that we would all like to see legislation in place before the funding is granted.

WEST NILE VIRUS—STOCKPILING OF BLOOD—
SCREENING TEST

Hon. Donald H. Oliver: Honourable senators, in advance of full-scale testing of donated blood to begin July 1, the Canadian Blood Service has begun testing some of the blood supply for the West Nile virus. However, this testing will not apply to blood products that were already stockpiled between February and May of this year. This is troubling, because some birds have died of the disease much earlier this year compared to last year, suggesting that there is a greater chance that there are already human infections as well.

My question to the Leader of the Government in the Senate is: Why will the blood product stockpile not be tested, even in part, for contamination with the West Nile virus?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I had taken that question as notice for Senator Keon who posed it last week. I have not yet received a definitive answer on that matter and must wait until I do, before I will be able to answer this question.

WEST NILE VIRUS—SUSPECTED CASE IN WALPOLE
ISLAND, ONTARIO—BLOOD DONATIONS IN REGION

Hon. Donald H. Oliver: Honourable senators, a delayed answer was given on Monday to a question posed last week by Senator Keon regarding whether blood collections were taken in the Walpole Island area of Ontario, while a suspected case of West Nile in a young boy was being investigated there. The response stated that blood clinics were not operated in the area in which the boy resides, during that period.

Could the Leader of the Government tell us if it is the standard practice of Canadian Blood Services and Héma-Québec to suspend blood collections in an area with a suspected case of West Nile virus? Was it a coincidence that there were no blood clinics in operation at the time of this particular incident?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I cannot answer that question. I do not know whether it was coincidental that blood clinics were not being run there at that time or whether it is a matter of policy.

As the honourable senator will know, we are not dealing with a service that is a branch of the Government of Canada. The Canadian Blood Services is an arm's-length blood services institution. However, I will endeavour to find out that information for the honourable senator.

FOREIGN AFFAIRS

UNITED STATES—FRIENDLY FIRE INCIDENT IN
AFGHANISTAN INVOLVING TWO FIGHTER PILOTS—
DECISION NOT TO HOLD COURT MARTIAL HEARINGS

Hon. J. Michael Forrestall: My question is for the Leader of the Government in the Senate. Would she make a statement or some comments about the news reports circulating today that the United States government does not intend to proceed with criminal charges against the two F-16 pilots who were found negligent by a joint Canada-United States board of inquiry for the deaths of four Canadian soldiers in the friendly fire incident?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the latest information I have is that the report, although speculation as to what it may contain has been given wide publicity, has not yet been filed. I do not know what that filed report will say but, in any case, it will be a matter for the United States justice officials and not a matter for Canadians.

Senator Forrestall: I appreciate the difficulty that poses.

NATIONAL DEFENCE

AFGHANISTAN—LEADERSHIP OF PEACEKEEPING MISSION—SAFETY PROCEDURES FOR TROOPS

Hon. J. Michael Forrestall: As the leader will know, in the last several days, there have been many demands from NGOs, the UN and the President of Pakistan, on unrelated matters. Has the government given any thought to these demands, inquiries and security concerns in Kabul and the rest of Afghanistan on the eve of Canada's intended deployment of 1,800 troops?

Will force leadership be the responsibility of a member of the Canadian Forces? Will the Leader of the Government in the Senate enlighten us as to what specific steps, if any, Canada has taken to avoid a repetition of that most unfortunate incident?

Hon. Sharon Carstairs (Leader of the Government): As the honourable senator knows, the command of the troops that we send in late August will be, for the first six months, under German control. It will then revert to our control for the next six months. As I understand it, as experience is gained, the leadership moves to a command position over the combined forces to ensure safety in the Kabul area.

As the honourable senator well knows, although the main thrust will be a peacekeeping endeavour and helping with the stabilization and reconstruction of Afghanistan, there is always danger involved in any peacekeeping mission. Our troops will go into that theatre understanding that danger and they will be encouraged to take all possible precautions.

Senator Forrestall: Will the Leader of the Government, in her capacity as a member of the government, give us an assurance that, as a result of one-on-one consultations with their counterparts in the United States, there is in place an acceptable rule of procedure with respect to live exercise and overflights that would assure greater safety for our troops and others?

Senator Carstairs: I thank the honourable senator for his question. As he knows, the theatre that the troops are now entering is not technically a theatre of war, as it was when our troops were last there.

The honourable senator raises an important question and that is, if there are live exercise operations going on at the same time as overflights are being undertaken, we must have in place appropriate procedures and protocols. My understanding is that they have fine-tuned those procedures and protocols. Hopefully, we do not learn that they are not yet adequate by the recurrence of such a tragic accident.

Senator Forrestall: I did not understand that it was a theatre of war. I have always understood that it is a zone where the threat of serious injury is apparent. This is not a peacekeeping mission.

To that end, I would ask the Leader of the Government to give us a general assurance that the same benefits of protection that apply when Canadian troops are in a war zone are being provided to them during their period in Afghanistan.

Senator Carstairs: Honourable senators, my understanding is that the peacekeepers will go in with that complete assurance. However, I would clarify for the honourable senator that it is not considered a war zone in the technical sense of the phrase, because we have now moved on to a stabilization and reconstruction period. The troops are there principally as peacekeepers. Having said that, we know that the situation in Kabul is, on occasion, not peaceful.

Senator Forrestall: I do not remember the war ending.

SOLICITOR GENERAL

GUN CONTROL PROGRAM—BLUE RIBBON PANEL

Hon. Terry Stratton: My question is addressed to the Leader of the Government in the Senate. I notice that a recent shift of the gun control program from the jurisdiction of the Minister of Justice to the Solicitor General has triggered the formation of yet another advisory committee, this time a blue ribbon panel. It travels a well-blazed path taken by Minister Rock in 1995, when the User Group on Firearms was created with a panel of part-time volunteers to provide advice to the minister. That group is still in existence. There was also a committee of chief firearms officers and a steering committee of representatives from a number of federal departments and agencies.

• (1440)

In addition, over the years, a range of other advisory panels and working groups has been struck, including the Firearms Smuggling Working Group, the Core Group on the Illegal Movement of Firearms, the National Weapons Enforcement Support Team and a working group to establish a First Nations' Approach to Firearms. That is quite a list, and they have created yet another one.

While one might congratulate the minister on his initiative in seeking what is obviously badly needed advice, considering the cost overruns and the general state of chaos that appears to prevail in the Firearms Control Program, perhaps the Leader of the Government in the Senate can advise us whether the Minister of Justice has already sought, received and then rejected the advice of the user group, or is he just going to ignore the recommendations as did his predecessor?

Hon. Sharon Carstairs (Leader of the Government): The federal Solicitor General, as the honourable senator knows, announced on June 18, the establishment of a program advisory committee for the Canadian Firearms Program. This was a key part of the action plan that was announced in February. The individuals who would serve in a voluntary capacity, by the way, will provide ongoing advice on quality of service and a continuous improvement plan for the firearms program.

Senator Stratton: There are quite a number of advisory panels or working groups. Will all the other groups listed be disbanded or put to work? What will happen to them?

Senator Carstairs: Honourable senators, I do not know the status of the other user groups. Most, of course, were put in place for the implementation of the program. Now that it has been implemented, we must move on to the stage of ensuring quality of service and that any further improvements to be made can be made. However, I will, on behalf of Senator Stratton, ask the Solicitor General about the status of all those other groups.

FOREIGN AFFAIRS

IRAQ—REQUEST FOR COMMENT ON DECISION NOT TO PARTICIPATE IN WAR

Hon. Douglas Roche: My question is for the Leader of the Government.

Three months have passed since the war against Iraq ended, a war fought by the United States on the grounds that Iraq had imminent capacity to use weapons of mass destruction. Despite an extensive search of Iraq by U.S. inspectors, no such weapons have been found.

Many people were killed in the war, and Iraq is in a state of continuing disorder. Canada's decision not to join in this war because of lack of UN authorization is looking better all the time. Does the minister have any comment on this?

Hon. Sharon Carstairs (Leader of the Government): Not other than to say that I agree with the honourable senator, that the decision made by the Canadian government was the correct one.

IRAN—POSSIBLE MANUFACTURE OF NUCLEAR WEAPONS

Hon. Douglas Roche: The U.S. is now charging that Iran has nuclear weapons. However, a report released this week by the International Atomic Energy Agency, which completed an investigation inside the country, does not indicate that Iran has nuclear weapons, but it does state that Iran should better report on its nuclear materials, materials used for nuclear energy, and that it should sign the IAEA Additional Protocol.

Is the Government of Canada presently counselling the U.S. not to rush to judgment in this matter and to lower the tone of its belligerence against Iran?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I do not know that it is appropriate for the Government of Canada to lecture the Government of the United States. What is appropriate is for the Government of Canada to identify its concerns and, to be fair, it has some concerns, about Iran's nuclear program.

The IAEA has indicated that they believe Iran seems to be, on first observation, using its nuclear materials for peaceful purposes, that is, to provide services to its citizenry, but some concerns have been expressed that this could move, as it has moved in other nations, to the active development of nuclear power for weapons usage.

Senator Roche: Just to be clear on the record, I did not say that Canada should lecture the U.S. I used the word "counselling," in its wide definition of that word, through our representatives of the IAEA.

Honourable senators, it is true that nuclear materials for power can find their way into weaponry, but inasmuch as the IAEA has said that there is no evidence of this happening, I believe there is a role for Canada to play internationally to calm waters before they become turbulent. Canada can play a role in heading off the anticipation of future turbulence.

I would appreciate the leader's comments on that.

Senator Carstairs: Honourable senators, the concern is that these facilities were built in secret. They were not declared to the IAEA, therefore not placed under safeguards, and that does raise serious concerns, not only for the United States, it appears, but also for Canada, because we do not want to see the proliferation of nuclear weapons.

ISRAEL—SIGNING OF NUCLEAR NON-PROLIFERATION TREATY

Hon. Marcel Prud'homme: Honourable senators, on the subject of the proliferation of nuclear arms, we now know that the United States of America, our friend and neighbour — and I say that in front of the delegation — is now sending very strange signals to Iran about its nuclear capabilities.

Is Canada not now in a position to tell our friends in Israel, who have never signed any treaty on nuclear, chemical or biological weapons, that we must call a spade a spade and say that what is good for certain regions is also good for the State of Israel? This could prevent another arm's race such as the one that developed in the 1940s between the United States of America and Russia. Is it not the time to officially and publicly say we are good friends? Why do we not try to diminish this arm's race, and stop asking one part of the world to do what we are not ready to ask of another part?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, we would like to have all nations participate in the non-proliferation treaty. That is very clear. However, to the best of my knowledge, and I think I am absolutely accurate on this, Israel has built nothing in secret. Israel has complied with all of the IAEA requirements.

Senator Prud'homme: When I was chairman of the Foreign Affairs Committee it was forbidden for me to even mention that it existed, and they never admitted it existed. They said, "We may, we may not." However, they never admitted they had. They have not signed a treaty and I am concerned about that.

Before we recess for the summer, I wish to say that Canada is well-liked and the time has come to use the good reputation we have in the region to ask them why they have not signed. That would send a signal to the others to do likewise.

Senator Carstairs: Honourable senators, I will make the honourable senator's views known to the Minister of Foreign Affairs.

SOLICITOR GENERAL

GUN CONTROL PROGRAM—BLUE RIBBON PANEL—EFFECT OF EARLIER REPORT BY INUIT WORKING GROUP ON THE FIREARMS ACT AND REGULATIONS

Hon. Charlie Watt: Honourable senators, my question relates to the point raised by Senator Stratton regarding the list of those groups involved in gun control.

I led the Inuit Working Group on the Firearms Act and Regulations, and we tried to find solutions to the concerns expressed by Aboriginal people regarding Bill C-68. We prepared a report that was tabled a year ago. It was handed to the Minister of Justice and we did receive a response. Basically, the Minister of Justice did not want to deal with the two important issues that we highlighted in our report. I will not go into those because it would take me a long time to discuss them.

• (1450)

Will the leadership find out from the minister responsible, who I believe is the Solicitor General, whether he has the same concerns as the Minister of Justice had with regard to the report we tabled? There is no sense in proceeding further unless the government is willing to address the two fundamental issues raised in our report.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the easiest way for the honourable senator to get that information would be to direct a letter to the honourable minister responsible for the firearms initiative. Senator Watt's group was not an official group in that it was not nominated and appointed by the Minister of Justice. However, if Senator Watt wishes to have clarification on a report sent to the minister, I am sure the minister would provide it, should it be requested of him.

[*Translation*]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour of tabling, in the Senate, three delayed answers. The first is in response to the oral question raised in the Senate by the Honourable Senator Rivest, on March 26, 2003, concerning the number of Canadian citizens in Iraq; the second is in response to questions raised in the Senate by the Honourable Senator Atkins, on June 5, 2003, concerning national defence, efforts to design a new logo and the relationship between contracted companies; and the third is in response to the oral question raised in the Senate by the Honourable Senator Kelleher, on June 13, 2003, concerning the Minister of Finance, the mid-term economic update.

FOREIGN AFFAIRS

NUMBER OF CANADIAN CITIZENS IN IRAQ

(Response to question raised by Hon. Jean-Claude Rivest on March 26, 2003.)

As of 12 June 2003, there were 79 Canadians who had registered their presence in Iraq with the Canadian Embassy in Amman. Information provided on the registration form is collected under the auspices of the *Privacy Act* and details surrounding the registration, including employer information, are kept in strict confidence.

Providing humanitarian assistance to respond to the needs of civilians affected by the conflict has been a key priority for Canada. On 26 March 2003, Canada, through the Canadian International Development Agency, committed $100 million in humanitarian assistance for the people of Iraq. Of this, Canada has disbursed $60 million, mainly through UN agencies and the Red Cross, to help to ensure war-affected Iraqis have access to clean water and proper sanitation, food and shelter and primary health care. These funds also supported protection activities for the internally displaced and war affected children, mine action activities and the safety and security of humanitarian workers.

In addition, on 14 May, Canada announced a further $200 million for humanitarian and reconstruction assistance for Iraq, bringing Canada's total to more than $300 million. The new funding will help Iraqi authorities to further improve basic services, and will support Iraqi efforts to build strong democratic institutions, reform judicial, police and correctional services, strengthen civil society and promote human rights. Canada will also work with neighbouring countries to address the political, economic and social challenges and opportunities created by the new situation.

Canada remains committed to all efforts to restore peace and security to Iraq and the region, and will continue to work to ensure that goal is achieved. We will work in partnership with the UN, the international community, and all of our key international and regional allies, to ensure we are best meeting the needs of the Iraqi people.

NATIONAL DEFENCE

EFFORTS TO DESIGN NEW LOGO— RELATIONSHIP BETWEEN CONTRACTED COMPANIES

(Response to questions raised by Hon. Norman K. Atkins on June 5, 2003)

The Department of National Defence's Creative Services (Communications) develop innovative information and recruitment campaigns and projects for the Canadian Armed Forces.

In 1999, after being selected through a PWGSC competition, the firm Créatec Plus conducted public opinion research on publicity and promotional documents for the department. This firm is currently the only one with which the department has concluded a standing offer for this kind of research. It does not contribute in any way to concept development, but merely reports comments from target groups.

In 1999, after being selected through a PWGSC competition, the firm Groupaction Marketing Inc. provided publicity management services to the department. In 2001, the firm submitted creative concepts for the logo design project to the department.

We are not aware of any relationship between Créatec Plus and Groupaction Marketing Inc.

FINANCE

MID-TERM ECONOMIC UPDATE

(Response to question raised by Hon. James F. Kelleher on June 13, 2003)

John Manley, Deputy Prime Minister and Minister of Finance, will be the guest speaker at a breakfast hosted by the Economic Club of Toronto on Wednesday, June 25, 2003.

Minister Manley's speech will review Canada's economic success in recent years and look ahead at the future challenges the country faces.

The event will take place at 7:45 a.m. in the Grand Ballroom, Lower Concourse Level at The Sheraton Centre Toronto Hotel, 123 Queen Street West, in Toronto.

[*English*]

TRIBUTE TO PAGES ON DEPARTURE

The Hon. the Speaker: Honourable senators, before calling Orders of the Day, there are several things we should do. One is to say goodbye to some of the pages who have been serving us and will not be returning.

I will start with Catherine Cecchini from Timmins, Ontario, who will be entering her third year at the University of Ottawa where she is pursuing an honours program in psychology with concentration in criminology. If her plans to become a senator do not work out, she plans to obtain her doctorate in psychology.

[*Translation*]

Patricia Lapointe is from Sainte-Anne-des-Plaines, Quebec. She has just earned her degree from the University of Ottawa where she majored in communications and minored in geography. She intends to pursue a career in international development and plans to do a master's in business administration at a school abroad.

[*English*]

Jonathan Shanks, from Fredericton, New Brunswick, is returning to the University of Ottawa in the fall to complete his degree in history. Jonathan hopes to continue on to graduate school.

[*Translation*]

Abdullah Afzal from Afghanistan has just completed two years as a page at the Senate.

[*English*]

He also finished his second year at the University of Ottawa in political science. In September, he will begin a civil law degree at the University of Ottawa. This summer he will be working with the Clerk of the Senate.

Finally, Melanie Bratkoski is finishing her third year as a page here and her second as chief page. Next year, she will return to the University of Regina to complete her bachelor of arts degree majoring in Canadian studies. She also plans to pursue her master's in hospital administration.

To all of the pages, on behalf of all of us here — senators, the Table and the Senate team — we thank you for your good service to us and for your patience. We appreciate very much the opportunity to have known you. Thank you very much.

[*Translation*]

QUESTION OF PRIVILEGE

SPEAKER'S RULING

The Hon. the Speaker: Following the proper notice requirements, Senator Murray stood in his place at the conclusion of Orders of the Day last Monday, June 16 to raise a question of privilege. The matter that the Senator brought to the attention of the Senate relates to events that have recently occurred in the other place with respect to an investigation into the conduct of the Privacy Commissioner, Mr. George Radwanski. Senator Murray explained that as a consequence of accusations made against Mr. Radwanski by a committee of the House of Commons and the failure of the government to accept its responsibility and take timely parliamentary action to deal with this matter, Mr. Radwanski, who is an Officer of Parliament, is now in an untenable position.

[*English*]

After detailing the history of this situation, Senator Murray concluded with this declaration:

> As far as the dignity of Parliament is concerned and as far as our rights, our reputation and the status of one of our officers are concerned, we cannot allow matters to stand where they are.

This, then, is the basis of the question of privilege that Senator Murray has raised. The senator seems to favour the idea that the government ought to recall the House of Commons to resolve the situation of Mr. Radwanski's status one way or the other. As an alternative, Senator Murray raised the possibility of the Senate inviting the Privacy Commissioner to appear before the Committee of the Whole.

Other senators spoke to the issue. Senator Carstairs, the Leader of the Government, explained that since the matter involved the House of Commons, it might not be proper for the Senate to interfere. In the course of her intervention, the senator said:

> The two Houses work quite independently from one another. What we are doing is using a question of privilege to call into question the proceedings of the other place....
>
> As a chamber, I do not know exactly what we can do.

[*Translation*]

The issue was then broadly canvassed by other senators who spoke on the question of privilege including Senator Kinsella, the Deputy Leader of the Opposition, Senator Cools, Senator Fraser and Senator Joyal.

[*English*]

I wish to thank all honourable senators who participated in this discussion. It has assisted me in coming to terms with the issues that are relevant in this question of privilege.

Let me begin by stating that my role as Speaker is to apply the provisions of rule 43, which list the criteria I must apply in evaluating any claim of a question of privilege. In carrying out this responsibility, I am not assessing the merits of the case itself. It is not for me to pronounce on the circumstances in which Mr. Radwanski now finds himself or how he arrived at this position. My task is to determine whether this question merits consideration as a question of privilege, giving it a priority status that would then be resolved through a decision of the Senate. My ruling only concerns whether or not, on a prima facie basis, the issue that has been raised by Senator Murray deserves to be treated as a question of privilege.

Rule 43(1) lists four criteria that I need to evaluate with respect to this issue. The first has to do with timing: Was the matter raised at the earliest opportunity? Given that Senator Murray brought up this subject as a result of the summer adjournment of the House of Commons that occurred last Friday, I am satisfied that the question was raised at the earliest opportunity.

[*Translation*]

I am less certain about the applicability of the remaining three criteria. It must, for example, "be a matter directly concerning the privileges of the Senate, of any committee thereof, or any senator." Senator Murray, as well as several other senators, pointed out that Mr. Radwanski, as the Privacy Commissioner, is a Parliamentary Officer. This is certainly true, but the actions complained of were taken by a committee of the House of Commons. As a Senate and as senators, we might dispute what has occurred in the other place, but as Senator Carstairs pointed out, both Houses are fully independent and autonomous. Each are entitled to the protection of privilege and each have the right to conduct their proceedings as they see fit. I do not see how the Senate can invoke privilege in this case to challenge what was done in the other place.

[*English*]

As to whether the question of privilege is "raised to seek a genuine remedy, which is in the Senate's power to provide, and for which no other parliamentary process is reasonably available," the third criterion stipulated in rule 43(1), again I see a problem. Insofar as the preferred remedy raised by Senator Murray is that the government should request the Speaker to recall the House of Commons so that the status of Mr. Radwanski as the Privacy Commissioner could be resolved, this is not a solution that is within the power of the Senate to provide. Any recall that the government might undertake would be made pursuant to its prerogative as the executive. The Senate has no role in this kind of decision.

• (1500)

As an alternative, Senator Murray suggested that the Senate could invite Mr. Radwanski to appear in Committee of the Whole. This is certainly within the Senate's authority, but it is also a "parliamentary process that is reasonably available." As an option, it does not require a ruling by me on a question of privilege. I believe that it would be more appropriate for the Senate itself to consider this course of action by way of the necessary motion moved in accordance with our usual practices. In this regard, I share the view expressed by Senator Cools, though perhaps for different reasons, that this is a decision for the Senate that should not be prompted by a ruling from the Chair.

Finally, with respect to the fourth criterion that the alleged question of privilege must "be raised to correct a grave and serious breach," I am obliged to state that while the matter appears to be a serious one, I do not think that it is one of parliamentary privilege. It may be that the action or, more accurately, inaction of the House of Commons raises some serious issues about natural justice, as some senators mentioned in their comments, but this does not make it a question of privilege that falls within the responsibility of the Senate.

If the Senate wishes to consider the issues involved in the circumstances surrounding the current status of the Privacy Commissioner, there are means readily available. As I have already noted, Senator Murray has mentioned one of them and there are others. For this and the other reasons that I have explained, it is my decision that there is no prima facie question of privilege in this case that can be addressed using rule 43.

ORDERS OF THE DAY

ANTARCTIC ENVIRONMENTAL PROTECTION BILL

SECOND READING—DEBATE ADJOURNED

Hon. Ione Christensen moved the second reading of Bill C-42, respecting the protection of the Antarctic Environment.

She said: Honourable senators, the Antarctic is home to the largest and most pristine wilderness on earth. It covers an area of 14 million square kilometres, one and a half times the size of Canada. It is made inhospitable by extreme cold, a massive permanent ice sheet and floating ice shelves. Less than 0.5 per cent of the continent is ice free.

Remarkably, the Antarctic sustains thousands of forms of life, many of which are unique to that region. Marine mammals, such as seals and whales, are found there in numbers that are greater than are found in the Arctic region. It also plays a critical role in the global climate system. It is an indicator of climate change, which affects all of us.

Honourable senators will remember the news story of last year about a large iceberg that broke off the Larsen Ice Shelf.

This continent plays a major role in the oceans of the world, and its natural ecosystems provide opportunities for scientific research to help us understand more about cold climates and the planet's weather and ocean systems. Scientific research is the major human activity carried out in Antarctica. It is important for science, providing an unparalleled natural laboratory for undertaking research of global relevance. However, much of the environment and scientific value of Antarctica will be lost if it is allowed to be polluted or significantly disturbed.

Honourable senators, Bill C-42 will enable Canada to fulfill its obligations to protect the globally significant ecosystem that is the Antarctic. It will enable Canada to ratify the Madrid Protocol, which is required by the Protocol on Environmental Protection to the Antarctic Treaty to which Canada is a signatory. This protocol was drafted in 1991 to protect the Antarctic environment.

As a polar nation and as an international environmental leader, we in Canada understand very well the threats to polar environments, such as the human disturbance of flora and fauna, the threats of invasive alien species, marine pollution, climate change and contamination. We understand those threats. We are working hard to address them ourselves in our own polar regions. Perhaps that is why Canadians who are active in the Antarctic have continually operated under the principles of the protocol. Therefore, honourable senators, we are not fixing something that is wrong. We are affirming that the way we have conducted ourselves to date is the way that we must continue to conduct ourselves in the future. We want to make sure that Antarctica remains pristine for future generations. For that reason, we are proposing this enabling legislation, Bill C-42.

This bill has been developed in a manner consistent with established Canadian legal policies and practices and is in accordance with international law. It is consistent with the approach taken by other countries.

The protocol demands that all parties are responsible for their nationals in the Antarctic. To enable the Government of Canada to oversee the activities of Canadians in the region, the bill requires that permits be issued for people on Canadian expeditions, Canadian vessels and in Canadian aircraft. Every permit application would be subject to an environmental impact assessment and would require the preparation of waste management and environmental emergency plans. Every permit holder would be required to monitor and report on his or her activities.

Honourable senators, the environmental assessment provisions required to be met under this bill are based on those of the protocol which are even more rigorous than those defined in the Canadian Environmental Assessment Act.

The bill establishes a series of prohibitions put forth in the protocol, but it also provides for exceptions in the case of emergency or for scientific research.

The bill also includes provisions which will enable Canada to fulfill its reporting obligations under the Madrid Protocol and the Antarctic Treaty.

It may be helpful to understand something about the Antarctic Treaty. It was signed in 1961 to dedicate the region south of 60 degrees latitude to both science and peace. There is no other spot on earth that has such a designation. In such times as we are experiencing today, we could use more such areas on this old planet. With this designation comes the prohibition of any military activity, nuclear tests and disposal of radioactive wastes. There is also the promotion of cooperation in scientific research and the suspension of sovereignty claims. That is why we can truly say Antarctica belongs to the world.

Under the Antarctic Treaty system, there are several agreements. There is the Antarctic Treaty and the Convention for the Conservation of Antarctic Marine Living Resources of 1980, both of which Canada acceded to in 1988, and the Convention for the Conservation of Antarctic Seals of 1972, to which Canada acceded in 1990.

• (1510)

Finally, there is the Protocol on Environmental Protection to the Antarctic Treaty, the Madrid Protocol, which we are addressing here, and it is time for us to provide the legislative base required to ratify this integral piece.

I would like to give honourable senators a few details on the Madrid Protocol. It entered into force in 1998, and 30 nations have ratified it. It has always been our intent to ratify this important international environmental agreement since we signed it in 1991. Approximately 37 Canadian scientists are involved in Antarctic research, and two Canadian companies lead eco-tours there each year. Canadians constitute roughly 400 of the more than 11,000 tourists who land on Antarctica each year.

The intent of the ratification is to formalize Canada's part in the global effort to protect the Antarctic and to provide clarity on Canada's role to other countries and Canada's activities in the region. All stakeholders are supportive of this ratification and the approach to implementation.

I think we can say that many of the key environmental, economic and social challenges that Canada faces must be addressed through cooperation and global action. We have done that on the issue of the ozone layer depletion, on climate change and on a wide range of economic issues.

This ratification is important to enhance those international partnerships, honourable senators, and I recommend it to you. I ask for your support in passing Bill C-42.

On motion of Senator Spivak, debate adjourned.

[*Translation*]

NATIONAL FINANCE

COMMITTEE AUTHORIZED TO MEET DURING ADJOURNMENT OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government) moved:

> That, pursuant to rule 95(3), the Standing Senate Committee on National Finance be authorized to meet during the period September 1 to 16, 2003, even though the Senate may then be adjourned for a period exceeding a week.

He said: Honourable senators, the Standing Senate Committee on National Finance is considering Bill C-25 and has started to hear witnesses. The members of the committee and the chair agree that the committee should receive this authorization in order to continue its work during the period referred to. It is simply because the committee has a bill before it and wants to do its work.

[*English*]

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I hope that the deputy leader realizes that our side has a caucus in St. John's on September 8, 9 and 10. There may be other events affecting our members. I wonder if the deputy leader could be more precise as to the exact dates of those meetings for those of us who want to attend. Bill C-25 is an important bill, and other members of our caucus who are not members of the committee are interested in this bill and have already spoken to it. They would not want to miss the witnesses. I would like to know the dates the committee intends to sit and, of course, assurance that this does not disrupt the holiday schedule of the staff directly associated with the committee.

Senator Robichaud: As the Honourable Leader of the Opposition knows, this committee is under the chairmanship of Honourable Senator Murray. I hear the comment, "Good chair," and I agree with that. Therefore, I have no doubt that Senator Murray will make sure that all these considerations will be looked at so that members of the opposition can attend the meetings and can also attend their caucus meeting, and also that staff will not be overburdened with the work that is to be done by the committee. Perhaps the chair of the committee could add his remarks so as to give more information to the Leader of the Opposition.

Hon. Lowell Murray: Honourable senators, needless to say, we saw this bill coming a good long time ago. Speaking for Senator Day and Senator Finnerty and myself, we had hoped that the bill would have been before the Senate long before the date on which it arrived earlier this month.

However, in our consultations, we had agreed that the committee, to do justice to a bill of this kind, would need some nine meetings. We have pretty much agreed to a tentative list of witnesses. I might say that a meeting is of 90-minutes' duration. If this motion were to pass, I would have to consult with members of the steering committee again, but I would try to persuade them and the members of the committee to come back right after Labour Day for the better part of three days to hear most of the witnesses so that we would be in a position to proceed to clause-by-clause study during the week of September 16 and perhaps report the bill that very week. Otherwise, given the days that are assigned to the committee when the Senate is sitting, we would require two meetings a week for four weeks, or something of that order, before we could complete our consideration of the bill. If this motion goes through, I will be consulting with a view to having two or three days available to us right after Labour Day in that first week of September.

Senator Lynch-Staunton: That would take us into November, and it is a government bill. Any objections I had to similar motions are weakened. I would hope that the notices of meetings will come out as soon as possible and that we will not have to wait until the eve of Labour Day. I am sure that the chairman and his steering committee will answer that positively.

Hon. Terry Stratton: I have raised this issue before and I must express a concern again. We have been diligent in trying to impress upon various chairs and deputy chairs the importance of meeting outside the regular committee time slots simply because of the problem we have with staffing. Senator Milne and other chairs are aware of this problem.

The committee wishes to sit during a week or a range of days that the Senate is not sitting. Before there is a commitment to sit, I would want assurances that, first, we can staff the committees fully with our regular members, and, second, that we will not sit during the week of our caucus in St. John's, which I think is the week of September 8 through 12.

Senator Murray: It is precisely to avoid sitting during that week that I am suggesting the committee be recalled right after Labour Day, that is, during the first week of September. As for the availability of staff, I cannot give that assurance today, but I will need to have that assurance myself before I recall the committee.

• (1520)

Senator Lynch-Staunton: Honourable senators, if I may, on this question of sitting outside regular sitting hours, I hope the Chair of the Human Rights Committee is listening, although she does not by procedure have to answer. I understand that we did give

her authority to sit every Monday as of September 16 for her special study. I had assumed, and I should have asked her at the time, that she would sit at their regular time slot. Now I understand she intends to call the committee at nine o'clock in the morning. That will penalize our members, particularly from the Atlantic provinces, who cannot get here on that same day so will have to come here on the eve and break up a weekend. That disrupts what little private life that public people have.

I know I am out of order, but since we are on the topic, can some assurance be given that, before settling on the hour of the meeting, full consultation with all members will take place to be sure of full attendance?

The Hon. the Speaker: We probably should have leave to do this, honourable senators. Is leave granted?

Hon. Senators: Agreed.

Hon. Shirley Maheu: Honourable senators, we have agreed, with the consent of the whip, that we can proceed as long as Conservative members are there. The committee cannot sit without opposition members. We can hear witnesses, however, with less than the usual quorum. We have made it a practice not to meet without at least one member of the opposition present.

The only way we can finish the minister's report, with the number of witnesses who want to come before the committee, is to sit for more than two or three hours or one day. One Monday every second week will just not work. That is why I asked special permission.

Senator Lynch-Staunton: Honourable senators, the terms of reference came from the Senate. It is all very well to accommodate a minister, but members of the committee should be accommodated first. You say that one member of the opposition is enough, but I think all members should be there for this very important study. Just to dismiss the opposition by saying one is enough and we do not need a quorum to hear witnesses is dismissing the importance of the committee's work.

Senator Maheu: I agree with the honourable senator but I cannot think of any committee in the house that has refused to hear witnesses if they did not have a full contingent of their members. You get as many members as you can. The members agreed to sit on the Monday because of the importance of the subject and because we have so many people who want to appear as witnesses from right across the country. We are not travelling. It will happen here.

Senator Lynch-Staunton: We simply must make sure that the hour set for your sittings accommodates those senators who come from beyond the Toronto-Montreal-Ottawa area. Flight schedules being what they are now, it would mean, in the case of Senator Robertson and Senator Rossiter, they would have to come the day before and break up weekends, which may not be necessary if you set the time for eleven o'clock or noon.

Senator Maheu: We have members coming from as far as British Columbia, from Winnipeg. Senator Robertson is not on the committee by the way — Senator Rossiter is — but she is welcome. However, we have members coming from right across the country.

Senator Lynch-Staunton: You are reinforcing my argument.

Senator Maheu: Do you want us to call off our meetings on the Monday?

Hon. Anne C. Cools: Honourable senators, I think that Senator Lynch-Staunton is raising a very basic question and one that we all grapple with. This is a huge country and the travelling distances are quite enormous. We do have a custom among members that if and when we are meeting on Mondays in committee, we make sure that we begin those meetings later, rather than earlier, to accommodate travel. That is the only point, I think, that was being made.

The Hon. the Speaker: Honourable senators, we are doing an inquiry on a settled matter to accommodate questions. We have interrupted Senator Murray's time, which I will deduct from his 15 minutes. The next speaker on the matter which we have interrupted will be Senator Prud'homme.

Senator Bryden, are you rising on the interrupting matter or the matter that we wish to return to?

Hon. John G. Bryden: Your Honour, which is which? I rise on a very small consideration. It relates to the issue of designating a period of time in which a committee may or may not sit. In this instance, it is a period of time from September 1 until September 16. We also have situations, I believe, where committees are asking for time to sit during the summer. If we demand that staff accommodate our committees during the vacation period, they must vary their vacation schedules, and our budgets may be impacted if overtime is necessary. That is why we really require committees that ask leave to sit outside their normal sitting times to specify to us, wherever possible, what days they will be sitting.

It could occur in some situations that a senator or a particular chair is so concerned about moving along with a particular agenda that the particular committee will meet three or four times during the vacation period when we are not normally sitting. That must be totally disruptive to the management of the human resources on whom we depend so very much. I am supporting what Senator Lynch-Staunton has been saying all along. Let us not give committees and chairs a blanket opportunity to choose, say, Tuesday in the third week of July, to have a committee meeting. We need to authorize the times when they will have their sittings where at all possible.

The Hon. the Speaker: We have returned to the motion involving National Finance. I took it that Senator Murray was speaking to the motion so I could hear Senator Lynch-Staunton and others make comments or put questions to you. I have to find a place for people, at least in my own mind.

Are you rising to speak or to put a question, Senator Prud'homme?

Hon. Marcel Prud'homme: Honourable senators, I think the issue is getting so confusing that I will abstain from adding to the confusion.

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

An Hon. Senator: Which one?

The Hon. the Speaker: There is only one question before us. I take it that the house is ready for the question.

It was moved by the Honourable Senator Robichaud, seconded by the Honourable Senator Rompkey:

> That pursuant to rule 95(3) the Standing Senate Committee on National Finance be authorized to meet during the period September 1 to September 16, 2003, even though the Senate may then be adjourned for a period exceeding a week.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: On division?

Some Hon. Senators: On division.

Motion agreed to, on division.

SPECIFIC CLAIMS RESOLUTION BILL

REPORT OF COMMITTEE ADOPTED

On the Order:

> Resuming debate on the motion of the Honourable Senator Chalifoux, seconded by the Honourable Senator Adams, for the adoption of the Fourth Report (Revised) of the Standing Senate Committee on Aboriginal Peoples (Bill C-6, 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, with amendments) presented in the Senate on June 12, 2003.

Hon. Thelma J. Chalifoux: Honourable senators, I have nothing further to add.

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

• (1530)

Hon. Senators: Question!

The Hon. the Speaker: It was moved by the Honourable Senator Chalifoux, seconded by the Honourable Senator Adams, that this report be adopted.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

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

[*Translation*]

Hon. Fernand Robichaud (Deputy Leader of the Government): Later today, honourable senators.

[*English*]

The Hon. the Speaker: Honourable senators, is leave granted to deal with third reading of Bill C-6 later this day?

Hon. Charlie Watt: Honourable senators, I wanted to speak on Bill C-6 at the report stage. I thought I would have that opportunity as the other side adjourned the matter yesterday.

The Hon. the Speaker: Senator Watt, you can speak at third reading, which will occur later this day. If I am not mistaken, leave was granted, but I should be doubly sure, because the honourable senator rose.

Is leave granted that third reading be given to this bill later this day?

Hon. Senators: Agreed.

The Hon. the Speaker: Then, when it comes up, Senator Watt, you will be able to speak at third reading.

Hon. Anne C. Cools: Honourable senators, I would like to point out that while you were putting the question and the vote a few seconds ago, Senator Watt was on his feet trying to get the floor. It should be noted that he was trying to speak to the committee's report.

The Hon. the Speaker: On your behalf, Senator Watt, Senator Cools has complained.

Senator Watt: I wanted to speak at report stage, so I would have a second opportunity to deal with the matter, but that is okay.

Hon. Terry Stratton: Honourable senators, I must agree with Senator Watt. If he wanted to speak at report stage, and he was standing on his feet, surely to goodness he should be recognized. That will not cause a delay in the proceedings. The question can be put so that he has the opportunity to speak not only once, but twice. That is what he would like to do.

The Hon. the Speaker: Senator Stratton, unfortunately, I did not see Senator Watt on his feet and I did not give him the floor. For us to return to report stage would require the unanimous consent of the Senate. Senator Stratton, I gather that this is a question that you would wish me to put. I will.

Is it agreed, honourable senators, that we return to report stage of this bill so that Senator Watt may speak?

Senator Cools: It is not in order to seek unanimous consent to do this, honourable senators. The situation has moved on by a vote that was conclusive. The report was adopted. One cannot move back by unanimous consent on this kind of procedure.

I was trying to help Senator Watt get His Honour's attention. Honourable senators, with all due respect, and great affection and everything else, frequently in this little corner we are on our feet trying to get the floor to speak before votes are taken.

Hon. Eymard G. Corbin: If I may, there has been either an oversight or a misunderstanding; whatever, it is history. It is important that minorities in this house be given an opportunity to speak on matters that they are gravely concerned about, regardless of the kerfuffle that we may be facing. This is a house charged with the responsibility of defending minority rights. I do not think I need to say anything else. Perhaps, in the exchange, something was lost or there were conversations. However, it is important that people like Senator Watt be given an opportunity to speak.

The Hon. the Speaker: Senator Watt, I will hear from you.

Senator Watt: I do not want to create any further confusion in this matter, honourable senators. The thing that concerns me, why I keep standing up, is that I want to speak at the report stage and at third reading of the bill. Should I choose not to follow normal procedure, I think that I should have that latitude.

Let us take an example. If I wish to introduce a motion to refer this matter to the Standing Senate Committee on Legal and Constitutional Affairs, then I want to have that opportunity. However, I am concerned that I might be prevented from doing that if I do not speak at report stage and speak only at third reading. That is my concern. I hope that is clear.

The Hon. the Speaker: Some honourable senators wish this chamber to be responsive to the desire of a senator, namely Senator Watt, to speak. We are in an unfortunate situation where the presiding officer, me, did not see Senator Watt standing in his place asking for the floor, and I went ahead to put the question at report stage, which we have dealt with and which is passed. We have before us requests by a number of senators: Senator Corbin, Senator Stratton and Senator Cools. Senator Cools expressed a concern about following the rules when I posed the suggestion that, with leave, we go back to report stage. I see my obligation as presiding officer to do what I can to ensure that honourable senators have every opportunity to speak and do what is provided for under the rules.

I appreciate Senator Cools' reservation, but I would be prepared to ask for leave. If leave is given without a dissenting voice, in other words, with unanimous consent, I believe, notwithstanding our rules and the reservations many of us have about this kind of procedure, that we could return to report stage. It means we would be back to report stage; we would have to vote again and so on.

In terms of your concern, Senator Watt, about moving an amendment or referring the matter back to committee, that can be done at third reading, if that is your concern. Maybe, Senator Watt, you can tell me how badly you want to speak before I put the request for leave again.

Senator Watt: Your Honour, I do appreciate your giving me some latitude here. I wish to speak. This is a serious issue. If I can speak at third reading and have the ability to make the motion at third reading, then I have no problem. I can wait.

Senator Chalifoux: Honourable senators, I wish to apologize to Senator Watt. I was not informed. I thought he was speaking at third reading. That is why I moved the adoption of the report.

I would like to publicly apologize to my colleague, Senator Watt.

The Hon. the Speaker: Honourable senators, I take it from what Senator Watt has said that he is happy to speak at third reading. He will be able to, if he wishes, make a motion to amend, to refer the matter back to committee or do any one of the various options our rules provide for at third reading.

Am I correct, Senator Watt?

Senator Watt: Yes.

CRIMINAL CODE

BILL TO AMEND—MESSAGE FROM COMMONS—REPORT OF COMMITTEE ADOPTED

On the Order:

> Resuming debate on the motion of the Honourable Senator Furey, seconded by the Honourable Senator Moore, for the adoption of the Fifth Report of the Standing Senate Committee on Legal and Constitutional Affairs (motion and Message concerning Bill C-10B, An Act to amend the Criminal Code (cruelty to animals)) presented in the Senate on June 12, 2003.

Senator Robichaud: Question!

Hon. Anne C. Cools: Honourable senators, I was listening carefully to see if the question was about to be put. I was just observing the leadership. We are anxious that the events of yesterday not be repeated because we are eager to see this matter voted on.

The Hon. the Speaker: Seeing no senator rising to speak, I will ask the chamber: Do you wish me to put 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, on division.

• (1540)

[*Translation*]

BUSINESS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, we could now give the floor to Senator Watt on Bill C-6, if he so desires, to give him the opportunity he did not have at report stage.

SPECIFIC CLAIMS RESOLUTION BILL

THIRD READING—MOTION IN AMENDMENT—
DEBATE ADJOURNED

Hon. Fernand Robichaud (Deputy Leader of the Government) moved:

> That Bill 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, be read a third time.

[*English*]

Hon. Charlie Watt: Honourable senators, we have heard and listened carefully to the people who have made submissions to the Standing Senate Committee on Aboriginal Peoples. I feel it is my duty to confirm that Bill C-6, as amended by our Standing Committee on Aboriginal Peoples, is unworkable. I do not like to say this, but that is the fact.

Bill C-6 is unworkable for the following four reasons.

Number one, to set the financial cap for compensation at $10 million means that few specific claims will be negotiated or negotiated successfully. We heard from the witnesses that they have great doubts whether the mechanism being put in place will be useful in dealing with a huge backlog of claims. The cap should be left to negotiations. I know, because I signed Canada's first modern treaty. I do feel that I have experience in that area.

Number two is the time limit. No delay is set for the minister's decision to negotiate.

Number three is the scope of the claims. Claimants can only deal with lands and other assets instead of harvesting rights and other questions.

Number four is consultations. The minister will only consult on nominations to the commission and tribunal. Will consultation take the form of Internet blips for communities where there is no Web connection?

The witnesses have not been listened to, honourable senators. They have been ignored. They have been ignored perhaps because they all said the same thing. What other explanation could there be? If they all said the same thing maybe the best thing to do is to disregard them altogether. Maybe that was the conclusion arrived at by the committee members.

Honourable senators, again I say that Bill C-6 is unworkable. As a result, I have worked closely with the Federation of Saskatchewan Indians, the FSI, which made an incisive presentation to the standing committee two weeks ago. We share many concerns and we have common solutions. For the record, I will table the FSI presentation, along with my amendments.

We have substantial agreement on the changes to be made to Bill C-6. We agree that a $10-million financial cap on compensation is not needed, as I described earlier. It should be up for negotiation. Who would want to appear before the commission and go through the tribunal process knowing that there is already a cap? That does not make sense.

We further agree that Bill C-6 as presently worded rewards the federal minister for delay. I suggest that if after three years the minister has not made known the decision to negotiate or not, he or she will be deemed unwilling to talk. The claimant could then refer the issue to the tribunal. That only makes sense, does it not?

We agree, for example, that the phrase "that relates to the provision of lands and other assets" in clause 26 be deleted. Thus, issues of broader concern, such as harvesting rights, could be negotiated outside of the court system.

We agree that the AFN should be actively involved in the nomination process for the dispute resolution centre.

Finally, we agree that there is a need for a genuine non-derogation clause, precisely in the manner described by Senator Austin, but he tends to think that is not needed.

From the Aboriginal point of view, amendments referred to in the committee report on Bill C-6 amount to administrative tinkering. I am not sure they can even be classified as technical amendments.

Representatives of First Nations told us that Bill C-6 should be rejected outright, and if not rejected the bill would require five major changes. That has not taken place. That is why I am tabling five amendments for the consideration of honourable senators. From the Aboriginal point of view, they are real amendments that come from listening to what the Aboriginal people had to say when they were in front of the standing committee.

Honourable senators, we expend a lot of time, energy and money calling witnesses to come to Ottawa to state their concerns. How many more times do we have to go through that and then turn around at the end of the day and have them feel we did not hear one word they said? I do not think we are being fair to the Aboriginal people, nor to the taxpayers in this country.

Honourable senators, I count on your support as we continue our deliberations on Bill C-6, which, I repeat, is unworkable. Canada's First Nations are looking at us today. They are looking to see whether they will have their concerns heard. They have been doing that for quite some time here in Canada. At times, we feel that we are not important, that we are not, in a sense, making a contribution to society. When you first came to this country of ours, we helped you; we ensured you stayed alive. We made sure that you did not starve to death or freeze to death. At times, we disregard that and forget where we originated.

• (1550)

We should not have to apologize to them again. It is our duty to sustain the trust relationship. We take our trust relationship very seriously, but at times we tend to disregard it.

Honourable senators, the reason I am putting this forward in this fashion is that I know that, if I try to move my five amendments, I will be ruled out of order. I am doing this to make them available for consideration, because the amendments made by the committee do not answer the concerns of the Aboriginal people. This is just another example of bureaucracy preventing Aboriginal peoples from moving forward and succeeding. Bill C-6 does not provide for that.

Honourable senators, I ask you to take this matter seriously and to look carefully at the amendments I have provided. I hope that you will realize that they are the only amendments that make sense and that you will replace those put forward by the committee with these that I am tabling.

At this third reading stage, honourable senators, I would ask that all the matters I have talked about be considered carefully, not only from the political perspective but also from the legal perspective. This is very important. Aboriginal rights have been debated since 1982, but Canadians have not yet been able to digest the Constitution and realize that adjustments must be made.

Hopefully, this will become a part of the educational process. All Aboriginal concerns should be referred to the Standing Senate Committee on Legal and Constitutional Affairs and no other.

MOTION IN AMENDMENT

Hon. Charlie Watt: Therefore, honourable senators, I move, seconded by Senator Gill:

> That Bill C-6 be not now read the third time but that it be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

The Hon. the Speaker: Honourable senators, before I put that question, is there leave for Senator Watt to table the document to which he referred?

Hon. Senators: Agreed.

Hon. Anne C. Cools: Honourable senators, I must say that the issues contained in Bill C-6 have not preoccupied my mind very much. I believe I understood Senator Watt to say, essentially, that the study of these matters should be conducted by the Standing Senate Committee on Legal and Constitutional Affairs rather than by the Standing Senate Committee on Aboriginal Peoples. Could he explain that?

Senator Watt: Honourable senators, some of you probably remember the day I first entered this chamber. Not many weeks after, I raised as issue, and some of you may remember it. I questioned why Aboriginal issues were dealt with solely by the Social Affairs Committee. I said that Aboriginal issues should be dealt with in a committee set up to deal with Aboriginal concerns.

At that time, I believe that the Conservatives had a slight majority in this place, and I was ruled out of order on a technicality. A couple of years later, they said it was a mistake and that the motion should have gone ahead. Nevertheless, that did not happen until Len Marchand became a senator. He was instrumental in establishing the Aboriginal Committee where we could have direct dialogue with no barriers. I supported Senator Marchand on that and the committee was established.

The majority of issues relating to Aboriginal people with which the Senate deals are legal issues. I am not saying that the Aboriginal Committee is not doing its job, but it does not have legal expertise.

Hon. Thelma J. Chalifoux: I resent that very much.

Senator Watt: I am sorry that the Chairman of the Standing Senate Committee on Aboriginal Peoples resents that comment, but the fact is that there is no legal expertise on that committee. The legal expertise is loaded in the Standing Senate Committee on Legal and Constitutional Affairs. Therefore, it makes sense to deal with certain Aboriginal issues in that committee. A lot of unfinished business remains to be dealt with, and it must be sorted out legally. If we do not do that, we will mess up the whole issue of Aboriginal rights under the Constitution.

Senator Cools: Honourable senators, two issues come to light here. One relates to the substantive content of Senator Watt's amendment, which is to refer the bill back to committee, not to the committee that studied it and reported on it, but rather to the Standing Senate Committee on Legal and Constitutional Affairs. I am not adopting a position on that.

The second issue captured my attention, and it is Senator Watt's proposition that perhaps the time has come for the Senate to reconsider whether Aboriginal affairs per se belong to the Aboriginal Affairs Committee or whether they belong to all the other Senate committees in total. I do not know the answer to that, but to the extent that it has been raised, this question should be dealt with at some time. I would have preferred to see it dealt with under the rubric of discussions on the function of committees rather than under a motion to recommit the bill to committee. I was here when senators worked to constitute the Standing Senate Committee on Aboriginal Peoples. As a matter of fact, at the time, the agreement was that the committee would only meet Mondays and Fridays so as not to compete for other meeting times or space on Tuesdays, Wednesdays and Thursdays. All of that fell to the wayside and is not relevant now.

• (1600)

What has been put before this chamber is whether or not bills such as Bill C-6 should rightfully be referred to the Standing Senate Committee on Aboriginal Peoples or to the Standing Senate Committee on Legal and Constitutional Affairs and other committees. That is what I was asking my questions about.

Senator Watt has posed a question that cannot be resolved today. In fact, we should not be trying to resolve it. To the extent that it has been posed, it should be dealt with at some point in time. I remember that when the Committee on Aboriginal Peoples was under consideration to become a standing committee, those people who were busy proposing it had a lot of concern about the ghettoization of Aboriginals and Aboriginal issues. That was what alerted me and got me into the dialogue. I prefer to stay on that narrow point.

Senator Chalifoux: Honourable senators, I resent the insinuation that I am not a capable chairman. That is exactly what they have been saying. I was involved in Aboriginal affairs when Charlie Watt was a teenager. I know exactly what I am doing. I have chaired many meetings and many committees. We have done our best. We had legal advice.

Honourable senators, at this time, I would like to adjourn the debate in my name.

The Hon. the Speaker: There are other senators, Senator Chalifoux, who have indicated their desire to speak, namely, Senator Andreychuk. Our custom is to hear them before I see a senator to adjourn. I understand you want to adjourn the debate.

Senator Chalifoux: Yes.

The Hon. the Speaker: What I propose to do is follow our practice and go to the senators who wish to speak before going to you for an adjournment motion.

POINT OF ORDER

Hon. George Baker: Honourable senators, I rise on a point of order.

I have not spoken to Senator Watt or to anyone else concerning his motion. Therefore, I do not know the logistics of what is happening or what the intent is of what is happening or what has supposedly happened.

Honourable senators, there is an expression in procedure to the effect that when a bill gets to third reading, a motion can be made that the bill be not now read a third time but that the subject matter of the bill be referred to committee. This is standard wording that one finds in Beauchesne, Erskine May or any of the other procedural books.

I rather suspect, and perhaps Senator Watt can clarify this for me, that his intent was that the bill be not now read a third time — in other words, that the bill not be passed now — that it remain at third reading stage but that certain subjects that he wishes discussed further be referred to some standing committee for further study in the fall.

Hon. Terry Stratton: We understood that.

The Hon. the Speaker: If no other honourable senator wishes to speak on this point of procedure about the appropriateness of Senator Watt's motion, I think the motion is in order. I will explain why.

I wish to draw to the attention of honourable senators paragraph 737 of Beauchesne's sixth edition, which states:

> A bill may be recommitted to a Committee of the Whole or to a committee by a Member moving an amendment to the third reading motion.

That is what Senator Watt is doing. He is moving an amendment to the motion for third reading. He says, no, send it back to committee. I believe that is in order.

Senator Baker: I was not concerned about that. I was concerned about straightening up exactly what Senator Watt was saying and what he intended to say, which was not a reflection on the Standing Senate Committee on Aboriginal Peoples.

Hon. Thelma J. Chalifoux: It certainly was.

Senator Baker: That was not his intent.

Senator Chalifoux: Yes, it was.

Senator Baker: The only point I wished to make is that it was a procedural thing that Senator Watt wanted to do. He wants to leave the bill for the fall.

The Hon. the Speaker: What Senator Watt did is in order. We need not spend additional time on whether or not it is in order.

There are at least two senators who wish to speak.

Senator Cools, if you wish to speak, I would point out that I have a list of senators in the order in which I saw them. They are Senators Andreychuk and Joyal. If you wish to speak, I will see you in that order.

If you have another point of order, Senator Cools, I will hear you now.

Hon. Anne C. Cools: I wish to speak on the point of order raised by Senator Baker.

The Hon. the Speaker: I have disposed of that matter by indicating that Senator Watt's motion is in order.

Senator Cools: Honourable senators, no one suggested that it was not in order. His Honour's ruling was anticipating a question that was not asked. The real issue here is not whether a bill can be recommitted. The real question is for Senator Watt to explain in a fulsome way why he was choosing another committee to recommit the bill to. In the process, to be crystal clear, Senator Watt was in no way reflecting either on the Aboriginal Peoples Committee or the senators on the committee.

The Hon. the Speaker: I hear you, Senator Cools. What we have here is not a matter of whether or not we are in breach of our rules. What you are talking about is something that is quite properly brought forward in debate. I will see senators in this order: Senators Andreychuk, Joyal and Cools. After that, if no other senator wishes to speak, I will go to Senator Chalifoux for an adjournment motion.

Hon. A. Raynell Andreychuk: Honourable senators, I wish to speak to the motion. I regret that there is obviously some misunderstanding and some characterizations that pain me more than anything else.

Some 30 years ago, I learned the lesson that the one thing we should not do with our fiduciary duties is to divide the Aboriginal community. I would not want that to happen on the floor of the Senate chamber.

In my conversations with Senator Watt about my concerns involving Bill C-6, it has been brought to my attention that there are many issues here. I believe the Aboriginal Peoples Committee dealt with the matter as efficiently as it could in the time allocated to it. I make no comment that could be perceived as impugning the Aboriginal Committee.

However, our Legal and Constitutional Affairs Committee has in its terms of reference a unique responsibility to look at the Constitution and the legalities of those issues. Many of the issues concerning the technical compliance of the bill and its ability to be introduced and implemented can be studied by the Department of Justice or the Department of Indian Affairs. However, we have often asked the Standing Senate Committee on Legal and Constitutional Affairs to look at issues that are unique to the constitutionality of a bill. It sometimes arises that both committees seize jurisdiction. Sometimes one committee asks another committee to look at a particular issue. Sometimes there are two requests from the floor.

• (1610)

I hope that we take Senator Watt's motion in the spirit in which it was intended, which is to look at the constitutionality of the issues and not at the Aboriginal content. Aboriginal groups have stated their position to the Standing Senate Committee on Aboriginal Peoples. They were given that opportunity. However, the legalities canvassed there may or may not have had the kind of light and scrutiny that the years of expertise of the Legal and Constitutional Affairs Committee could give them.

There are ongoing, difficult issues, and there is case law that impacts on Bill C-6. In fairness, it would be to everyone's benefit if another committee considered this issue to be sure that we have done the best job we can. If it is not the will of this chamber to do so, we can at least, in all honesty, state that.

We cannot impugn motives when a senator wants another committee to study a matter. I have been and will be very candid. In this chamber, Senator Watt sometimes expresses himself using words for which I have one meaning and he has another. We have discussed that, and we have come to the conclusion that what I was taking out of what he said was not what he intended. English and French are not always the language of everyone in this chamber.

I think Senator Watt's motion was meant in the spirit that it was intended, that is, that the matter should be looked at from a Constitutional perspective, and I for one would urge this chamber to adopt the motion in that light.

Senator Cools: Honourable senators, I was not so much concerned about the substance of the motion itself as I was concerned with the phenomenon. A bill has come to us. We adopted a report from a particular committee. It was then moved that the bill be recommitted to another committee.

I was very interested in Senator Watt's reasons for suggesting that. We know that Senator Watt is deeply concerned about these questions.

It is in order, as Senator Andreychuk has suggested, that the Senate ask one committee to do something and, having taken that report, then turn around and ask another committee to take another look at the issue. As far as I am concerned, it is a perfectly legitimate and healthy process, and perhaps one that should be employed more from time to time.

Just a few weeks ago, Senator Carstairs introduced her motion to refer the question of the study of non-derogation clauses. When Senator Carstairs asked a Senate committee to be authorized to examine and report on the implications of including in legislation non-derogation clauses relating to existing Aboriginal and treaty rights of the Aboriginal peoples of Canada under section 35 of the Constitution Act, 1982, I was most interested that Senator Carstairs chose to include in that motion a reference to the Standing Senate Committee on Legal and Constitutional Affairs and not the Aboriginal Affairs Committee.

There is merit in what Senator Watt has said. As I said before, the recommittal of this bill is a different question from the relationship between the Aboriginal Peoples Committee and the Legal and Constitutional Affairs Committee in general. I was trying to separate the two questions.

To that extent, if Senator Watt is of the opinion that the study of this bill should be continued, and if he is of the opinion that the committee to continue that study should be the Standing Senate Committee on Legal and Constitutional Affairs, I am happy to support him in that initiative.

Hon. Eymard G. Corbin: Honourable senators, I recognize that I get up too often to voice my opinion, and I apologize for that. Clause 76 of this bill reads as follows:

76(1) Not earlier than three years and not later than five years after the coming into force of this section, the Minister shall undertake and complete a review of the mandate and structure of the Centre, of its efficiency and effectiveness of operation and of any other matters related to this Act that the Minister considers appropriate.

(2) On completion of the review, the Minister shall cause to be prepared and sign a report that sets out a statement of any changes to this Act, including any changes to the functions, powers or duties of the Centre or either of its divisions, that the Minister recommends.

(3) The Minister shall submit to each House of Parliament a copy of the report on any of the first 90 days on which that House is sitting after the Minister signs the report, and each House shall refer the report to the appropriate committee of that House.

Honourable senators, why wait three years, five years or 90 days to correct something that is not working? Let us do it now, and let us do it properly. Let us support Senator Watt's motion.

[*Translation*]

Hon. Maria Chaput: Honourable senators, it is essential that I speak on this issue in support of Senator Chalifoux, Chair of the Standing Committee on Aboriginal Peoples.

This Chair is well versed in this issue, believes in the rights of Aboriginal peoples and promotes their cause wisely and carefully.

As a member of the committee, and as a result of hearing many witnesses, I, too, wanted to give Aboriginals much more than is currently the case. I know that Bill C-6 as amended does not give them what they want, far from it. However, in my opinion and in all conscience, it is a good albeit imperfect first step.

I would like to add that, last week at the airport, quite by coincidence, I bumped into some witnesses who had appeared before our committee, one of whom had said, "Scrap it, it's no good." They came up to me at the airport and thanked me. They told me that the bill was not everything they had hoped for, far from it, but that it was a start and that they were open and prepared to continue to work with us.

Honourable senators, I felt it was my duty to share that with you.

On motion of Senator Chalifoux, debate adjourned.

CANADA ELECTIONS ACT
INCOME TAX ACT

BILL TO AMEND—THIRD READING—
POINT OF ORDER—DEBATE SUSPENDED

On the Order:

Third reading of Bill C-24, An Act to amend the Canada Elections Act and the Income Tax Act (political financing).

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I move third reading of the bill.

[*English*]

POINT OF ORDER

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): I rise on a point of order.

Honourable senators, earlier today we received the seventh report of the Standing Senate Committee on Legal and Constitutional Affairs that was examining this Bill C-24. It said that the bill was being reported without amendment but attached to the report there are some notations relating to what are described as clerical corrections.

Honourable senators, this matter relates to a large number of textual differences between the French and the English versions in the various clauses of Bill C-24. At the committee meeting this morning, we heard expert witnesses confirm that, indeed, in their words, "There are a number of errors in the bill." We have the direct testimony from the witnesses that there are errors, and we have this reference to what is described as clerical corrections in the parchment in the seventh report that is before us.

• (1620)

The point of order on which I wish to speak must be set in context. The government itself recognizes that it is Parliament, not law clerks of each house, that must make corrections to bills. Every couple of years, we study omnibus bills that correct statutes previously enacted. Indeed, the other House has before it Bill C-41, to enact the Amendments and Corrections Act 2003. Of the 32 clauses in this bill, five specifically correct the French version of the statutes only.

Why do we not give, one asks, due deference to the French language when a bill is going through the legislative process? Honourable senators, in Bill C-24 that is now before this house, we have a large number of clauses in English that refer to subparagraphs with one number and, in French, subparagraphs with another number.

I ask whether this is simply "a clerical error." How do legislators know in reading the bill which subparagraph represents the real intent of the government drafters? Was it the French or the English version? This bill contains references in French to clauses that do not even exist. Clause 25, which replaces section 405 of the act, refers to the proposed subsection 405.3(2.1) in the French version, refers to subparagraph (1)(a). That simply does not exist in the bill. How, I ask, could this possibly be considered a parchment error or a clerical error?

Honourable senators, the irony of all this is that several of these errors arose from the Commons committee and the Commons committee's attempt to fix other problems in the bill. Indeed, the first of these errors arose in government amendment G-12 which, among other things, was correcting an English drafting error. Yet

others arose in government amendment G-14. These amendments themselves were flawed and were passed at committee stage in the other place, agreed to at report stage in the other place, and passed at third reading in the other place. It was only when the bill came to the Senate that these errors were noticed.

Honourable senators, this house has, indeed, in the past often amended bills to ensure that the French version agrees with the English version. This has been done, honourable senators, by amendment, not by staff working behind closed doors to clean up drafting errors that originated in the other place or at the Department of Justice.

Honourable senators, in 1975, the Senate amended Bill C-16, the status of women amendment bill, to ensure the French version agreed with the English. The bill had not gone to committee, so the amendment was moved at third reading. Indeed, Senator Denis stated:

> Honourable senators, the purpose of this amendment is to make the French version agree with the English version.
>
> The government meant to propose this amendment in committee, but since you have been kind enough not to refer this bill to a committee, I move the amendment. It is simply a matter of having the French version agree with the English one.

Honourable senators, that is but one example of such an amendment in this chamber, but what do the procedural authorities say on the matter? *Beauchesne's Parliamentary Rules & Forms,* fifth edition, states at page 223, and this is reconfirmed in the sixth edition at page 198, at citation 657:

> When a variance occurs in either the English or French texts of a bill, it may be treated, with unanimous consent, as an editorial change.

Last night in committee, the experts who appeared told us that, in their opinion, there are a variety of methods available to correct the errors that are discovered. One of the methods is amendment. Other methods are used if it is a simple error. I think the example given was, if "the" is spelled in English "teh" rather than "the," that would constitute, in the opinion of that witness last evening, a clerical error or an error that could be agreed to by the clerks of the two places.

I suggest that even an error of that nature cannot be corrected unless there is unanimous consent of a house to do so. What right does a clerk have to be making amendments to bills that are being studied by a legislative chamber? Why have a legislative chamber if clerks can fix clerical errors or other errors? Who is to decide what constitutes a clerical error or a substantive error or an error that, in the minds of some legislators, is not clear because of the language in which the article or the section is expressed?

I repeat this very important citation from Beauchesne's:

> When a variance occurs in either the English or French texts of a bill, it may be treated, with unanimous consent, as an editorial change.

I emphasize "may."

The next citation is on that same page in Beauchesne's, and it reads as follows:

> 658. The Speaker should not be expected to interpret the language of a measure when one text appears to be at variance with the text in the other official language.

Speaker Lamoureux, in his ruling on March 25, 1976, on the editorial correction noted:

> A figure in the text was changed during the course of the committee proceedings. That should be noted. It has been treated as an editorial change. In any event, it is appropriate that it be brought to the attention of the House so that it can be properly noted as having taken place.

In 1970, Speaker Lamoureux also ruled that the Speaker should not be expected to interpret the language of a measure when one text appears to be at variance with or different from the text of the other official language. He stated:

> The difficulty is compounded in this sense that if it were found that there is a real difference between the two texts it would be difficult for the Chair to rule on which of the two reflects the intention of those who have drafted the bill.

Speaker Lamoureux's solution was that an amendment should be put at the committee stage. Perhaps the following citations from the twenty-second edition of *Erskine May Parliamentary Practice* should be considered. At page 540 it provides:

> Notice may be taken at the consideration stage of any irregularities which have occurred in committee which have not been noticed or corrected in that committee. In such cases the bill is usually recommitted.

• (1630)

It would seem, honourable senators, that we can correct the bill by sending it back to committee to make corrective amendments. We have noticed that there are flaws in the bill. Indeed, the seventh report tells us that there are flaws in the bill. The bill, therefore, should not be altered by motions in this house.

Honourable senators, we have a bill before us in which there are variances between the French and the English text, where the English text is much clearer in reference to the application of subparagraphs. We have a bill that refers to subparagraphs that no longer exist.

This morning, the law clerk pointed out that his office simply does not have the resources to review every bill that comes before us for clerical errors. Indeed, it should not be his job to ensure that the English text corresponds with the French text or that references to the original law are correct. The bills we receive should not be filled with clerical errors. If they are, they should be sent back to the House of Commons. This is supported by the Erskine May citations I spoke about earlier.

In conclusion, honourable senators, I believe it is our duty as legislators to amend Bill C-24, to correct the variances between the English and French versions. We need to send a strong message to the House of Commons that bills should arrive in this place in the correct format, with the English and the French versions in agreement.

The Senate should not be party to correcting bills in the back room. Corrections should be done in committee or on the floor of this house.

Honourable senators, this is a house of review, a house that reads bills. This is a house that has found numerous errors, errors that proceeded continually through the process in the other place, which speaks volumes to the value of a bicameral system. That bicameral system is not worth very much if we do not take our duty seriously.

Here is an instance where the government is rushing to push a bill through. The government is not interested in doing anything. Some commentators who have spoken to the content of the bill see it as nothing but a government party grab for money, which will provide millions of dollars to a separatist party that wants to break up the country.

I do not want to go into the content of the bill. I have examined it in the few hours that were available to us in committee. We have apprehended errors. The transcript of the Standing Senate Committee on Legal and Constitutional Affairs is evidence. When our expert witness says, "Yes, there are errors," there are ways in which errors can be corrected. Judgments must be made as to whether the errors are of a purely clerical nature or whether some of the areas speak to confusion or opportunity, as some lawyers might argue.

Honourable senators, this bill on electoral financing is about the thousands of Canadian volunteers who work for all of the political parties in Canada. I remember the lesson that Senator Corbin has taught, that our Westminster system is based on political parties; political parties are a good thing, but our political parties are really run in Canada by the hundreds of thousands of volunteers who work for the respective parties.

There is a sanction in the bill. Senator Baker explicated a problem with the sanction. A sanction will be imposed on our political workers, who are the volunteers, if they make errors, if they do not comply. There is no colour of right attached to this bill.

Honourable senators, it is our duty to ensure that what is in the bill is what we intend to be there. We cannot allow the confusion, variances and errors that are there. We can only correct the bill by amendment.

My point of order is that what is in this seventh report suggests that this can be done by the clerks, which would require unanimous consent.

Hon. George J. Furey: Honourable senators, with the greatest of respect to Senator Kinsella, the Law Clerk of the Senate was called before your committee. He informed the committee that the irregularities referred to by Senator Kinsella were clerical errors. He also informed your committee that these irregularities could be corrected by the law clerk with the consent of the Commons law clerk if directed to do so by your committee.

Honourable senators, your committee followed the advice of the experts that we called before us. The procedure can be done this way, and we are asking for your support to have it done this way.

[*Translation*]

Hon. Gérald-A. Beaudoin: Honourable senators, I would like to say a few words about the point of order raised by Senator Kinsella.

It is true — and we discussed this in committee this morning — that there are two ways to correct the situation: one is to give instructions to the House's legal counsel and ask him to correct the situation, and the other is to proceed by amendment. However, after having heard the experts who testified before us, I think we would do best to use the amending approach for one simple reason: before 1982, in the days of Messrs. Pearson, Trudeau and Mulroney, people did not talk about the equality of official languages in Canada, just about official languages. It was only in 1982 that section 16 of the Canadian Charter of Rights and Freedoms set out that both official languages in this country should be equal.

When an error is found in different parts of a legal text, it matters little if it is in the French or the English version. What matters is that both versions are equal.

The best way to proceed would be with a constitutional amendment. It is not enough to give parliamentary counsel the power to correct an error in a law that, under our system, must respect the equality of French and English. There must be an amendment. This must be done legislatively, rather than administratively.

Canada's official languages must be taken seriously. This is not something that is simply contained in a law; it is at the very heart of our Constitution. I believe we must proceed by amendment.

I know that the two legal counsel told us that we could take one approach, or the other. I am saying that we should take the other, a legislative amendment, rather than a correction that is purely administrative.

• (1640)

Hon. Gerald J Comeau: Honourable senators, I would like to take part in this discussion on Senator Kinsella's point of order. As a francophone, I am concerned with how this type of error is frequently minimized. These are rather serious errors. The argument is that, this being the French version, the clerk can fix it, and we will just forget it all.

However, francophones should consider these errors a bit more seriously. Errors that occur in the French text are fixed by the clerks and those that occur in the English text, by legislative means.

As Senator Beaudoin has said, we have equality between the two languages. We are not talking about two official languages, but rather about language equality. We want to send to Canada's francophones the message that we do not consider French a secondary language. We must acknowledge that Parliament operates in both official languages and that both official languages are taken seriously. If that is not the case, how can government officials and Canadians evaluate the seriousness of these questions?

On June 24, we will be celebrating Saint-Jean-Baptiste Day, the national day of French Canadians. We want to send a message that the parliamentarians of the highest authority in Canada, the Parliament of Canada, take the two official languages seriously and treat them equally.

It is our duty as parliamentarians to correct these errors by legislative means. It is not something for the clerks to do in secret. These errors will be perpetuated for as long as the other place has not been made aware of the fact that both official languages will be treated equally in the Senate.

The official opposition in the House of Commons does not take the matter of two official languages seriously. They have resources for finding this kind of error, but do not take the matter seriously. They tell themselves that the bill will go to the Senate and that the clerks will sort it out there. This attitude must be done away with. As long as we have an official opposition in the House of Commons that does not want to take its job seriously, we will return the badly drafted bills to them. For these reasons, let us not take administrative means to correct them, but rather legislative means, so that the message is clear.

[*English*]

Hon. Anne C. Cools: Honourable senators, I would like to take issue with what Senator Kinsella has said, not on the substantive matters that he was speaking about in respect of the bill but on the particular issue on which he is raising a point of order, that is, the content of the report in respect of the committee authorizing our law clerk and parliamentary counsel to make clerical corrections.

Perhaps honourable senators could get a hint of the corrections that we are speaking of by looking at Bill C-24, in particular, page 34 at the very top. In that way, they would be well-seized of what we are talking about and understand that absolutely nothing improper is going on here.

Clause 25 is an amendment to section 405.3 of the Canada Elections Act. However, this is the sort of problem senators encountered in their diligence and in their care. Paragraph (2.3) states:

> Despite subparagraph (2)(*b*)(i), if an association...

The clause continues. The problem is that the French translation reads:

[*Translation*]

> Par dérogation à l'alinéa (1)*a*)[...]

[*English*]

The two numbers are different. Clearly, the sense of everything else is the same. The intent is the same and the words in French are the same, so what we are speaking about, be it from carelessness or whatever the cause, is definitely a clerical error.

Honourable senators, I would like to opine that these things happen occasionally. This matter is definitely in the nature of a misprint, a typographical error, a printing error, so to speak, and is not in the nature of anything substantive.

The real question to look at, honourable senators, when trying to make such a decision is the intent and the underlying motivation. There is absolutely no intent to deceive nor mislead, or to alter the text. What we are dealing with here is a straightforward clerical error caused by a typist or a person moving this bill on to a printed copy. I would submit and I strongly suspect that that is where the clerical problems happened. We are not dealing with anything substantive. There is not an alteration here.

I would continue in this vein by suggesting that the possibility exists that Senator Kinsella is trying to question the conclusions of the committee after the committee has duly voted to adopt the report. Perhaps it is okay to do that, but I will try to show why his premises are flawed.

He cited for us Beauchesne's sixth edition, paragraph 657, which is found under the subheading "Differences in Text." Paragraph 657 states:

> When a variance occurs in either the English or French texts of a bill, it may be treated, with unanimous consent, as an editorial change.

I submit to honourable senators, and to His Honour in particular, that the paragraph Senator Kinsella has cited has no application whatsoever in the Senate. It may be a procedure the House of Commons uses, but we have no such procedure. In the Senate, unanimous consent is something that we use not as an enabling procedure or a positive way of moving or passing initiatives, but in a negative way from the point of view of suspending rules temporarily.

Unanimous consent, as we know it in this Senate chamber, does not have the meaning that it has in paragraph 657 of Beauchesne. We must be clear on that point. Rule 3 of the *Rules of the Senate*, where we see the sidebar "Suspension of rule," speaks to how we use unanimous consent in this chamber.

I submit that paragraph 657 has no application in this chamber. Honourable senators, that is not unusual. Much of *Beauchesne's Parliamentary Rules & Forms* has no application in the Senate because it remains primarily a House of Commons reference book. It would be wonderful if one day we could have a reference book for the Senate that could be used in this chamber. The Australians have one.

• (1650)

The second paragraph Senator Kinsella quoted was 658. I submit that the same thing applies, that paragraph 658 has no application in this chamber because it flows from paragraph 657. As paragraph 657, with that particular interpretation of "unanimous consent," it has no application here.

Finally, honourable senators, Senator Kinsella is quarrelling with the following words in the committee report:

> Your committee notes that it instructed the Law Clerk and Parliamentary Counsel to make the following clerical corrections in the parchment, in clause 25, of the French version:

It then lists them.

Honourable senators, we talk about experts and about authorities. I would not have articulated the issues in the way my colleague did by referring to taking advice from the experts. In my view, we are supposed to be the experts and the real parliamentary authorities. We are the members of Parliament.

I would like to remind honourable senators — and this may come as a shock — that the term "law clerk," as the term "clerk of the Senate," has a historical meaning and a historical significance. Contrary to the grand positions that they hold and the nice and wonderful people they are, they do perform clerical tasks. Those jobs are clerical tasks, believe it or not. The Senate committee asked the Senate's own law clerk to perform a clerical task and to make some clerical corrections that the committee seemed to believe are printing errors, typographical errors, non-substantive errors.

I come, finally, to Senator Kinsella's point about an amendment versus a clerical correction. Perhaps one could argue that the committe could have proceeded by moving an amendment, and Senator Kinsella and others argue that. However, I submit that an amendment is something deeper, more profound and larger than a clerical correction. I submit that an amendment is a substantive act. It is not the making of a correction of a typographical mistake; it is making a correction on a policy question or a substantive issue. In other words, an amendment is a new, a different or an additional proposition and, honourable senators, I submit that what the committee did in making those corrections is neither new, different nor additional propositions. As a matter of fact, I submit that they were not propositions at all, that the committee, in its wisdom, its diligence and its attentiveness, discovered these errors that had gone unnoticed in the bill passed by the House. These particular errors were clearly identified as clerical, and the committee consulted and instructed the law clerk.

To be frank, the law clerk is not only the law clerk of the Senate. Honourable senators do not realize that our clerk here is not only the clerk of the Senate, but also the Clerk of the Parliaments. Our people are of a higher order than those in the House of Commons. However, that is neither here nor there.

We asked our law clerk to perform a clerical function, a clerical duty, and to make some clerical corrections to the text and, as far as I am concerned, it is quite in order, honourable senators.

Hon. Donald H. Oliver: Honourable senators, I rise to support Senator Kinsella's point of order on one ground. When Senator Furey rose to give the position of the committee, he indicated that, if there were some errors which required small changes to be made to this bill, it was agreed that the Senate law clerk could meet with the law clerk of the House of Commons and together they could make whatever changes, alterations and variations they felt, in their judgment and wisdom, the bill would need.

It seems to me that this is a very serious matter and would set a very bad precedent for the Senate, which is now seized of a certain bill. For the Senate to agree that the law clerk of another chamber could work with the law clerk of this chamber to make substantive changes, alterations, variations or corrections to a bill without the Senate subsequently having an opportunity to vet those changes, would set a very bad, sad and dangerous precedent for this chamber. If any changes are to be made, they should be made here and now with the express consent of the Senate before this bill is read a third time and is given Royal Assent.

I do not think that, when this chamber is seized of a bill, the law clerk of the other chamber should have an opportunity to make those changes, variations and alterations. Therefore, I support the motion.

[*Translation*]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I agree that there are some differences between the English and French versions. Several years ago now, it was agreed that bills would be drafted in both official languages, by an English and a French drafter, rather than being drafted in only one language and then being translated.

Mistakes have slipped through, but this is not the first time. We asked legal counsel what the procedure was when mistakes are pointed out to the Senate Standing Committee on Legal and Constitutional Affairs, which met yesterday afternoon. According to our legal counsel, who appeared before the committee to answer this question, minor errors can be corrected if the committee so directs. The counsel was not able to give his opinion on the matter on the spot, so the committee decided to adjourn until this morning in order to give him and his assistant time to look at the differences in both versions and decide whether they were major or minor.

This morning he spoke to us about the differences between the two versions of the bill. He told us what changes needed to be made to each of them. He also consulted with the legal counsel of the House of Commons, who consented to having corrections made by directive. He also informed us that we could proceed by amendment. Since the corrections are the type that can be made by directive, that is the procedure the committee chose to follow.

• (1700)

Honourable senators, if a bill contains a minor error, we cannot propose amendments every time and send it back to the other place. That would be an extremely lengthy process. That is why we have this procedure for cases involving minor errors.

Honourable senators, I do not think a point of order is warranted, with regard to the committee's report, which is under consideration.

[*English*]

The Hon. the Speaker: I am interested in hearing comments or advice on the point of order.

Hon. Eymard G. Corbin: Honourable senators, a number of my colleagues have come to me. They want to know by whom, where and when those errors were made. I do not think I have been told this today. I think it makes all the difference in the world.

The Hon. the Speaker: I will now recognize Senator Furey.

Senator Furey: Honourable senators, I was asking for the floor for a completely different reason.

Briefly, I want to correct an impression left by my colleague and friend Senator Oliver. At no time did I say that substantive changes could be made to this bill. I never uttered those words, nor did I suggest for a moment that we give the bill to two clerks and tell them to go on a changing foray of their own. I never suggested that.

I suggested that the changes they were directed to make were to correct what were considered to be clerical errors. It is a legitimate procedure which can be followed and which the committee is asking the support of the chamber to follow. It is a legitimate procedure that even Senator Beaudoin conceded could be used, and we are asking that it be used.

Where did the errors occur? There was some suggestion that some of them occurred when changes were made in the Commons committee. Obviously, some of them came from drafting. We have no exact idea. I cannot — and perhaps Senator Robichaud can — pinpoint exactly where all errors came from. I have only a general idea of where they came from.

Hon. Serge Joyal: Honourable senators, perhaps I can make a contribution to this important point of order.

Senator Corbin has raised a valid question. He asked: How did these errors happen? They were printed in the bill that we received from the House of Commons. Thus, they came from the House of Commons. The errors that are identified in the report of the Chairman of the Standing Senate Committee on Legal and Constitutional Affairs, Senator Furey, are errors that were transferred in the bill. As to how that happened in the other place, that question was asked at the committee this morning by Senator Kinsella, following a point made by Senator Andreychuk last night. Our legal adviser, Mr. Audcent, answered clearly that he could not trace back the origin of those errors. He did not have the time to do it.

Senator Corbin: Did they come from the Department of Justice?

Senator Joyal: The bill comes from the other place. Of course, the bill was drafted by a drafter in the Department of Justice. It was tabled in the House of Commons. As I understand the procedure in the other place, the bill was referred to a standing committee, which studied the bill. Many amendments were made to the bill, as we were told by the Government House Leader in the other place. It is possible that some of the errors occurred in the course of making those amendments to the bill.

That being said, I want to come back to the point of order raised by Senator Kinsella and to which the Deputy Leader of the Government has spoken. I think it is very valid for all honourable senators to understand the options that are offered to us when there are such clerical errors in a bill.

This morning, the question was clearly put by Senator Kinsella to Mr. Audcent. With the authorization of our colleagues and His Honour, I would like to quote the transcript from the meeting of the Standing Senate Committee on Legal and Constitutional Affairs of this morning.

I refer to page 1010-4 which states:

> **Senator Kinsella:** Thank you for that, Mr. Audcent.
>
> You advised us this morning that in your analysis of some of these provisions that they can be corrected clerically. Last evening, you advised us that when faced with these kinds of problems there are various solutions available to the House.
>
> One option is to correct things clerically. There are other ways to proceed. I cannot remember the second way, but the third way was by amendment. Could you remind me of the second way?
>
> **Mr. Audcent:** You could do nothing in which case the law clerks would do the clerical ones.

I repeat:

> You could do nothing in which case the law clerks would do the clerical ones. As you have looked at it now, I am not sure that should happen, but that could be one solution.

That is the first option. The law clerks do the corrections.

Mr. Audcent continued:

> The second solution is this committee could adopt an order instructing me to do the corrections for the corrections that the Law Clerk of the House of Commons has already agreed. Of course, it is already out of his House. You know that that can be done so you could put it in your report that you have instructed me to make the required corrections.

That is the second option. It is the option that the committee in its report earlier on this afternoon is recommending to us.

Finally, the third possibility is that we could move an amendment, which is of course the point raised by the Honourable Senator Kinsella.

Honourable senators, that is the way in which we were advised this morning by the Law Clerk of the Senate. It is the second option that has been put in our report this afternoon. Of course, that is the object of the point of order that the Honourable Senator Kinsella has made to us.

The Hon. the Speaker: I would like to go to Senator Kinsella at the end of the debate. I will now hear from Senator Baker.

Hon. George Baker: Honourable senators, Senator Corbin's question is key. He asked why, in recent years, we are seeing so many errors in legislation coming from the House of Commons. Of course, that is being dealt with on a daily basis in our courtrooms.

Less than a year ago in the province of Saskatchewan Provincial Court Judge Halderman examined this question: Why are there so many simple errors coming out of the House of Commons?

He said at paragraph 6 of *Re: Criminal Code s. 487.3, Application of General Warrant*, which involved the sealing of documents pertaining to a warrant:

> The bill (C-39) was introduced and passed into law in a very few days... There was no reference to nor debate concerning s. 487.3 at any stage of the parliamentary proceedings.

He went on to say that:

> ...there was no reference by any Minister or M.P. to the provisions of s. 487.3
>
> In the result, it appears that Parliament enacted 487.3 as drafted by the Department of Justice, without debate.

There was no examination or concern for "ambiguity of meaning."

• (1710)

A more recent decision of the Supreme Court of Canada relates to fisheries and again made reference to this phenomenon, in recent years, of bills coming from the House of Commons. In *R. v. Ulybel Enterprises Limited*, 2002, the Supreme Court states:

> ... s 72(1)1 was amended ... Indeed, this was the only meaningful change made to s. 72(1). A review of the Minutes of Proceedings of the Legislative Committee and the Parliamentary debates in Hansard offers little insight into the intention of Parliament in making this change in the forfeiture provision. In fact, no references were made to this specific section in either the Committee hearings or the Parliamentary debate that preceded its amendment.

The Senate committee is being quoted more often now than ever before. In the past year, for example, in *R. v. Sharpe*, the Supreme Court of Canada, after examining the meaning of a particular clause, at paragraph 127, the Chief Justice says this:

> After expressing concern over the potential for constitutional problems arising from Bill C-128, the Honourable Gérald-A. Beaudoin, Chairman of the Senate Committee, concluded:
>
> > There is, obviously, also the problem the courts will face.

Then the Chief Justice of the Supreme Court of Canada says,

> As Senator Beaudoin predicted ...

Hon. Senators: Hear, hear!

Senator Baker: Honourable senators, I raise this point simply to point out to senators that this process that we are going through now, and that the committee went through, is useful, and that our courts more than ever are examining the procedures.

I must admit that the Standing Senate Committee on Legal and Constitutional Affairs has done an excellent job, and I am sure that the minutes of those meetings will be read more than once, because there are several serious problems that will be encountered in the interpretation of the legislation.

Senator Kinsella mentioned an objection that I had. It is not a technical problem; it is a major problem. Summary conviction offences under the bill will have a time limitation, not of six months, as the Criminal Code has for summary conviction offences, but seven years. A person may be sentenced to seven years for a summary conviction offence. That is a major problem, but that is a part of this bill.

I intervened simply to show that what we say here in this chamber and what is heard in the committee is examined in our courts, and I can assure you that, from my reading, the courts have come to the conclusion that those errors have gotten through the House of Commons because the bills are not examined, and they are corrected right here in the Senate.

Hon. Lorna Milne: Honourable senators, speaking to the point of order —

The Hon. the Speaker: We are trying to alternate between the government side and the opposition side. Having heard from the government side, even though it is supporting the opposition side, I will go to Senator Andreychuk.

Hon. A. Raynell Andreychuk: Honourable senators, I think the question is whether we can have clerical errors corrected by way of amendment or otherwise, as has been pointed out by Senator Kinsella and other speakers on the point of order. I would encourage His Honour to take into account the proceedings in the Standing Senate Committee on Legal and Constitutional Affairs. If these were only clerical errors and if these were the only amendments that we were looking for —

The Hon. the Speaker: Senator Andreychuk, I am sorry to interrupt. You will have to continue later.

Debate suspended.

BUDGET IMPLEMENTATION BILL, 2003

THIRD 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 third reading of Bill C-28, An Act to implement certain provisions of the budget tabled in Parliament on February 18, 2003.
>
> On the motion in amendment of the Honourable Senator Nolin, seconded by the Honourable Senator Murray, P.C., that the Bill be not now read a third time but that it be amended in clause 64, on page 55,
>
> (a) by deleting lines 11 to 39; and
>
> (b) by renumbering clauses 65 to 130 as clauses 64 to 129, and any cross-references thereto accordingly.

The Hon. the Speaker: Honourable senators, it being 5:15, it is my duty to interrupt the proceedings for purposes of putting the question on the amendment of Senator Nolin on Bill C-28. The bells will ring for 15 minutes, with the vote at 5:30 p.m. Call in the senators.

• (1730)

Motion in amendment negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk
Atkins
Beaudoin
Bolduc
Buchanan
Cochrane
Comeau
Doody
Eyton
Forrestall
Kelleher
Keon
Kinsella
LeBreton
Lynch-Staunton
Meighen
Moore
Murray
Oliver
Prud'homme
Rivest
Robertson
Roche
Rossiter
Spivak
Stratton
Tkachuk—27

NAYS
THE HONOURABLE SENATORS

Adams
Austin
Bacon
Baker
Biron
Bryden
Callbeck
Carstairs
Chalifoux
Chaput
Christensen
Cook
Cools
Corbin
Cordy
De Bané
Fairbairn
Ferretti Barth
Finnerty
Fitzpatrick
Fraser
Furey
Gill
Graham
Hubley
Jaffer
Joyal
Kolber
Kroft
Léger
Losier-Cool
Mahovlich
Milne
Morin
Pearson
Phalen
Poulin
Poy
Ringuette
Robichaud
Rompkey
Setlakwe
Smith
Stollery
Watt
Wiebe—46

ABSTENTIONS
THE HONOURABLE SENATORS

Sparrow—1

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

Hon. Senators: Question!

The Hon. the Speaker: I hear unanimity among senators. I will put the question.

It was moved by the Honourable Senator Carstairs, seconded by the Honourable Senator Robichaud, that Bill C-28, to implement certain provisions of the budget tabled in Parliament on February 18, 2003, be read the third time now.

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

Motion agreed to and bill read third time and passed.

CANADA ELECTIONS ACT
INCOME TAX ACT

BILL TO AMEND—THIRD READING—
POINT OF ORDER—DEBATE CONTINUED

On the Order:

> Third reading of Bill C-24, to amend the Canada Elections Act and the Income Tax Act (political financing).

The Hon. the Speaker: Honourable senators, we will resume debate on Senator Kinsella's point of order. Senator Andreychuk had the floor.

Hon. A. Raynell Andreychuk: Honourable senators, I simply point out that the amendments referenced by Senator Kinsella are clerical amendments or mistakes, if you wish. However, when His Honour considers the point of order, I hope he will also take into account what happened in the Standing Senate Committee on Legal and Constitutional Affairs. Not only were these errors noted in Bill C-24, but two other incidents were noted where the English and the French text did not correspond as to the law. In both of those cases, our legal counsel indicated, as did members of the Privy Council, that in order to rationalize them, one can implicitly state certain things into the sections.

When we have a bill before us such as Bill C-24, there are consequences to our democratic system and to the political parties that are dependent not only on certain finances but also on transparency and fairness. The other half of the matter is that those who volunteer should be encouraged to get involved in the democratic process. We face severe consequences if they tread on or contravene Bill C-24 in any way.

• (1740)

Should this bill pass, we will be accepting two clauses where, on the reading of it, you will not know whether the French or the English is the proper text. We have had to draw down interpretations explicitly to give meaning, sense and rationality to those clauses.

His Honour should take into account that this is not the kind of situation when, in haste, you prepare a piece of legislation and fingers drop down on keys, as someone said, and you go from a two to a one. These are fundamental errors that go to the essence of our democratic system. We want to encourage people to become involved but what do we have in this bill? This legislation is difficult to start with; it is as complex as the Income Tax Act. It has many meanings and references. If we are to encourage people to participate, we should have clear messages.

Senator Kinsella has indicated that there are options in how we amend and overcome clerical errors. We have already included in the bill many questionable things. To take the process further signals to the House, the government and the Department of Justice that we accept this lack of clarity in drafting. It sends the wrong signal.

It is in that spirit and in that light that the point of order is being called, not as one incident, but as a continuum of problems in the drafting of this bill.

Hon. Lorna Milne: Honourable senators, in my opinion, this is not a valid point of order.

Some Hon. Senators: Oh, oh!

Senator Milne: I have never had so many admirers in my life!

The Standing Senate Committee on Legal and Constitutional Affairs quite properly had before it several ways of coping with what is obviously a clerical error, what is normally known as a parchment error. The members of the committee chose one way of dealing with the error. They did so quite properly. They have presented their report to us. There is nothing out of order whatsoever in this report. I suggest that we adopt the report.

Also, in response to what Senator Oliver said, we are not setting a precedent. When I chaired the Standing Senate Committee on Legal and Constitutional Affairs at least twice there were parchment errors that we corrected in this fashion with no problem whatsoever, either in committee or in this chamber. I am pretty sure this also happened when Senator Beaudoin was chair of the committee.

Hon Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, the crux of this matter is that our rules do not provide explicitly for these three methodologies of correcting errors that we have found in the bill.

I believe there is unanimous agreement on both sides that there are errors in the bill. We have on the record advice that there are three methodologies available to us.

Rule 1(1) of the *Rules of the Senate of Canada* states:

> In all cases not provided for in these rules, the customs, usages, forms and proceedings of either House of the Parliament of Canada shall, *mutatis mutandis*, be followed in the Senate or in any committee thereof.

Honourable senators, I wish to underscore what Beauchesne advises us, and I am quoting from the sixth edition of Beauchesne, page 198, paragraph 657:

> When a variance occurs in either the English or French text of a bill, it may be treated, with unanimous consent, as an editorial change.

There was not in the committee unanimous consent. Therefore, the clerical error approach, or passing it off to the clerk of this house and the clerk of the other place is not available to us. What is available to us is an amendment.

Honourable senators, let us look at the bill. On page 30 of the bill, those who testified before us recognized an error. On page 31, you find a reference to one clause in one language and reference to another clause in the other language. On page 33, honourable senators, you find in clause 2.1 in English reference to subparagraph 2(*b*)(i). In the French version, there is reference to clause 1(*a*), a clause that does not exist.

My understanding of the testimony that we had from experts was that we are not only dealing with simply a missing number or a number put in that does not exist, as in the example that I just gave you. On the top of page 56, we see a reference to subsection 435.3(1), which relates to an updated version of a document referred to in that section.

In the French version, there is reference to a document, but it does not tell us what document; it just says "du document." In the English version, it is absolutely clear what document we are talking about; in the French version, it is not clear in my opinion.

Some of the witnesses thought that if you read all of the other articles, the French version was clearer. However, in their opinion, there was a problem with the English version, which I thought was all right. They said that because they talk about a document and then they talk about an updated version of a document, there is a problem that in the English version, according to the witness, that the wording is more restrictive in the English than it is in the French.

Clearly, the error there is one of interpretation, and we had differences of opinion, but the expert testimony we heard was that they thought that the English version was more problematic for a different reason.

What is clearly indicated is that there is this error. Honourable senators, with the greatest of respect to the excellent work of legal drafters in this town, to the wonderful translators that we have, and to those who redact in either of our official languages, which are equal, at the end of the day, it is the judgment of the legislators. Are we to rely on a translator's or a drafter's interpretation?

To speak to the question raised by Senator Corbin, in reference to the page-34 error that was discovered, the history of that error goes back to government amendments number 12 and number 14, which were brought into the House of Commons committee to correct a different kind of an error. They brought this error in while correcting another error.

• (1750)

Honourable senators, what happened is that then it was passed by the House committee with the error. It was then not only reported, but it was also passed at report stage in the other place. It was considered and passed, with the error in it, at third reading and then it came.

We have apprehended the error. I submit that the error ought to be corrected by amendment. That is our job. That is our duty. I further submit, as an issue of order, that you cannot correct it simply by passing it on to clerks, unless there is unanimous consent, which there was not in committee.

That is my point of order.

The Hon. the Speaker: Honourable senators, I need some time to reflect on this, at least 15 or 20 minutes. I would ask for the agreement of the house to suspend the sitting for that period of time. There is an issue, however, that occurs to me as I look at the clock and that is, if I take more than 10 minutes, which is quite possible — or nine, I suppose — it will be six o'clock. Would it be your intention this evening, honourable senators, not to see the clock?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, there are two things I believe we would like to see His Honour do. One, clearly, is that he take the necessary time to make his ruling. We would agree not to see the clock at six o'clock, but we would also ask if His Honour could put the Speaker *pro tempore* in the chair while he considers his ruling and we could continue with other items.

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

Hon. Senators: Agreed.

The Hon. the Speaker: I will then leave the Chair in favour of the Speaker *pro tempore* and return to the chamber as soon as I can.

[*Translation*]

MEMBERS OF PARLIAMENT RETIRING ALLOWANCES ACT PARLIAMENT OF CANADA ACT

BILL TO AMEND—THIRD READING

Hon. Fernand Robichaud (Deputy Leader of the Government) moved the third reading of Bill C-39, to amend the Members of Parliament Retiring Allowances Act and the Parliament of Canada Act.

Motion agreed to and bill read third time and passed.

CANADIAN INTERNATIONAL DEVELOPMENT AGENCY BILL

SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Bolduc, seconded by the Honourable Senator Cochrane, for the second reading of Bill S-17, an Act respecting the Canadian International Development Agency, to provide in particular for its continuation, governance, administration and accountability. —(*Honourable Senator Corbin*).

Hon. Eymard G. Corbin: Honourable senators, first, permit me to congratulate Senator Bolduc for having introduced this bill. He did a significant amount of research and investigation on this issue. I am very impressed with the substance of his bill.

A few days ago, Senator De Bané told us why we should make no changes in the Canadian International Development Agency. We have heard valid arguments on both sides of the issue.

Over my 35-year career in Parliament, I have had the opportunity to observe the way this agency and its management operate. Senator De Bané and myself have had numerous opportunities to meet with CIDA spokespersons. We have travelled around the world, along with Senator Prud'homme and others, and were part of the first delegation of Canadian parliamentarians to go to Senegal. While there, we were, moreover, made members of the National Order of the Lion (Senegal). We also visited a project involved in motorizing fishing boats. The Senegalese were in danger whenever they had to go out beyond the sandbar and into the heavy ocean surf, as they regularly did.

In addition to motorizing fishing boats, CIDA provided the Senegalese with a means of refrigerating their catch, a tremendous advantage. But the greatest danger facing the Senegalese was, and moreover still is, high-seas fishing by foreigners. Ships of other countries are literally emptying the coasts of Africa of fish — just as they did off the coasts of Canada — and no one seems concerned.

A few years ago, during the summer, I had the opportunity to hire Senate pages to review the political constitution of the 50 or so African countries. The work consisted of determining how Canada was contributing to the development of these countries. The next year, I was looking over the results of that research, and I realized that events had already overtaken us. Political changes had taken place: putsches, revolutions, wars and massacres, and it continues to this day.

The formidable challenge that CIDA has to deal with is not limited to Africa. It involves everywhere in the world where there are pressing needs.

The Canadian International Development Agency has changed its focus over the years. Partnerships have been forged with NGO's.

Recently, during a conversation with someone from Ghana, I learned that CIDA is taking part in small $10,000 to $15,000 projects in Togo, the country next to Ghana. These are development initiative projects that CIDA has undertaken, either on its own, or with NGO's and sometimes even private companies. Canadian hospitals are involved in training projects with universities. Honourable senators are no doubt familiar with this type of work.

Is Senator De Bané right, or is Senator Bolduc right? I think both were quite convincing in defence of their arguments.

• (1800)

Nonetheless, I believe a senate committee could study Senator Bolduc's motion. Again, I congratulate Senator Bolduc. Preparing this bill for us required some hard work.

Senator De Bané does not stand to lose anything and the Senate could do the country a valuable service by calling various stakeholders in international development as witnesses. Fortunately, Senator Bolduc has provided us with the ideal tool for this purpose.

The type of discussions that could be held and the examples that could be provided in support of either scenario could keep us busy for some weeks. Such work is much better done calmly in committee. We could invite representatives from CIDA, NGOs, Canadian universities and so forth. I firmly believe this must be done.

In conclusion, I wish to pay tribute to Senator Bolduc. He and Senator Sparrow have impressed me deeply with their eloquent and passionate defence of their ideas.

As the most senior public servant in Quebec, Senator Bolduc came to us with extremely valuable experience in how to run a bureaucracy and make it accountable. He was always alert to bureaucracy-related problems and never hesitated to bring them to our attention. For this we are indebted to him.

Senator Bolduc, I wish you and your wife, Gisèle, a happy retirement.

Hon. Marcel Prud'homme: Honourable senators, the best tribute I could pay to Senator Bolduc would be to move that the debate be adjourned until the next sitting of the Senate.

Hon. Gérald-A. Beaudoin: They want to pass the bill.

Senator Prud'homme: That is another matter altogether, honourable senators.

The Hon. the Speaker *pro tempore***:** Are honourable senators ready for the question?

Some Hon. Senators: Yes.

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

Hon. Roch Bolduc: Honourable senators, I move that the bill be referred to the Foreign Affairs Committee.

This bill deals with the machinery of government. It addresses foreign affairs, of course, and is a component of foreign policy. It addresses the constitution of a body, the component called "the machinery of government."

I think that these bills have always been referred to the Standing Committee on National Finance.

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

[*English*]

MERCHANT NAVY VETERANS DAY BILL

THIRD READING

Hon. Noël A. Kinsella, for Senator Forrestall, moved the third reading of Bill C-411, to establish Merchant Navy Veterans Day.

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

Motion agreed to and bill read third time and passed.

STATUTORY INSTRUMENTS ACT

BILL TO AMEND—SECOND READING

Hon. Wilfred P. Moore moved the second reading of Bill C-205, to amend the Statutory Instruments Act (disallowance procedure for statutory instruments).—(*Honourable Senator Robichaud, P.C.*).

He said: Honourable senators, I rise today to speak at second reading of Bill C-205. This bill, while introduced as a private member's bill by Mr. Gurmant Grewal, the member of the other place for Surrey Central, is the result of an all-party effort by members of the Standing Joint Committee of the Senate and the House of Commons for the Scrutiny of Regulations to implement an important reform of the current disallowance procedure.

Bill C-205 received unanimous support from the House of Commons and from our Standing Joint Committee for the Scrutiny of Regulations, which includes senators from both sides of this chamber. The purpose of the bill is to enact a statutory procedure allowing both Houses of Parliament to allow the repeal of regulations made pursuant to delegated statutory authority. Adoption of the bill would represent the most significant development in the parliamentary control of delegated legislation since the enactment of the Statutory Instruments Act more than 25 years ago.

As you are probably aware, a general disallowance procedure was put in place in 1986 by way of amendments to the Standing Orders of the House of Commons. A significant flaw in the existing disallowance procedure is that it does not provide a role for the Senate. Bill C-205 affords an opportunity to correct this omission and would give the Senate a full and equal role to that of the House of Commons in the disallowance process.

The procedure set out in the bill would require that both Houses agree to the disallowance of a regulation for that disallowance to come into effect, consistent with our bicameral system.

• (1810)

Another weakness of the current procedure is that it only applies to regulations made by the Governor in Council or a minister, but it does not apply to the many important regulations made by agencies such as the CRTC or the Canadian Transportation Agency.

The adoption of Bill C-205 will allow this to be corrected and ensure that Parliament's control extends to all regulations that are subject to review and scrutiny by the Standing Joint Committee of the Senate and the House of Commons for the Scrutiny of Regulations.

This bill gives Parliament a unique opportunity to effect a long overdue reform that will significantly improve the ability of parliamentarians to exercise effective control over the hundreds of regulations that govern the daily lives of Canadians.

I urge all senators to give their support to the adoption of Bill C-205.

[*Translation*]

Hon. Roch Bolduc: Honourable senators, I am pleased to support Bill C-205, to amend the Statutory Instruments Act (disallowance procedure for regulations). The bill's somewhat obscure title must not diminish the importance of the reform being proposed.

In fact, I can confirm without fear of contradiction that Bill C-205 represents without a doubt the most important reform of the federal regulatory process since the Statutory Instruments Act was passed in 1971.

The bill will allow the Canadian Parliament to exercise effective control over the legislative powers we regularly delegate to the government or various other administrative authorities.

This is, therefore, enabling legislation. These are powers commonly exercised through regulations, generally referred to as delegated legislation.

An important principle of our constitutional system is that legislation can be created only with the consent of both the Senate and the House of Commons. It is somewhat ironic to note that, although Parliament has won its historic war against the Crown for constitutional supremacy over legislation, for more than half a century, acts of Parliament have been conferring increasing and increasingly important legislative powers to the executive branch. If delegated legislation is to be seen as an inevitable consequence of the growth of government resulting from the decision-making process in our modern democracy under the pretext of extending equality and social justice to all, we must not, however, turn a blind eye to its weaknesses.

[*English*]

Parliamentary oversight of delegated legislation is of great importance. Adequate parliamentary scrutiny and adequate publication of regulations have come to be recognized as necessary accompaniments to the growth of delegated legislation in well-run communities.

Regulations, unlike laws, are not discussed particularly in public in the way that every bill that goes through Parliament is discussed. It is the role of the Standing Joint Committee of the Senate and the House of Commons for the Scrutiny of Regulations to provide this critical examination of delegated legislation on behalf of both Houses.

This joint committee of the Houses on which I had the privilege to serve a few years ago, and on which I served for at least three years, fulfills a critical role in ensuring that federal regulations meet minimum standards of legality and propriety. The task is thankless and certainly not politically glamorous, but very important. In my opinion, it is one of the most important committees we have.

Honourable senators, effective parliamentary scrutiny must be accompanied by effective parliamentary control. By this we mean that Parliament, in this case the two Houses, must have the means to ensure that if a delegated legislative authority is exercised improperly, the Houses can ensure that corrective action is taken by the delegate who has exercised the regulation-making authority.

[*Translation*]

Often, when using regulatory powers, public servants overstep their authority. The committee considers such instances to bring them back into line; otherwise, the executive branch is not bound by any limitations.

[*English*]

Disallowance has been the traditional method of exercising that parliamentary control. This refers to the ability of Parliament to revoke or repeal a regulation made pursuant to authority granted by Parliament.

Until 1986, very few federal statutes included the possibility to disallow regulations or instruments made under the authority of those particular statutes. In 1986, as my colleague noted in his speech, the Conservative government put in place a general disallowance procedure in the Standing Orders of the House of Commons. My colleague has also mentioned the principal defects of that procedure. Since the procedure was based on Standing Orders rather than legislation, it could only apply to those federal regulations that are made by cabinet, the Governor in Council or a minister.

This created a gap between the scrutiny function of Parliament, which applies to all regulations, and the control function of Parliament which only went to some of those regulations. Bill C-205 would close this gap and ensure that disallowance is available with respect to all regulations, irrespective of who made them.

[*Translation*]

The second problem raised is the general procedure adopted in 1986, which only applies to the House of Commons. Bill C-205 would correct this situation and allow the Senate to play its full role in the disallowance procedure.

Under the procedure proposed in this bill, in order for regulations to be disallowed, both Houses must agree that the disallowance is justified under the circumstances. If one of the Houses does not agree with a regulatory disallowance procedure being proposed, the regulation in question will continue to apply.

Senators have every reason to be delighted that the bill recognizes the role of the Senate of Canada. This bill marks the end of almost 25 years of efforts by many parliamentarians to establish a disallowance procedure in Canada that is effective and balanced.

We have almost reached this goal. I invite all senators to support this bill.

[*English*]

The reform of the regulatory process that is proposed in this bill has been actively promoted over the last quarter of a century by those who have served on the Joint Committee for the Scrutiny of Regulations. My colleague mentioned in this regard former Senators Eugene Forsey, John Godfrey, Nathan Nurgitz, Normand Grimard, as well as Derek Lewis. All of these former joint chairmen and other parliamentarians have worked toward this goal.

The adoption of a general statutory disallowance procedure has not only been actively promoted by the Joint Committee for the Scrutiny of Regulations since the 1970s, but it has also been supported at various times by the McGrath committee in the other place, the Nielsen task force, as well as by the subcommittee on regulation and competitiveness.

There is a time for recommendations and there is a time for action, and the time for action has come. I urge all senators to support the speedy adoption of Bill C-205.

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

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

THIRD READING

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

Hon. Wilfred. P. Moore: With leave of the Senate, now.

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

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

• (1820)

COPYRIGHT ACT

BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED

Leave having been given to revert to Senate Public Bills:

Hon. Raymond C. Setlakwe for the Honourable Senator Day, moved the second reading of Bill S-20, to amend the Copyright Act.—(*Honourable Senator Day*).

He said: Honourable senators, at his request, I rise to move second reading of Bill S-20 in the name of Senator Day. Bill S-20 is designed to give photographers the same privileges as those accorded to other artists. Simply stated, I have a certain interest in the bill because three members of my family were professional photographers, two of whom were portrait artists: George Nakash, from Montreal; Yousuf Karsh, from Ottawa; and his brother, Malak Karsh, landscape and commercial photographer. All three, in their own right, were recognized universally as artists of the first order. Although there were certain restraints in the Copyright Act in respect of photographers, the time has come to universally recognize that photographers have an equal right to be recognized as authors and are entitled to copyright, as are all other authors and artists.

To point out the need for this recognition, aside from the three members of my family whom I have mentioned, need I mention that photographers such as Henri Cartier-Bresson or Ansel Adams, both of international repute, merit the same consideration? The United Kingdom and the United States, in their respective legislation, have recognized the rights of photographers to have copyright privileges. Honourable senators, I think it fit and proper that the same be done by Canada.

Bill S-20, sponsored by Senator Day and to which he will speak, makes an exception to an omnibus bill that would amend the Copyright Act. This exception, to my understanding, is now generally recognized in all areas of government. I am hopeful that honourable senators will adopt Bill S-20.

It is difficult to define "artist," but I would illustrate my viewpoint with this remembrance: When Yousuf Karsh's photographs were on display in a museum in California, a man sat on a bench to admire a photograph of Pablo Casals. Someone nearby spoke in a loud voice and the man interrupted him to ask him to please be silent. The person who had spoken in the loud voice asked why he should be silent. The portrait admirer said: "Because I am listening to the music." Honourable senators, if that does not connote a certain artistic talent, then I do not know what does.

Hon. Francis William Mahovlich: Honourable senators, I urge any honourable senator who thinks that photography is not art to visit the Château Laurier to view the display of Karsh's work, including, I believe, the portrait of Pablo Casals.

Hon. Eymard G. Corbin: Honourable senators, I will not hold up the passage of Bill S-20 should that be the will of the house. As one who has had a lifetime interest in photography, I have read every book of Ansel Adams' photography; I have examined with great admiration the work of Henri Cartier-Bresson, who is well into his 90s and currently having a major exhibition in Quebec; and I once approached Yousuf Karsh to have my portrait taken, but backed away when he quoted a price of $900, which was well justified. Photography is a hobby of mine; that is how I relax when I am away from this place.

I will support the proposed legislation. I know how difficult it has been for hard-working photographers over the years to achieve simple recognition, even by the people who employ them. Photographers at *Life* magazine would produce amazing photographs for peanuts in return. They finally began to demand recognition for their work and the magazines gave in, one by one, but that does not mean that their copyright rights were protected, which became a long, protracted battle. Honourable senators, I support the initiative of Bill S-20.

On motion of Senator Robichaud, for Senator Day, debate adjourned.

COMPETITION ACT

BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED

Leave having been given to revert to Commons Bills:

On the Order:

> Resuming debate on the motion of the Honourable Senator Kirby, seconded by the Honourable Senator Cook, for the second reading of Bill C-249, to amend the Competition Act.—(*Honourable Senator Eyton*).

Hon. J. Trevor Eyton: Honourable senators, the Competition Act received its last major overhaul in 1986 when the former government passed Bill C-91. When the then Minister of Consumer and Corporate Affairs, Mr. Michel Côté, spoke to Bill C-91 at second reading, he noted that:

> The private sector or the marketplace must be the real driving force behind the most equitable sharing of resources, economic growth and job creation. We do know that the market system within a competitive framework paves the way for a dynamic flourishing committee.

Bill C-91 stood the test of time because it was the product of extensive consultations, not just with businesses large and small, but also with provincial governments, consumer groups and organized labour.

Minor changes to the Competition Act were made two years ago and those changes were again preceded by extensive consultation. The Competition Bureau fears that a recent court loss will completely undermine its ability to prevent mergers that are not in the public interest. Five years ago, Superior Propane, with whom I was once associated, reached an agreement to acquire PetroCanada's propane business to give it 70 per cent of the national market and 100 per cent of certain markets, including Yukon.

These obvious public policy concerns arise when one company gains a monopoly to provide the fuel that heats homes and work places in rural areas, for example in Yukon. In this industry, barriers to entry are stiff, making it unlikely that someone else will enter the market at any time soon. The Competition Bureau opposed the merger but lost before the Competition Tribunal and in other courtrooms on the basis of what is known as the efficiency test. From a business perspective, it is likely more efficient to operate one company than two. However, from a consumer perspective, those efficiencies may not result in lower prices or better service, but rather lead to monopoly pricing or reduced service. Most would agree that the Competition Act should try to prevent such outcomes. What may be good for a particular company in those circumstances may not be good for consumers and other businesses.

• (1830)

It has long been understood that to successfully argue the efficiency defence, parties to a merger had to persuade the Competition Tribunal the result would generate efficiencies more than offsetting the anti-competitive effects of the merger. Indeed, until recently, the efficiencies test had not been a major factor in Competition Tribunal rulings.

The government fears this recent ruling has destroyed one of the key elements of the Competition Act because the cost savings realized from joining two companies can trump the impact of potentially higher prices to ordinary consumers. Our current Competition Commissioner, Mr. von Finckenstein, noted in the *National Post* on April 2, that the interpretation given "means the Competition Act condones the creation of monopolies." He may have been overstating; but that, of course, was his feeling.

In theory, this is a private members' bill introduced in the other place by Mr. Dan McTeague. The reality is that it is a government bill in all but name. When the Competition Bureau decided against an appeal in the Supreme Court, effectively conceding the Superior Propane battle, this bill was on the Order Paper and presented a convenient way to ensure there would not be a repeat.

Thus, a bill that received first reading two years ago in a previous session and which had languished in committee for more than a year was suddenly vaulted to the top of the Order Paper. The bill, as originally drafted, would have required that for a merger to pass the efficiency test, consumers would have to benefit. Along the way, it got amended — with the government's blessing — to make efficiency only one of many factors looked at by the regulators. Either way, efficiencies for the merging companies will not automatically win out over the interests of the public.

A key test where the effect of a merger is to create a near monopoly has to be the public interest. This is a good thing and I support this bill at second reading.

Unlike previous amendments to the Competition Act, this bill was not the subject of extensive advance consultation. Indeed, representatives of the Canadian Bar Association prepared their presentation to the Industry Committee on the basis of the bill as drafted, only to find out at the last minute that they were about to testify on a bill that was being rewritten.

I hope in committee that the government establishes that this bill does in fact restore the original intent of the legislation and that we do not learn of problems that could have been avoided if the government had held the same consultations that preceded previous amendments to the Competition Act.

I would also like to hear a response to the concerns expressed by the Chamber of Commerce before the committee in the other place that this bill will change the focus of the Competition Act from a statute that promotes the creation of wealth to a statute that serves to redistribute wealth.

It would be helpful if the government used the Senate committee hearings on this bill to tell us what it plans to do with the April 2002 report of the Commons Industry Committee on future amendments to the Competition Act.

Finally, honourable senators, I close by noting that the Competition Act is legislation intended to ensure there is competition within Canada; and, of course, that would mean indirectly that Canadian business can be more competitive outside of Canada. There is much more that can and should be done in that regard, but that is for another day. For the moment, I support bill C-249.

On motion of Senator Robichaud, for Senator Kirby, debate adjourned.

STUDY ON TRADE RELATIONSHIPS WITH UNITED STATES AND MEXICO

INTERIM REPORT OF FOREIGN AFFAIRS COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the fourth report (interim) of the Standing Senate Committee on Foreign Affairs entitled: *Uncertain Access: The Consequences of U.S. Security and Trade Actions for Canadian Trade Policy (Volume 1),* tabled in the Senate on June 13, 2003.—(*Honourable Senator Stollery*).

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

He said: Honourable senators, I recognize that it is after six o'clock and we still have important business to get through to finish the Order Paper. However, I would like to make a few comments about the very important review of the Free Trade Agreement with the United States that the Standing Senate Committee on Foreign Affairs completed and tabled in the chamber last Friday.

I was talking about our report with some people last night, someone asked me if we should just get out of the Free Trade Agreement with the United States. I said: What would we get out of? Would we go back to 1988 and put the tariffs back on? What would be the point of that? Would we go back to 1988 and a dispute settlement mechanism under the GATT that was very ineffective? Why would you do that?

I explained, as our witnesses said — and we heard from 90-odd witnesses in Canada and about 60 in Washington — that the effects of the Free Trade Agreement basically have ended. They ended probably with the final removal of tariffs between Canada and the U.S. in 1998. Many people are unaware of the fact that what Canada has to do, and it is described very well in our report, is move forward. Where do we go now with our trade relations in the world? We should not look back.

Honourable senators, the report deals with several major concerns, including security and infrastructure. As everyone knows in Canada, the Americans have a serious security concern about their border. A truck carrying merchandise crosses that border every two and a half seconds. An interesting observation about infrastructure is that more trade travels across the bridge between Windsor and Detroit than the entire U.S.-Japanese trade, which is quite incredible. I think that bridge was built around 1930. We have an infrastructure on our border — and the committee is very concerned about this, particularly in Ontario, where I am from — that is archaic and has to be brought up to modern standards.

The committee unanimously stated that the government must work harder to explain to Americans outside of Washington, outside of the border areas, that Canada is a very secure country. We have gone to a great deal of trouble to make that border safe and secure, and we have to tell people that. We have done it, but we have to tell people.

One of our recommendations is to open more consulates in what is called the heartland of the United States. I was delighted to learn yesterday that the government announced that it will in fact open more consulates in the United States.

The second issue deals with dispute settlements, disputes between Canada and the U.S. over trade matters. Before 1988, there was a system under the GATT that did not work very well. The negotiators of the free trade agreement tried to come up with something that was a little better than that, but it did not work. The reason it did not work is well described in an article on U.S. trade remedy law. It is what I call the big catch — the fact that binational panels determine whether a final determination is in accordance with anti-dumping laws of the NAFTA country in which the decision is made.

• (1840)

If the panel finds that the determination was in accordance with the domestic law, the determination is affirmed. When you are dealing with the Americans and the congressional system, which is controlled by the Congress, if you lose a case — and we have examples where they lost a case based on their own national law — they change the national law. Then you hear the case again.

To give you an indication of the cost of this, we have evidence that on the softwood lumber dispute, which has been around for a long time, the legal fees alone, since the late 1980s, which is about the time the free trade agreement came into force, are about $800 million.

Every time the Wheat Board hears a dispute — I think we heard the same dispute 10 or 11 times in Winnipeg — it costs about $2 million or $3 million in legal fees.

The dispute settlement arrangement is dealt with in article 19 and there are two other articles, but I do not think they would be of interest because they are seldom used. There was no World Trade Organization when the free trade agreement came into effect. The World Trade Organization dispute settlement system started in 1995. Dispute settlement problems generally go to the WTO, which is expensive, but it is effective. The previous procedure is no longer followed. Dispute settlement was taken over by the WTO.

As has been pointed out for at least 40 years, there is a danger of having 87 per cent of our trade with one country. As Senator Di Nino has pointed out, the danger lies in having all of our eggs in one basket. Given the current security situation, it is particularly dangerous.

If there is another security alert in the United States and the border is closed as it was on September 11, there would be a repeat of the 20-kilometre lineups of vehicles trying to cross into the United States. Interestingly, 13 per cent of our exports to the United States go through a pipeline, or along electrical transmission lines. However, 25 per cent are related to the Auto Pact. The Auto Pact operates on a time-related system. For reasons for productivity, engine blocks made in Oshawa must be shipped to a factory in the U.S., under very tight time constraints. Any disruption of that system affects 25 per cent of Canadian exports to the U.S. Let me remind you that 37 per cent of our GDP depends on trade with the U.S.

The committee noted that this is a very serious situation.

What are we going to do about it? There is movement in the European Union, and there is no doubt that China is becoming an enormous global trading partner. Canada must work harder to create more diversification to increase its trade with other countries. We all know that the U.S. will remain our major trading partner. Anyone who does not think that is not being realistic.

Honourable senators, I am conscious of the hour, but I wish to make a couple more points before I conclude my remarks.

It is important to note that the trading system is in the hands of the producers and not of the consumers. The consumers have never been able to organize themselves. The best example of that is that every house in the United States costs $1,500 more than it should because of the softwood lumber dispute.

In Washington, we heard from 13 or 14 consumer groups, including home-buyers. They were unanimous that Canada should stick to its position at the WTO and make no concessions. The committee took that very seriously. It was powerful evidence.

I would end by emphasizing the fact that Canada must look forward in our trading relationships, not backwards. The free trade agreement, with its pluses and minuses, has ended, whether we like it or not. It has perhaps not made as much difference as its

promoters would have liked, or had as many bad effects as some anticipated. I was one of the opponents to its implementation in 1988. I was on the Foreign Affairs Committee with Senator MacEachen, when a major argument erupted. I do not intend to replay that. Certainly, our hearings were not a replay of what took place in 1988.

The multilateral system, which the McDonald report in the 1980s said was so important for Canada, is still important for Canada. You hear of the Doha Round and globalization and I will not take up the time of senators describing what all of these things mean, because many people here know what they mean, but the multilateral system is extremely important for Canada.

We will not arrive at an improved dispute settlement system with the United States by way of a one-by-one relationship. We can dream, but it will not happen. The reason it will not happen is the U.S. Congress is elected every two years, so it is a permanent election machine. The administration can make any kind of an arrangement it wishes, but if the Congress does not like it, it will not happen.

It is important to Canadians that, in the WTO, with 147 countries, the U.S. government along with 146 other countries, signs on to dispute settlement mechanisms, in order to have a rules-based system in trade. It is difficult for people comprehend the overall effect of this because it is so dispersed. The WTO has 147 signatories, all of whom must deal with their own agricultural issues, services issues, and so on, but it is crucial for Canada that the United States signs any dispute settlement mechanism. That is one of the major recommendations in our report. You will learn a great deal about trade relations between the U.S. and Canada if you read our report.

Honourable senators, that concludes my remarks this evening. I know that other senators wish to speak to this order.

Hon. Jack Austin: Honourable senators, the Standing Senate Committee on Foreign Affairs in tabling its report: "Uncertain Access: The Consequences of U.S. Security and Trade Actions for Canadian Trade Policy (Volume 1)" is rendering a valuable service to those Canadians who take interest in or have concern for commercial relations with the United States of America.

The order of reference from the Senate of November 21, 2002, authorized the committee to examine and report on the Canada-United States trade relationship, the Canada-Mexico trade relationship, with special attention to the North American Free Trade Agreement of 1992, the free trade agreement of 1988, secure access for Canadian goods and services to the United States and Mexico, and the development of effective dispute settlement mechanisms, all in the context of Canada's economic links with the countries of the Americas and the Doha Round of the WTO.

• (1850)

This report is focused on the Canada-United States bilateral relationship. The committee proposes to continue its work with priority attention to be given to the Canada-Mexico trade relationship in the months ahead.

It is not easy to summarize a detailed report on a complex bilateral economic relationship. The guiding star, however, is the objective of reaching with the United States open and unimpeded market access for Canadian goods, services and investment on an equal and reciprocal basis. Achieving this objective requires the recognition by each country of the value of their overall economic interaction and their continuing attention to improving the trading system.

The report gives priority to the impact on bilateral trade relations of the September 11, 2001, terrorist strike against the United States resulting in the death of nearly 3,000 people and the destruction of the two World Trade Towers in Lower Manhattan. The Bush administration has put in place security laws and procedures that inevitably have the effect of restraining normal flows of goods and people across the border. The committee recognizes the validity of U.S. security concerns and commends both governments for the rapid and generally effective 30-point border action plan.

In evidence, we often heard the phrase "security trumps trade." Canadians must not only recognize the validity of the United States' concern but take it just as seriously as does the United States. Moreover, it is incumbent on us all to make clear to the United States government and its citizens that we share their concern and that we measure up to the test of being a secure trading partner.

In the operation of an effective bilateral trade relationship, Canada and the United States must also recognize the neglect they have both practiced with respect to the physical infrastructure which is necessary to foster the relationship. The committee heard much convincing evidence that the current infrastructure — roads, bridges, tunnels, waiting and bypass lanes, and the use of identification technology for people and for goods — is woefully inadequate. Evidence given to the Senate Foreign Affairs Committee pointed to the 120 per cent growth in two-way trade since the launch of NAFTA without any increase in border infrastructure. The three busiest border crossings all involve old bridges. The Ambassador Bridge connecting Windsor and Detroit was constructed in 1929; the Peace Bridge linking Fort Erie with Buffalo was erected in 1927; and the Blue Water Bridge between Sarnia and Port Huron was built in 1938.

While the problem of infrastructure is significant, some important steps are being taken. The Canadian federal budget of December 10, 2001, allocated more than $600 million over five years to border access investment. Experimental programs are in place for pre-clearance of travellers and goods.

A further major concern in the report of the Standing Senate Committee on Foreign Affairs is focused on issues of trade restraint. The imposition of anti-dumping, countervail and other trade barriers, both quantitative and qualitative, was the subject of a major portion of the evidence received from witnesses. We examined with considerable care the present trade differences in softwood lumber, wheat, steel and certain agricultural products. We also received representations regarding the role of future energy investment in our overall trade relationship.

As honourable senators know, the free trade agreement of 1988 and the NAFTA of 1992 provide for domestic law to be applicable to determining the management of the trade relationship. To illustrate, in the softwood lumber dispute, the United States can apply its own versions of anti-dumping and countervail law. The dispute settlement panel, so-called, under NAFTA has as its terms of reference to determine whether the domestic trade law was applied properly in each circumstance. We have seen repeatedly over the last 20 years U.S. softwood lumber producers use U.S. trade law to achieve market protection against Canadian softwood lumber imports. On every occasion where NAFTA adjudication has taken place, the U.S. has been found to have applied their measures inappropriately.

Canada exports some $10 billion of softwood lumber to the United States annually. About half of that comes from British Columbia. Quebec has about $2 billion of exports. The result of combined anti-dumping and countervail measures initiated by the U.S. softwood producers in April 2001 has been reduced exports, mill shutdowns, loss of employment, and severe damage to communities and to the revenues of the affected provinces.

The issue is complex. Briefly described, it is the charge by U.S. producers for the fourth time in 20 years that provincial governments subsidize lumber producers through their policies of selling cutting rights on Crown lands. This issue has been adjudicated on several occasions, including a recent WTO decision, and no subsidy has been demonstrated. From Canada's perspective, U.S. actions are pure protectionism.

I have mentioned the WTO, and I should explain that following NAFTA, the members of the GATT, the General Agreement on Tariffs and Trade, including Canada and the United States, entered into a major revision of world trading rules and created a successor organization, the World Trade Organization. Power was given to the WTO to organize panels for dispute settlement that can hand down binding decisions. The softwood lumber dispute is the subject of a dispute settlement process at both NAFTA and the WTO.

It is not my purpose here to delve into the entire geography of issues in the softwood lumber dispute. The role of the standing Senate committee was to study that dispute in order to consider a better method of dealing with dispute settlement than NAFTA currently provides.

It would appear that the softwood lumber dispute will be dealt with on an interim basis through negotiation. The Senate Foreign Affairs Committee wants to see a long-term solution that will provide unfettered access for Canadian forest products. We also seek the establishment of mechanisms in NAFTA that will settle disputes through mutually agreed trade law and not through processes of political leverage and protectionist gains.

The committee had the benefit of expertise to assist in considering whether there should be any initiative taken by Canada to change the institutional arrangements now in force in our trading relationship with the United States. Assessing the evidence, the committee heard that while the FTA and NAFTA have been of value in improving trade flows between Canada and the United States, much of our bilateral trade had been tariff free before 1989 and other tariff lines were at low levels owing to successive rounds of GATT tariff reduction.

Professor John Helliwell of the University of British Columbia told the committee that the U.S. strong dollar policy during the 1990s had been the most significant influence leading to the growth of exports to the United States during that decade. The issue of currency levels and their relation to trade is one which I believe the committee should further examine.

What about further integration? Most opinion offered to the committee suggests that obtaining more per capita growth for Canadians from the bilateral relationship is probably not worth the cost in further integration and the loss of sovereignty. Again, Professor Helliwell suggested that most of the gains from available trade integration and liberalization have already been realized.

On balance, the committee is of the view that Canada should continue to emphasize multilateralism in its trade relations with the United States and give its best efforts to the current Doha Round of trade negotiations under the WTO.

Time limits my considering here a number of other issues dealt with in the committee report. However, I believe, in closing, that my comments should emphasize the committee's view of the importance of two initiatives that form part of our recommendations.

The first is that the NAFTA partners implement their original agreement to establish a permanent NAFTA secretariat that can examine means by which trade disputes can be resolved within NAFTA and which can examine longer-term trade policy issues and provide reports, which could consider a NAFTA approach to the multilateral trade system. The value of such a secretariat in creating a common dialogue and better mutual understanding cannot be overstated.

The other initiative is for Canada itself. We must increase our interaction with the political and business communities of the United States. We see the need for more consular representation. We also see the value of our parliamentary relationship with members of the U.S. Congress in making them more aware of our interests.

• (1900)

A further proposal is for the establishment of a government-funded council to conduct analytical research on trade and investment issues so that the national policy debate is properly founded in facts.

The committee learned from the Canadian embassy in Washington that Canada is the leading trade partner or investor in 39 of the 50 states of our southern neighbour. They are not aware, and Canadians generally are not aware, of this key knowledge. Awareness can be a significant point of departure in this decade.

On motion of Senator Kinsella, for Senator Di Nino, debate adjourned.

CANADA ELECTIONS ACT
INCOME TAX ACT

BILL TO AMEND—THIRD READING—
POINT OF ORDER—SPEAKER'S RULING

On the Order:

> Third reading of Bill C-24, to amend the Canada Elections Act and the Income Tax Act (political financing).

The Hon. the Speaker: Honourable senators, thank you for your patience in giving me time to consider the ruling that was requested of me with respect to a point of order. The point of order was raised by Senator Kinsella. I thank Senator Kinsella and all those who intervened for their interventions and comments. I am now prepared to rule.

I would observe that, when honourable senators gave me an opportunity to consider my ruling, we had before us Bill C-24 at third reading stage.

I start by reciting rule 97(4) which provides:

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

In the case of the seventh report of the Standing Senate Committee on Legal and Constitutional Affairs, leave was given to consider the report later this day. Before putting the motion, Senator Kinsella rose on his point of order.

I refer to the rule to point out that I believe the bill is properly before us in terms of compliance with our rules. The committee reported the bill without amendment, a very important fact which I bring to your attention.

The point of order, as I understand it, concerns the requested changes referred to in the observations made by the committee in the context of asking the law clerk to deal with those changes as clerical errors. The request was that those changes should be dealt with as amendments in the absence of the unanimous consent of the committee to adopt that part of the report.

I remind honourable senators that this form of instruction in a committee report is consistent with past practice in the Senate. I do not want to go into a lot of detail, but I refer honourable senators to the *Debates of the Senate* of June 28, 1988, at page 3751 and 3752. The Senate received a report with an observation which stated:

> Having found, however, that there were certain incorrect cross-references in the Bill as passed by the House of Commons, the Committee has asked that these editorial errors be corrected in the parchment of the Bill by officials of both Houses prior to its third reading in the Senate.

Another example would be from the *Debates of the Senate* of December 6, 2001, at page 1885, concerns the thirteenth report of the Standing Senate Committee on Legal and Constitutional Affairs, then chaired by Senator Milne. The observation stated:

> Your Committee notes that it instructed the Law Clerk and Parliamentary Counsel to correct a printing error in the parchment. On page 12...

I would also refer honourable senators to the exchange recorded in the *Debates of the Senate* of May 18, 1988, at pages 3436 to 3437, and on May 19, 1988, at 3448 to 3450. I will quote in part from that section, from an intervention by Senator Frith where a request was made for an opinion from parliamentary counsel. A memorandum to the Clerk of the Senate, then Mr. Lussier, from Mr. du Plessis, was read into the record. It stated, in part:

> No guidelines have been established for deciding which errors are the proper subject-matter of clerical correction and which require parliamentary amendment. A good guide for clerical correction is to work by analogy to errors that the courts would feel comfortable in characterizing as "an obvious typographical error or slip of the draftsman's pen." Dreidger, *Construction of Statutes*.

That brings me to the heart of what I will be ruling on: That is, the concern highlighted by the point of order that something like that could only be done with unanimous consent. I quote from *Beauchesne's Parliamentary Rules & Forms*, Fifth Edition. Paragraph 728 at page 223 is not necessarily right on point, although it is partly on point and it covers the matters before us.

> When a variance occurs in either the English or French texts of a bill, it may be treated, with unanimous consent, as an editorial change.

The words "editorial" and "clerical" have been used interchangeably in many of the references I have seen.

I emphasize the word "may" in that paragraph from Beauchesne. Certainly unanimous consent is one way to proceed but not the only way. The committee proceeded in accordance with Senate practices; that is, by majority vote. I believe that the committee acted correctly, that the report is properly before us and that we should not go behind the integrity of the committee.

The only time that we require unanimous consent is when we suspend a written rule or when we depart from an established practice. In those cases, unanimous consent is required. That is not the situation before us.

Accordingly, honourable senators, I do not feel that there is a point of order. The observations of the committee, which contain instructions, are in order. It is in order for us to proceed to deal with the bill at third reading.

Senator Robichaud: Question!

The Hon. the Speaker: I remind Senator Robichaud that the motion had not been read when Senator Kinsella made his point of order.

[*Translation*]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I had moved third reading of the bill and right after that, Senator Kinsella rose on a point of order.

I move, for greater certainty, third reading of Bill C-24.

The Hon. the Speaker: Honourable senators, it was moved by the Honourable Senator Robichaud, seconded by the Honourable Senator Rompkey, that this bill be read the third time. Is it your pleasure to adopt the motion?

• (1910)

[*English*]

Hon. Donald H. Oliver: Honourable senators, I rise today to speak to Bill C-24, to amend the Canada Elections Act and the Income Tax Act dealing with political financing.

I first wish to identify myself with remarks made earlier on this bill by my colleague Senator Angus.

I came to the discussion of election law with some background on this subject. I represented the Progressive Conservative Party as its legal advisor on election law during six national campaigns, 1972, 1974, 1979, 1980, 1984 and 1988 general elections.

I was one of the commissioners on the Royal Commission on Election Reform and Election Financing, established after the 1988 general legislation. This Royal Commission represented the last thorough independent study of election law in Canada. It had representatives from the three recognized parties at that time, and its conclusions and recommendations were arrived at through consensus.

The building of consensus and ensuring that the proposed election reforms had all-party support carried over to the implementation of these recommendations through the reports of the Special Committee of the House of Commons on Electoral Reform chaired by Mr. Jim Hawkes. That committee made two significant reports to the House of Commons. These were unanimous reports. They were acted upon by Parliament with debate, agreement and without the use of closure or time allocation. However, that is not the Liberal way. If I recall correctly, every electoral bill introduced since this government came into power has at least been the subject of time allocation in the House of Commons.

Today, I wish to address the general philosophy behind Bill C-24. As a lawyer analyzing legislation, one always likes to determine the evil which the proposed legislation is to address and, from there, decide whether it has accomplished its goal. The evil or wrong that this bill is designed to right or address is the allegation of the inordinate or perhaps undue influence exercised by the corporate sector by virtue of donations over the political process.

There is a perception that with the donation of money comes influence or favours being given by the party, especially the party in power, to the corporate donor. This perception of influence and, in the case of government, the reality of this influence, lowers the public's view of the integrity of all those involved in political process in Canada. The reality is that what was needed was not electoral reform, but true regime administerial accountability.

Another approach might have been the establishment of a truly independent ethics counsellor. My party has suggested that for many years.

We are now faced with a prime minister searching for a legacy, who has found a way to use the public purse to perpetuate a funding advantage to the Liberal Party through the guise of electoral reform.

The Prime Minister has been able to blame the Canada Elections Act for the problems and scandals that have beset him and his government in the last two terms. What should be the overarching principles of a bill that seek to fundamentally change the way parties and candidates are funded? The Prime Minister established two: disclosure and accountability. However, he has never articulated the third, which I would argue overrides the other two, and that is fairness.

As Pierre Lortie, who chaired the Royal Commission on Electoral Reform said:

> ... without laws that promote fairness, we may have a free society, but we will not have a truly democratic society.

In testimony before the House of Commons special committee, he went on to say:

> Canadian electoral laws have long accepted that fairness must be a central premise of our electoral process. Our laws concerning the state's responsibility for registering voters, the use of independent boundaries commissions, the provision of free broadcasting time, and among other things, candidate and party finance have demonstrated inconclusively that Canadians want, and expect, and know it is possible to have fair elections.

There is nothing fair about electoral reform pushed through by Parliament when it is the governing party that benefits the most from its passage. If change to our electoral system is to be legitimate, it must create or ensure a level playing field. It must enhance the system's ability to reflect the electoral will of the people. However, this bill does not do that. This bill shifts the costs of conducting elections from the public at large, corporations, unions and large private donors, on to the backs of Canadian taxpayers. Columnist Diane Francis has referred to this as the nationalization of the democratic process.

I believe there is something very wrong if democracy has to be funded overwhelmingly by the state. Rather than deal directly with the influence exercised by large corporate donors on this government through an effective ministerial accountability or ethics regime, we are faced with a bill that entrenches taxpayer support for political parties, whether the taxpayer supports that party or not.

This is supposed to be a measure that raises the political process in the eyes of the public. As it stands now, it is simply one more tax grab by a government and by a prime minister searching for a legacy and for a reason to govern.

If we were to make such a fundamental change in our electoral financing system, I would have thought that the government would be bringing forth impact studies to support it. I would have thought that we would at least have an independent study completed that would demonstrate how this would or perhaps would not benefit the Canadian political system. Nothing like that has been done.

The last major study in this area of election financing started in 1989 and was completed in 1992, after intrusive and exclusive consultation reached a conclusion that would be entirely opposite to the conclusion that we will be faced with if Bill C-24 becomes law.

I would like to take a moment to review the major findings and recommendations of the Royal Commission on Electoral Reform in which Senator Lucie Pépin and I both participated. It dealt with the issue of political considerations and undue influence in the context of the existing criminal law. On page 432 of the report it states, "Contributions made in the expectation that special privileges will result are illegal." The report goes on to discuss fraud and bribery as they are related to the electoral process from the definitions contained in Criminal Code.

Rather than making contributions illegal, or banning them from certain donors, the Royal Commission recommended that, in training sessions, sections of the Criminal Code could be brought to the attention of candidates, official agents and all those involved in election or party fundraising.

The commission recognized that Canada has an electoral finance regime that is primarily characterized by spending limits for candidates and parties. The commission felt that limits in this way ensured fairness to the electoral process. The commission proceeded to examine the possibility of introducing limits on contributions and reviewed all of the statistical information from the 1998 general election. Having done that, the commission stated:

> While some may have a perception to the contrary, there are few instances in Canadian candidate and party financing when a contribution's size relative to total revenue would reasonably give rise to suspicion that the donor may acquire undue influence.

The commission reviewed the electoral laws of the provinces and the United States, where there are limits on contributions. However, after extensive analysis of how such limits would affect the federal electoral scene in Canada, they concluded that most of the contributions in federal elections came within the provincial limits.

The commission stated, at page 441, "...comprehensive spending limits, federally, help check the demand for political contributions." Spending limits the commission delivered encouraged fairness in the system, as well as lessened the need to amass large financial resources. You cannot spend the money, anyway.

Looking specifically at fundraising by candidates, the commission once again concluded that nothing would be gained by introducing contribution limits. The commission did recommend a broadening of disclosure on a twice-a-year basis.

The commission also looked at contribution sources of funds. Arguments were raised before the commission that only individuals should be allowed to make political contributions. This was on the basis that only individuals are allowed to vote.

After weighing the evidence, the commission agreed with those who would not impose limitations on the sources of contributions. The Chamber of Commerce of Montreal, in its testimony before the commission, perhaps stated the reasons for its decision best:

> We believe the most important element is the fullest possible disclosure of the sources of the funds of the candidates and political parties. It is perhaps more important to ensure such transparency than to opt for a limitation on the sources of financing that could risk opening the door to contributions whose origins are obscured in various ways.

• (1920)

The commission was also concerned that a ban on contributions by corporations may contravene the Canadian Charter of Rights and Freedoms. Again, the commission believed that full disclosure of contributions was the answer. It stated:

> Canadian organizations with a stake in the political future of the country should not be prevented from supporting parties and candidates who share their policies and values, provided the public has the full opportunity to be informed about these financial activities. Nor should an account be created to channel funds from those organizations to groups outside the political system.

These were recommendations of the Royal Commission on Electoral Financing, based on three years of delving into these issues, and having the benefit of advice from Canadians right across the country.

We now have a bill in front of us that entrenches inequality. Even the electoral financing laws of the United States in the area of financial rebates treat political parties with some measure of equality. In the United States, parties are eligible for general election funding if they receive 5 per cent of the vote in the prior general election. Once qualified, each party receives an equal distribution of funds. This gives mainline parties access to funds and keeps the funding of fringe parties to a minimum. The system obviously is not perfect, but it would work in Canada and would, at least, approach the concept of a level playing field.

When Canadians contribute to a party as private citizens, or as corporate or union citizens, they can choose the party they wish to support. However, when the state donates on behalf of citizens, it should not favour one party over another as this legislation does.

What we have here in Bill C-24 is a proposal that will skew the system. This Liberal government will hand out $1.75 per vote to each party based on the results from the previous election — regardless of the appeal that party presently holds. The taxpayer funds politics based on past successes not present ideas and not present platforms. It means that taxpayers from all across this country will be paying to subsidize the efforts of the Bloc Québécois and other registered parties of whom they may never have heard. That is on one end of the spectrum.

At the other end sits the Liberal Party, atop this gigantic pork barrel for the incumbent government and financed by the taxpayers of Canada. To administer this new regime — the Liberals' favourite plaything — is an even larger bureaucracy.

The cost of reimbursing expenses incurred by political parties in an election will double under Bill C-24 to about $80 million from $40 million. The Liberals will receive the largest share of the annual subsidy: $9.2 million per year, beginning in the year 2004. This exceeds by almost $3 million what they collected from business in 2001.

What will be the effect of this bill on party politics in Canada? Over the last 10 to 15 years, we have seen an unprecedented growth in both the number and influence of special interest groups. While special interest groups have always been part of politics, there was a time when both the government and political parties knit together the views of interest groups. This was especially true of parties that were national in scope and in their views.

Given the rise in influence of special interest groups, there has now come a time when they fracture the views of the community, putting their particular interests ahead of the good of the whole.

With political parties financed under Bill C-24 by the state, there will be less and less incentive for parties to reach out to these groups to blend together their views so that the good of the whole country triumphs over some narrow, self-serving interest.

Bill C-24 would also give incentive to special interest groups to mobilize to gain party status if they can accumulate 2 per cent of the vote cast nationally, or 5 per cent of this vote cast in ridings where the party ran a candidate, and they will be eligible for public subsidies.

Public subsidies will also militate against the need for parties to broaden their membership bases. It is no secret that for the past number of years I have been campaigning for the Progressive Conservative Party to try to attract support from Canada's multicultural community. We all know that one method of locking in support is to convince a person to actually donate time and money, especially money, to a political party. Under Bill C-24, that need to reach out is no longer as urgent. The taxpayer will pay.

A study on corporate political contributions in Canada, completed in February for the Public Policy Forum, demonstrated that most corporations feel that it is part of their public duty to support the democratic process. However, if Bill C-24 limits them in their direct support, they will seek to influence and support it by other means, such as supporting special interest groups or by direct lobbying. Therefore corporations will spend money on politics, it simply will not be transparent, and certainly not as transparent as it might have been if Bill C-24 had taken another route — a route that emphasized transparency in donations rather than their limitation.

Honourable senators, I would like to conclude my remarks by raising an issue that was not addressed in the debate in committee and in the chamber in the other place, and that is the issue of the constitutionality of Bill C-24. Is Bill C-24 Charter-proof?

Professor Errol Mendes, who edits the *National Journal of Constitutional Law*, by far our country's leading constitutional law journal, has raised this issue and I trust it will still be looked at carefully before this matter leaves the Senate. He believes this bill establishes systemic barriers to equality for new political parties as they try to access the political system.

He argues that Bill C-24, by its subsidy scheme, violates section 15 of the Charter, as this section is designed to protect minorities who have traditionally been blocked out of the political system. It has also been argued that, as the bill does not establish a level playing field for political parties, the courts may also set it aside. This is an important area that really has to be explored by this Senate.

The conclusion of the Public Policy Forum paper analyzing this bill and its effects on corporate political contributions was as follows:

> Bill C-24 represents a sweeping redefinition in the relationship of the political process to the state, to economic and social interests within the state, and to citizens themselves.

It has been brought in without any real debate about the impact of this change on our democratic institutions.

There are so many questions that require answers such as: Is the increased reimbursement of political parties' electoral expenses an acceptable cost for our democratic system? Should parties be subsidized by the state or should they be required to rely on their own fundraising efforts? Will public funding make parties less sensitive to voters, or will it allow them to carry out their activities without worrying about core financing? What effect will this new system have on party governance? Will the acceptance of state funding affect public attitudes towards political parties? What will be the public's perception of politicians voting to subsidize their own political parties? Will new political parties find it more difficult to become established?

These, honourable senators, are all legitimate questions that should be thoroughly discussed in the Senate. I hope the government will back off from its immediate timetable and allow this Senate to probe deeply into the effect that this bill will have on our democratic system.

Hon. Senators: Hear, hear!

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I want to bring to the attention of colleagues one aspect of the bill that has not been discussed, and I regret that our Standing Senate Committee on Legal and Constitutional Affairs was only given two days to study this complex bill, which has an impact not only on the financing of political parties but on riding associations themselves. I will quote — as I think this is as well stated as I have seen it anywhere — from a paper that has been circulated but not published, by Kenneth Carty, who is a Professor of Political Science at the University of British Columbia. He said:

> If the bill becomes law, every party constituency association in the land will have to register with Elections Canada. They will only be able to do so with the permission and approval of their party's leader. And the leader is to have the power to have them deregistered at his or her pleasure.

• (1930)

> This will spell the end to local autonomy for individual constituency associations will hardly be able to stand against their leader's wishes. In practice, leaders will rarely need to use these formal powers for everyone will know the costs of open defiance or difference. This change represents an enormous centralization of organizational power in the hands of party leaders. Had these provisions been in place it seems unlikely that Day's Leadership of the Alliance would have been so brief, or Chrétien would have lost control of the Liberal party organization to Martin supporters. It would be a great irony if one of Chrétien's legacies was a system protecting Martin from an internal power takeover.

Reflect on his conclusion:

> More centralized parties are not likely to be more successful ones. Canada has one of the lowest rates of party membership and participation among western democracies. Shrinking the opportunity for local members to play an independent part is only likely to drive those numbers even lower. Reducing participation is not the way to engage citizens or build support. Local autonomy has been important to party associations so that they could respond effectively to the peculiarities and political realities of their corner of this diverse country. Greater centralization will only make it harder for local associations to do this. Given a choice between their community and Ottawa, many will opt for home. The result will be more party splits and desertions. If Bill C-24 helps to break the old local autonomy for parliamentary discipline bargain, the prospects for the survival of genuinely national parties will shrivel. We haven't so many that we can afford the chance.

It may be an exaggeration, but it is a warning that there are in this bill provisions that have hardly been studied or touched on, the impact of which we have yet to know because we were not given the opportunity to study them. The only consolation I get is that Senator Oliver's and Senator Joyal's concern about the constitutionality of this bill will, I hope, be tested. I am convinced that once this act is in force, within the next five years it will be subject to some very major revisions.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, in rising to participate in debate of this bill at third reading, I would first like to draw the attention of honourable senators to the fact that this bill will cost the Canadian taxpayer $49 million in election years and $29 million in non-election years, including a $22 million annual subsidy to political parties. The tab will total some $134 million over the next four years. This is the magnitude of the cost to Canadian taxpayers.

This is done mostly to replace money the parties now get from their supporters. The annual cost could end up being $5 million more a year if voter turnout returns to traditional levels.

It seems to me that any fair-minded Canadian will see that this bill is not fair, that the Liberals will get the lion's share of the annual subsidy and that they want to make it harder for other parties to defeat them by making it harder for them to raise money.

In January, the Liberals will get a government cheque for $9.2 million, $3.5 million more than any other party. The Canadian Alliance will get $5.7 million; the Progressive Conservative Party will get some $2.7 million; and the Bloc Québécois will get $2.4 million from the Canadian taxpayers, paid to a party whose objective is to break up the country. The New Democratic Party will get $1.9 million.

This bill does not apply, honourable senators, to new parties. In the history of Canadian political parties, there have been changes in the organization of various coalitions to, in effect, create new political parties. It is not clear that this bill will be fair to newly coalesced political groupings in Canada.

Honourable senators, the bill is full of loopholes. It will not clean up election financing; rather, it will drive money underground into trust funds, arm's-length associations, and various political action committees and organizations of that ilk.

The bill only applies to fundraising and spending by parties and their riding associations. It does not cover clubs or other entities that may carry the party name but which run their own show. The Liberals who ran Groupaction could have simply donated their collections to friends of any given person.

I think we have made our case. I think the seventh report has established for us that the bill is badly drafted. We have agreed that there are errors in it; we disagree on the methodology of dealing with only some of the errors. It is my belief that the error on page 31 of the bill, to which the seventh report draws our attention, is more appropriately amended by better wording.

Honourable senators, the old adage that haste makes waste has never been more true than with regard to the reams of errors riddling this bill. In my view, the proper procedure to follow

would be simply to mark it "Return to Sender." The disappearing act performed by the other place is reminiscent of the king himself, Elvis Presley. Therefore, perhaps we could add "Address Unknown" as a measure of the disgust of this house.

While it was argued in committee that most of the errors can, fortuitously, be repaired by describing them as mere clerical errors, or parchment errors, it seems to me that allowing shoddy work to be fixed through an administrative process merely encourages future repetitions. This is not the first time we have received a bill with numerous errors, and it undoubtedly will not be the last if we permit this latest comedy of errors to go essentially unremarked.

One way to convey an unmistakable message to the other place is to correct each and every error through amendment. That is a process that may well give them pause to consider the error of their ways in that other place.

Honourable senators, in addition to the error on page 31 referred to in the seventh report, the English text of clause 73(3) on page 104 of the bill reads:

> For monetary contributions made in 2004 taxation years but before the day...

To the best of my knowledge, we have not had "2004 taxation years" in Canada quite yet. One might assume as much, since our nation was only formed in 1867.

The French text has it right, however, where it says:

> En ce qui concerne les contributions monétaires faites au cours de l'années d'imposition 2004...

Obviously, repairing this error on page 104 of the bill requires an amendment, and it is not simply a clerical error.

• (1940)

MOTION IN AMENDMENT

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): To that end, honourable senators, I move, seconded by the Honourable Senator Stratton:

> That Bill C-24 be not now read a third time but that it be amended in clause 25, in the French version,
>
> (*a*) on page 31, by replacing line 35 with the following:
>
> "405.3(2)*b*)(i);";
>
> (*b*) on page 33,
>
> (i) by replacing line 25 with the following:
>
> "(2.1) Par dérogation au sous-alinéa (2)*b*)(i), si deux", and
>
> (ii) by replacing line 41 with the following:
>
> "titre du paragraphe (2.1) à l'association enre-"; and
>
> (*c*) on page 34,
>
> (i) by replacing line 1 with the following:
>
> "(2.3) Par dérogation au sous-alinéa (2)*b*)(i), si une", and
>
> (ii) by replacing line 15 with the following:
>
> "titre du paragraphe (2.3) au candidat soutenu" ; and
>
> That Bill C-24 be further amended in clause 73, in the English version, on page 104, by replacing line 25, with the following:
>
> "the 2004 taxation year but before the day on".

Honourable senators, the latter part of my amendment, which refers to clause 73 at page 104 of the bill in the English version, is a content change that cannot be made by the clerks, but only by amendment. It is a clear error.

I submit that the errors that we have recognized on page 31 of the bill ought to be amended in accordance with my motion in amendment because I am not sure what kind of a change the clerks might make. This, clearly, is my interpretation of how that clause should be read.

Clearly, honourable senators, the amendment process is the principal process for cleaning up bills so that bills state exactly the intent of the legislators.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

The motion in amendment is lost, on division.

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

Hon. Senators: Question!

The Hon. the Speaker: It was moved by the Honourable Senator Robichaud, seconded by the Honourable Senator Rompkey, that the bill be read a third time now.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

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

STUDY ON STATE OF HEALTH CARE SYSTEM

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

On the Order:

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

Hon. Jane Cordy: Honourable senators, I would thank Senator LeBreton for agreeing to allow me to speak today.

It is my pleasure to rise today to speak on the sixth report of the Standing Senate Committee on Social Affairs, Science and Technology. It has been six months since our report was issued. The Romanow commission report was released a month later. Both reports involved an intense study of the health care system in Canada and set the stage not only for a public dialogue of the health care system by Canadians, but also for action by provincial and federal governments.

Honourable senators, I am a member of the Standing Senate Committee on Social Affairs, Science and Technology. I consider myself fortunate to be a part of this group of outstanding individuals led by our chair, Senator Kirby, and vice-chair, Senator LeBreton. The committee members have a mix of medical expertise, public policy foresight and political experience. It is this mix of experience and knowledge that has caused this report and, in fact, the entire study to receive high accolades from governments, health care professionals and individual Canadians alike, for the sixth report of the committee, like the five before it, were all supported unanimously by the committee.

Honourable senators, the government's budget made significant investments to address the concerns of Canadians about our health care system. Federal support to health care will increase by $34.8 billion over the next five years. The 2003 First Ministers' Accord on Health Care Renewal, signed by the federal, provincial and territorial governments, is a commitment to improving the health care system. This accord reflected many of the ideas from our report, and it is an important first step in reforming publicly funded health care in Canada.

There are also a number of critical areas such as dealing with the serious across-the-board shortages of health care professionals that will need further attention from both federal and provincial governments.

Our report, as well as the other studies done over the past two years, played a critical role in these policy debates. As a senator from Nova Scotia, I take special interest, as I know all honourable senators do, in how our work affects my province. Nova Scotia and, indeed, all of Atlantic Canada, has unique health care concerns. On the one hand, we needed to develop a national strategy to stabilize health care in Canada, while, on the other hand, we must address the issues of concern in Atlantic Canada. This report has been able to do just that.

As pointed out in the committee's fourth report, there are presently serious gaps in our health care safety net, particularly with respect to drug coverage and home care. As everyone is well aware, drug prices are the fastest growing component of the health care sector. This means that the ever-growing proportion of health care budgets being consumed by prescription drugs is not a short-term phenomenon. Having said that, prescription drug coverage is most uneven across Canada.

Although Canadians, on average, spend relatively little of their income on prescription drugs, the problems for those who face very high drug expenses can be extremely severe, with some people facing destitution. This, in the committee's view, is not acceptable.

In Canada, 97 per cent of Canadians have some form of drug coverage. This national average does not accurately reflect the coverage found in Atlantic Canada. When you look specifically at Atlantic Canada, the number of people without coverage becomes much larger. In Nova Scotia, 24 per cent of the population has insufficient drug coverage. These people are taking a tremendous risk with their health and, in some cases, their lives, by sacrificing the medical attention they may need.

Our report has addressed this issue by introducing the concept of catastrophic drug care. In this program, the federal government would take over the responsibility for 90 per cent of prescription drug expenses that exceed a certain limit that qualifies them as catastrophic.

To qualify for federal assistance, provinces and territories would have to put in place a program that would ensure that residents of the province or territory would never have to pay out of pocket more than 3 per cent of their family income for prescription drugs.

• (1950)

Honourable senators, in its latest budget, the federal government has allocated $16 billion over five years, to provinces and territories, for a health reform fund, some of which would be targeted to catastrophic drug coverage. No longer will individuals have to decide whether to sacrifice an essential living expense in order to buy their medicines.

Spending on home care in Canada, both public and private, has increased continuously over the past two decades. In previous volumes, the committee noted that there is no consensus about what services should be included in the definition of home care. Home health care services can cover some acute care, some long-term care, and end-of-life care for those with terminal conditions. In addition to health care, home care can include social support services such as monitoring, homemaking, nutritional counselling and meal preparation. It extends along a wide continuum of care.

Publicly funded home care programs vary greatly across the country in terms of eligibility, scope of coverage and applicable user charges. Although its provision has increased in most provinces in recent years, public spending on home care still represents a small proportion of overall provincial health care budgets.

Our report proposes a national post-acute care system of home care to provide for those people requiring treatment at home following an episode of hospitalization. Under our proposal, this publicly ensured program would cover all home care services from the first date of home care services following hospital discharge and up to three months following. Again, this issue was reflected in the First Ministers' Accord on Health Care Renewal signed in February.

Honourable senators, our committee took a close look at a great resource and a source of strength for our health care system — our teaching hospitals. In Canada, teaching hospitals are part of a greater network of health care facilities that, along with university faculties of medicine and other health-related research and health care institutes, form academic health science centres. These centres provide not only patient care, but also teaching and research. They are much more complex than community hospitals, and they offer the newest and most highly sophisticated services and treat the most difficult, complex cases.

For this reason, the cost of running these centres is much higher than a community hospital. It is the belief of the committee that the federal government is particularly well positioned to sustain our academic health centres across the country through its well-recognized role in financing post-secondary education, funding health research, supporting health care delivery, financing health care technology, and planning human resources and health care.

Finally, honourable senators, I should like to discuss the subject of health human resources. Many of the problems we see in Canada can be attributed to a shortage of health care professionals. A study conducted for the Canadian Nursing Association indicated that Canada would be short 78,000 registered nurses in 2011, and that this shortfall could reach 113,000 by the year 2016. For this reason, our committee recommended that the federal government commit the necessary funds over the next five years to raise the number of nursing school graduates to 12,000 per year.

A national strategy is needed in order to make Canada self-sufficient in health human resources. In the short term, more money is needed to boost enrolment in educational and training programs for all health care professionals. Our committee recommended that the federal government do its share by buying places at educational institutions so that more doctors, nurses and other health care professionals can be educated and trained. The committee recommended that the federal government contribute $160 million per year, starting immediately, so that Canadian medical schools can enrol 2,500 first-year students by the year 2005.

Honourable senators, no issue in Canada is more important to Canadians than health care. The Standing Senate Committee on Social Affairs, Science and Technology is continuing its study on health care by now focusing on mental health and mental illness. It was the decision of the committee that this segment of health was so neglected that it needed its own stand-alone report. As we hear evidence from witnesses in our study on mental health and mental illness in Canada, we hear over and over again the need for a national action plan.

Honourable senators, I believe that our Senate committee can help to meet the challenges related to mental health and mental illness, and I look forward to continuing another phase of our study on health care in Canada.

On motion of Senator LeBreton, debate adjourned.

THE BUDGET 2003

INQUIRY

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Lynch-Staunton calling the attention of the Senate to the Budget presented by the Minister of Finance in the House of Commons on February 18, 2003.—(*Honourable Senator Robertson*).

Hon. Mira Spivak: Honourable senators, I rise on behalf of Senator Robertson to speak to the 2003 budget, which perhaps is only a dim memory in some people's minds.

Budget 2003, in my view, strives for integrity by facing old Red Book promises, and in some cases by promising to give Canadians what was pledged to voters one decade ago: promises such as funding for national parks, for child care, for curbing climate change and a few other specific budget measures.

The biggest new spending measure is on health care. Between 1993 and 2001, the former Finance Minister reduced transfer payments to the provinces by some $25 billion, but health care funding will be restored if the next Prime Minister honours the future commitments of this budget. We would then see some $34.8 billion devoted to health care over the next five years, which, incidentally, accounting for inflation, could equal the $25 billion that was removed.

Some long-term big-ticket promises are being addressed in this budget. Let me quote from "Creating Opportunity: the Liberal Plan for Canada of 1993," better known as Red Book I. A Liberal government will assist provincial, regional and municipal governments to finance new or renewed municipal sewage and water treatment infrastructure. A Liberal government will work with the provincial and urban governments to improve energy efficiency and increase the use of renewable energies with the aim of cutting carbon dioxide emissions by 20 per cent from 1988 levels by the year 2005.

In 2005, however, the greenhouse gas emissions will not be 20 per cent less than they were 15 years ago; they will be 20 per cent more. The real needs of municipalities were to renew water and sewage systems, to maintain recycling programs, to collect methane from landfills and to provide public transit as a real alternative to cars. Those needs, which the government recognized ten years ago, did not vanish when deficit reduction became the priority. They still exist in times of balanced budgets and surpluses, yet Budget 2003 does very little to recognize them.

I should like to mention another item from the not-too-distant past, when the government promised to maintain the commitment to complete the national parks system by 2000. We all know that the Prime Minister has a soft spot for national parks. He has personally raised the expectations of parks advocates over and over again. The pledge of funds to parks in this budget is a tribute to his integrity to finally begin to do what was promised 10 years ago. Less than admirable, however, is the wording in the budget speech, which suggests that the government is proud that this budget provides funding for the completion of Canada's national parks system, including the creation of ten new national parks and five new marine conservation areas.

When you turn to the budget plan, you find that the amount is $74 million over two years for new parks and to restore existing parks. It is less than 15 per cent of the estimated cost of completing the system. It is also less than one-quarter the amount that the panel on ecological integrity said is needed to maintain our existing parks.

The bald exaggeration that this budget provides the money to do the job is the kind of rhetoric that invites cynicism.

• (2000)

The decade-old promise on child care and its Budget 2003 counterpart also deserves attention. If we understand what went wrong last time, we may not be condemned to repeat it; or at the very least, we can see it coming. Red Book One promised $720 million over three years, aimed at providing up to 150,000 additional quality child care spaces. It was a modest promise made in the backdrop of the previous government's effort under Brian Mulroney, to invest $5.4 billion in child care over a seven-year period, a program that died on the Order Paper.

The new Liberal promise also carried two provisos: First, it required the agreement of the provinces; second, it tied the creation of 50,000 spaces a year to 3 per cent economic growth in the previous year. If implemented, it would have led to a 41 per cent increase in the number of child care spaces beyond the number available in 1993.

The 1994 Budget included the first instalments on that promise, $120 million for 1995-96 and $240 million for 1996-97. However, the following year marked a dramatic turn in the government's social policy and in the Red Book commitment to child care. The 1995 Budget collapsed separate payments to the provinces, including the dedicated Child Care Transfer into the Canada Health and Social Transfer, and it cut the transfer amounts by some $7 billion. Still, then Minister Lloyd Axworthy announced an offer in 1995 to the provinces, of up to $630 million to cost share new child care spaces, and $72 million for Aboriginal childcare programs, and $18 million for research. It then met the magic number of $720 million that was promised in the Red Book.

No province or territory rejected the proposal outright, but, within days, government prorogued Parliament and Mr. Axworthy was no longer the minister. The new minister, Doug Young, blamed insufficient interest among the provinces.

A careful analysis of the events, however, points to a combination of factors: the government's fiscal capacity; opposition within caucus on ideological grounds; difficult federal-provincial relations; and, perhaps, greatest of all, the lack of political will and leadership once Mr. Axworthy left the portfolio.

Budget 2003 now tells us that the government has again been working with provincial and territorial partners to develop a strategy to improve access to affordable, quality, regulated early learning and child care services. Pending the outcome of these discussions, the government will provide $900 million over five years, including $100 million in the next two years, to substantially increase the number of spaces.

One can only hope that history will not repeat itself, although, like the adage, it is a triumph of hope over experience.

On climate change funding, the allocation of $2 billion over five years does sound promising. Even the Minister of the Environment, however, has waived a caution flag. He is concerned that pet projects and hobby horses of various ministers will soak up those funds, and the impact on climate change will be marginal.

The Department of Finance now says that funding for climate change in fiscal year 2002-03 will be $237 million, none of which includes the $2 billion announced in Budget 2003 or any amount that the foundations disburse. Next year, the total will jump to $734 million, largely due to new money going to foundations. The following year, the total will drop to $338 million; and after that, who knows?

I would like to see the government do something that the Federation of Canadian Municipalities has requested year after year. Green budget coalitions have also called for it; the Canadian Urban Transit Association asked for it last year. This year, the National Round Table on the Environment and Economy added its voice. It is a simple measure that would remove the tax payable on employer-provided transit passes. It would level the playing field with employer-provided parking. It would cost an estimated $200 per new transit user per year. To get 100,000 people out of their cars and onto transit systems would cost the government just $20 million — a far cry from the record $9.1 billion that the U.S. 2001 Budget pledged, to reduce road congestion.

The national round table also proposed half a dozen other tax measures to help us meet our Kyoto target: a GST rebate for energy-efficient renovations; an increase in the GST rebate for R2000 certified homes; and an increase in the GST rebate for municipal green infrastructure purchases, among others. None of these Kyoto-friendly measures have found their way into the budget.

Is this really a people's budget? It is, at best, some people's budget — a budget that promises low-income families some relief and gives high-income earners a break by allowing them to set aside more in their pension and RRSP funds. For the working middle class, for the average wage earner, there is a small deduction in employment insurance premiums that translates roughly to $60 in savings; yet, government revenue from employment insurance premiums exceeded revenue from corporate income tax several months last year. Between April 2002 and January 2003, corporate taxes stood at $15.4 billion, a 16.6 per cent decrease over the same period in the previous year; employment insurance premiums stood at $14.5 billion, a 0.7 per cent increase.

It takes remembering and fact-checking the campaign promises and the budget to understand where we are and where we are not after a decade of rule by this government. It takes more work than can be expected of average citizens who must attend to earning a living, raising families, caring for the sick and elderly and a dozen other facts of life.

However, Canadians know intuitively that many things went wrong in the past 10 years in health care, in other social programs, in caring for the environment, and in the combination of taxes they must pay compared to the taxes paid by corporations and those with high incomes. They intuit that a small minority is better off than they were 10 years ago — healthier, wealthier, more productive and happier — but that is not the case for the vast majority of Canadians.

One thing the government never promised voters was to reduce support for Canadian television and film production, while giving even more incentives to U.S. producers to work in Canada. Yet, this is what the budget was about to do, by cutting $45 million from the Canadian Television Fund while increasing the production services' tax credit available to companies contracting with non-resident owners of productions.

Canadian television producers, writers and actors almost immediately warned of job losses in the thousands, talent fleeing to the United States, insufficient programs to meet Canadian content requirements and more American programming than ever. The fund rejected such programs as *This Hour Has 22 Minutes*, *The Red Green Show* and *The Eleventh Hour*. Then, this month, $12.5 million was restored, but only for this year and only as an advance on next year's budget.

The television and film measures aside, I credit the government, and in particular the Prime Minister, for at last allocating money to the big promises held out to voters a decade ago. It is a measure of the Prime Minister's integrity, that he does not want to leave office with a trail of empty promises. His successor, however, will have to have the same commitment and the same priorities for a very long time, for these promises to be fulfilled.

My sincere hope is that we will see a continuing commitment to health care, child care, climate change and parks. I hope that the belated promises in this budget will be honourably and wisely kept.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, at the time that we were voting on the amendment to Bill C-28, for some reason, I thought that, as soon as the amendment was disposed of, we would go back to the point of order. I only realized, too late, that the instruction was to dispose of everything to do with Bill C-28. I realized my error and put it down to what someone might have put in my birthday cake, as I usually do not go off the track that easily. I had some remarks to make to the main motion, to Bill C-28 itself, but they are quite appropriate to this item. Since this is a budget item, they will fit in here.

• (2010)

The only proviso is that, if I speak last, in effect the inquiry will be closed if no one else wishes to speak to it. If I may, I will say what I have to say and, hopefully, not repeat my mistake.

During debate on the budget inquiry, which is before us, I had occasion to point out an inherent flaw in the federal budget process, which is simply that it is an authority vested in the executive over the which the legislative has little say.

This may have been valid at the time the House of Commons was still the tool of the monarch, but surely it has no place in today's society. That the other place acquiesces so limply to abdicate its basic reason for being — the guardian of the purse — is truly shameful. It only reveals a self-imposed impotence, which demeans all of Parliament. However, any serious attempt to modify the government's budgetary intentions is treated as cheeky interference.

Once the budget is read, it goes into effect immediately, unless otherwise provided, and the Budget Implementation Act, such as the one which was the subject of the bill on which we voted earlier, is a sort of legal afterthought.

The title of this bill is a misnomer, for how can Parliament implement what is already being implemented? It should be titled "Budget Rubber-Stamping Act" for that is what Parliament is asked to do.

I have on many occasions pointed to the American federal system, particularly the separation of powers, which does not allow the executive to run roughshod over the legislative, as is the case in our country. The experience of Mr. Bush's last budget is a telling example of this. In January 2003, the president proposed — and I said proposed, not announced — a budget which called for a tax cut amounting to some $750 billion over 10 years. Both the House and the Senate disagreed with the president and came out with separate proposals, the first calling for a tax cut of U.S. $550 billion, the second for U.S. $350 billion.

A conference between the two houses led to a compromise bill, which was signed by the president late last month, calling for a reduction in revenues of U.S. $350 billion through 2013, if sunset provisions during that period are respected, or at least U.S. $870 billion, if the reductions become permanent. These figures are estimates that may turn out to be way off.

The point, however, is not to take a position on the budget policy of the American government, but to emphasize that it is not determined by a select group of individuals, but by the elected representatives of both houses working with the administration to arrive at a result reasonably acceptable to all. This involves a lengthy, cumbersome procedure, replete with trade-offs, but at least the procedure is open and transparent.

In Canada, the budget goes into effect as soon as the Minister of Finance rises to deliver it. The only change made, except when there is a public outcry, as was the case in the infamous MacEachen and Gordon budgets, is by the executive itself.

Shortly after this year's budget was made public, the Prime Minister expressed surprise that additional financing for Olympic athletes would be dependent on Vancouver being selected as the site of the Olympic games of 2010. He unilaterally reversed the decision.

Then we had the outrage exhibited by the Minister of Heritage towards the Minister of Finance at a reduction in the federal contribution to the Canadian Television Fund. This resulted in an embarrassing public exchange between the two, which was temporarily suspended last week when both ministers jointly announced an increase in the federal contribution to the fund.

The announcement was made in a press release, not in the House of Commons. Note the wording of the finance minister's announcement: "After hearing the concerns of the industry, I am advancing the Government's financial assistance." The House, completely ignored, registered nary a peep.

This may be explained by the disgraceful reaction of the government to the decision of the other place's Transport Committee to reduce Via Rail's funding by $9 million. The government house leader had a fit, arguing that the committee had acted highly irregularly and raised points of order, which the Speaker totally rejected. The Minister of Transport then warned those members voting for the reduction that jobs could be lost in their ridings. The reduction was reinstated when the Main Estimates were approved last Thursday.

Is it any wonder, shameful as it is, that elected members pay but passing interest to government expenditures when any serious attempt to exercise control over them is met not with reasoned argument, but with arrogant outrage?

The government did remove $72 million for the gun registry program from the Supplementary Estimates last fall, but only because the Auditor General's report was so scathing that it felt that the time was not very propitious to put in more good money after bad. The Minister of Justice did not appear too disturbed, so no doubt, the temporary suspension of funds made little, if any, difference.

I could give other examples of Parliament being but a tool of the government in budgetary matters, but I hope my point has been made. Better an active participation, messy and prolonged that it might be, than a negligible one imposed and controlled by a favoured few.

If my reading of the bill is correct, it does not reflect the budget it is supposed to implement. In his budget speech, on February 18, of this year, the Minister of Finance was very forthright about proposed expenditures when he said, "This includes $250 million for Sustainable Development Technology Canada to encourage the development of greenhouse gas reducing technologies." That is found on page 13 of the budget speech. On the strength of that promise, the foundation issued a news release, the following day, welcoming the additional money.

Let me read to you section 34 of Bill C-28 which states:

> From and out of the Consolidated Revenue Fund there may —

Note the word "may," not shall —

> — on the requisition of the Minister of the Environment and the Minister of Natural Resources be paid and applied a sum not exceeding two hundred and fifty million dollars for payment to the Canada Foundation for Sustainable Development Technology for its use.

The minister stated at page 10, in the same budget speech, that, "We are increasing our investment in the Canada Foundation for Innovation by $500 million, specifically for the infrastructure needs of Canada's research hospitals."

However, section 39 of the bill before us today is structured in permissive terms. It states:

> From and out of the Consolidated Revenue Fund there may, on the requisition of the Minister of Industry, be paid and applied a sum not exceeding five hundred million dollars for payment to the Canada Foundation for Innovation for its use.

Let me give you one last example. In the budget speech, page 6, the minister spoke of a $2.5 billion immediate transfer to the provinces and territories to deal with existing pressures. The corresponding item in the bill states the minister may make direct payments in an aggregate amount of not more than $2.5 billion to a trust. The question is obvious. If the intent and promises made in the budget are clear, why is not implementing legislation equally clear?

I could not be at the finance committee where this should have been brought up. Previous implementation bills have used the same wording. It should trouble every parliamentarian to know that budget implementation is not an instruction to the executive but, if the theory of plain meaning applies, permission to implement at ministerial discretion.

While the Auditor General has denounced the practice of pouring billions of dollars into arm's length entities accountable to no one but themselves, the government continues to ignore her concerns. What more glaring example than Canada Health Infoway Inc.? Canada Health Infoway is in line for another $600 million, at the discretion of the Minister of Health.

• (2020)

According to Budget 2003, this amount will be paid to the corporation in fiscal year 2002-03, but it will somehow be credited at a rate of $200 million per year for the three fiscal years of 2003-2004 through 2005-2006. I am curious, as we all should be, as to the mechanism by which this accounting marvel will be achieved and whether it has the imprimatur of the Auditor General.

Continuing on the subject of the supplementary funding to this nominally independent company, the Government of Canada has previously provided it with $500 million. In reviewing its accountability to Parliament, the Auditor General noted that it does not report expected performance to Parliament. It does not report performance results to Parliament. It does not report audited statements to Parliament. It does not report evaluation results to Parliament. There is no ministerial oversight — no strategic monitor, no ministerial direction and action, no departmental audit and evaluation and no termination agreement allowing funds remaining on windup to be returned to the taxpayer.

If the minister decides to proceed with a second tranche contained in Bill C-28, Parliament will have given Canada Health Infoway Inc. a total of $1.1 billion, more money in three years than has been sunk into the Firearms Control Program over a period of seven years. However, no matter how poorly this program is working, at least there is the appearance of activity, actual visible expenditures and accountability of sorts to Parliament.

Canada Health Infoway, on the other hand, started out making money when the interest on the grant previously provided exceeded expenditures incurred during the course of the first year of operation. Although it is finally spending some of the money, this situation leads me to a range of questions, which I think you will have no trouble anticipating.

Why is the government adding to this existing pile of capital? Does the government have any idea what the final total cost of the Canada Health Infoway program will be? Is this another black hole for the taxpayer's money, even deeper than the Firearms Control Program and with even less accountability?

The Auditor General could not have been clearer when she said, "The creation and funding of foundations should not be driven by a desire to achieve a particular accounting result." What assurance do we have that these extravagant additional grants to bodies that are still holding hundreds and hundreds of millions of unspent taxpayer's dollars are not simply to achieve a particular accounting result?

Honourable senators, a budgetary process in Canada as it now stands allows this kind of flim-flam to be repeated year after year without barely the pretence of an effective review. In the United States, the budgetary process at least offers realistic opportunities for legislators to intervene and, in many cases, to make sweeping changes. I do not offer the comparison by way of suggesting that the U.S. system is perfect, but it does provide a much greater element of transparency and accountability than that currently in place in this country.

While the budgetary proposal of the president of the United States was greatly changed by the House of Representatives and Senate working together, the token efforts that the modest changes proposed in the other place during the current Canadian process were ruthlessly squashed. The fact that this happened provides ample reason for the view that Parliament is no longer the guardian and keeper of the public purse, but is rather a simple rubber stamp for massive, unchecked withdrawals.

Honourable senators, our system needs to be overhauled. There are worse alternatives, but there are also better. Surely our ingenuity can devise something superior to the process that led up to and is now ending with the woefully misnamed Budget Implementation Act.

[*Translation*]

The Hon. the Speaker *pro tempore***:** Honourable senators, if no other honourable senator wishes to speak, this matter will be deemed debated.

UKRAINIAN FAMINE/GENOCIDE

MOTION REQUESTING GOVERNMENT RECOGNITION ADOPTED

On the Order:

> Resuming debate on the motion of the Honourable Senator Andreychuk, seconded by the Honourable Senator Stratton:

That:

this House calls upon the Government of Canada:

(*a*) to recognize the Ukrainian Famine/Genocide of 1932-33 and to condemn any attempt to deny or distort this historical truth as being anything less than a genocide;

(*b*) to designate the fourth Saturday in November of every year throughout Canada as a day of remembrance of the more than seven million Ukrainians who fell victim to the Ukrainian Famine/Genocide 1932-33; and

(*c*) to call on all Canadians, particularly historians, educators and parliamentarians, to include the true facts of the Ukrainian Famine/Genocide of 1932-33 in the records of Canada and in future educational material.

GIVEN THAT the Genocide of Ukrainians (now commonly referred to as the Ukrainian Famine/Genocide of 1932-33 and referred to as such in this Motion) engineered and executed by the Soviet regime under Stalin to destroy all opposition to its imperialist policies, caused the deaths of over seven million Ukrainians in 1932 and 1933;

THAT on November 26, 1998, the President of Ukraine issued a Presidential Decree establishing that the fourth Saturday in November be a National Day of Remembrance for the victims of this mass atrocity;

THAT the fourth Saturday in November has been recognized by Ukrainian communities throughout the world as a day to remember the victims of the Ukrainian Famine/Genocide of 1932-33 and to promote the fundamental freedoms of a democratic society;

THAT it is recognized that information about the Ukrainian Famine/Genocide of 1932-33 was suppressed, distorted, or wiped out by Soviet authorities;

THAT it is only now that some proper and accurate information is emerging from the former Soviet Union about the Ukrainian Famine/Genocide of 1932-33;

THAT many survivors of the Ukrainian Famine/Genocide of 1932-33 have immigrated to Canada and contributed to its positive development;

THAT Canada condemns all war crimes, crimes against humanity and genocides;

AND THAT Canadians cherish and defend human rights, and value the diversity and multicultural nature of Canadian society.—(*Honourable Senator Robichaud, P.C.*).

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I proposed adjournment of this debate in order to allow anyone who wanted to speak to this motion to have a chance to do so. No one except Senator Corbin has expressed a desire to speak. Therefore, I believe the house is ready for the question.

The Hon. the Speaker *pro tempore***:** Are the honourable senators ready for the question?

Some Hon. Senators: Yes.

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

Motion agreed to.

[*English*]

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

COMMITTEE AUTHORIZED TO STUDY PUBLIC HEALTH GOVERNANCE AND INFRASTRUCTURE

On the Order:

Resuming debate on the motion of the Honourable Senator Kirby, seconded by the Honourable Senator Pépin:

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine and report on the infrastructure and governance of the public health system in Canada, as well as on Canada's ability to respond to public health emergencies arising from outbreaks of infectious disease. In particular, the Committee shall be authorized to examine and report on:

- the state and governance of the public health infrastructure in Canada;
- the roles and responsibilities of, and the coordination among, the various levels of government responsible for public health;
- the monitoring, surveillance and scientific testing capacity of existing agencies;
- the globalization of public health;
- the adequacy of funding and resources for public health infrastructure in Canada;
- the performance of public health infrastructure in selected countries;
- the feasibility of establishing a national public health legislation or agency as a means for better coordination and integration and improved emergency responsiveness;
- the Naylor Advisory Group Report and recommendations.

That the Committee submit its report no later than March 31, 2004.—(*Honourable Senator LeBreton*).

Hon. Marjory LeBreton: Honourable senators, I will speak briefly on this motion that was put forward by my colleague, Senator Kirby. It was adjourned in my name when I was absent, due to illness. When you watch and hear me, you may think that, perhaps, I should still be absent due to illness.

I wanted honourable senators to know that the Standing Senate Committee on Social Affairs, Science and Technology looked at this possibility. We submitted it to the full committee.

I fully support the motion for our committee to conduct a short study on public health emergencies in view of what has been happening in Canada in the last six or seven months. The committee is in full agreement. It is incumbent upon us to take a few days to look at this important issue from a national perspective.

Honourable senators, I would ask that this motion be adopted.

Motion agreed to.

[*Translation*]

AMERICA DAY IN CANADA

MOTION ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Kirby:

That the Senate urge the Government of Canada to establish September 11 of this and every year hereafter as a commemorative day throughout Canada, to be known as "America Day in Canada."—(*Honourable Senator Corbin*).

Hon. Eymard G. Corbin: Honourable senators, Senator Grafstein gave his support for the following motion which I will submit immediately. I would ask the pages to give a copy to the leaders on both sides of the House. I will formally put forward the motion a little later.

Senator Grafstein's motion has to do with a commemorative day to be known as America Day in Canada. Some honourable senators have already spoken to this controversial issue. Senator Bryden opposes the motion, while Senators Buchanan and Lawson support it with great enthusiasm. I know the idea is controversial.

• (2030)

My approach to all of this is not necessarily one of support or opposition. For some time now, we have had many proposals referred to us by the House of Commons or proposals introduced in the Senate.

For instance, only a few minutes ago, we approved a motion on the Ukrainians. No one will speak against the motion. Today, I believe we approved another motion to commemorate the veterans of the Merchant Navy of Canada.

A little while ago, we passed Senator Comeau's bill on the Acadians, which follows on Senator Losier-Cool's motion of last year. The list goes on.

I feel there is no rhyme nor reason to any of this, no protocol, no priority, no rule. There are overlaps. I asked the Library of Parliament to do a search back to 1989, if memory serves. They prepared a document that is a partial catalogue of all sorts of commemorative days. I shall not comment on the list, but there are enough of these days to suit all tastes and trends. Of course, some of them are indisputable.

However, there are no rules. The Historic Sites and Monuments Board of Canada, responsible for commemorating sites, buildings and people of historical significance to Canada, has developed a protocol that could, I believe, be useful to parliamentarians.

The motion I will move shortly, seconded by Senator Grafstein — I spoke to him yesterday and he asked me to inform you that he seconds this motion, which I shall formally move — reads as follows:

MOTION IN AMENDMENT

Hon. Eymard G. Corbin: I move, seconded by Senator Ferretti Barth:

That the motion be amended by deleting all the words after the word "That" and substituting the following thereof:

"the question of the Senate urging the Government of Canada to establish commemorative days throughout Canada, including the proposal for establishing "America Day in Canada", be referred to the Standing Senate Committee on Legal and Constitutional Affairs; and

That the Committee report no later than December 15, 2003."

The Hon. the Speaker *pro tempore***:** Honourable senators, are you ready for the question?

Some Hon. Senators: Yes.

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

Senator Corbin: Honourable senators, I would like to explain why I propose that the motion be referred to the Standing Senate Committee on Legal and Constitutional Affairs. That committee has already begun studying proposals for commemorative days.

It sometimes happens that the House rushes to adopt them, without investigation and without sending them to committee. The Standing Senate Committee on Legal and Constitutional Affairs has begun a thorough study of this sort of thing. I believe it would be appropriate to refer the matter to the committee for study.

The Hon. the Speaker *pro tempore*: Honourable senators, are you ready to adopt the motion in amendment?

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, in order to ensure that everything is in order, the Hon. the Speaker *pro tempore* should put the question to honourable senators.

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

Hon. Senators: Agreed.

Motion as amended agreed to.

[*English*]

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

MOTION TO AUTHORIZE COMMITTEE TO MEET DURING ADJOURNMENT OF THE SENATE—DEBATE ADJOURNED

Leave having been given to revert to Motion No. 137:

On the Order:

> Resuming debate on the motion of the Honourable Senator Banks, seconded by the Honourable Senator Moore:
>
> That the Standing Senate Committee on Energy, the Environment and Natural Resources be empowered, in accordance with rule 95(3)(a), to sit during the traditional summer adjournment of 2003, even though the Senate may then be adjourned for a period exceeding one week, until such time as the Senate is ordered to return.—(*Honourable Senator Kinsella*).

Hon. Mira Spivak: Honourable senators, in his absence, Senator Banks has asked me to address this motion and to give a few more details. He is requesting, and the Standing Senate Committee on Energy, the Environment and Natural Resources has agreed with this request, to sit during the summer for one meeting of two days' duration. The meeting would only take place on days during which sitting members of the committee would be available so as to ensure quorum and that there would be members of both sides present. They would not seek replacement members. The purpose of the meeting, should it take place, would be to consider the progress which will at that time have been made in the drafting of a report so as to be able to report sooner than later to the Senate.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, that is like a wish list, and no doubt well intended, but it is not in the motion. All we have before us is a motion, and the motion is open-ended. Some of us believe that it needs to be tightened up and specific dates mentioned. All senators are entitled to go to the committee meetings, not just the members. It could be that what will be studied in this meeting will be limited to only the members, but that should not be a conclusion drawn automatically. Notices have to be sent out, and all senators must be made aware of them. Also, as Senator Bacon has mentioned and others have repeated, think of the staff.

• (2040)

They have planned well-deserved holidays and we cannot interrupt them. Unless the motion itself were to be amended to specify the dates, I will not support it.

Senator Spivak: I regret that Senator Banks is not here. I have no authority. I cannot tell you what the exact dates will be. I know the discussion has been that it would be the week before the Senate resumes. However, I cannot give you any further information.

[*Translation*]

Hon. Lise Bacon: Honourable senators, if memory serves, when Senator Banks brought this motion forward, Senator Lynch-Staunton asked him to give us the exact dates. That is what we are waiting for before agreeing to it.

On motion of Senator Bacon, debate adjourned.

[*English*]

FOREIGN AFFAIRS

MOTION TO REFER 2002 BERLIN RESOLUTION OF ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPEAN PARLIAMENTARY ASSEMBLY TO COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming debate on the motion, as modified, of the Honourable Senator Grafstein, seconded by the Honourable Senator Joyal, P.C.:

That the following resolution, encapsulating the 2002 Berlin OSCE (PA) Resolution, be referred to the Standing Senate Committee on Human Rights for consideration and report before June 30, 2003:

> WHEREAS Canada is a founding member State of the Organization for Security and Economic Co-operation in Europe (OSCE) and the 1975 Helsinki Accords;
>
> WHEREAS all the participating member States to the Helsinki Accords affirmed respect for the right of persons belonging to national minorities to equality before the law and the full opportunity for the enjoyment of human rights and fundamental freedoms and further that the participating member States recognized that such respect was an essential factor for the peace, justice and well-being necessary to ensure the development of friendly relations and co-operation between themselves and among all member States;
>
> WHEREAS the OSCE condemned anti-Semitism in the 1990 Copenhagen Concluding Document and undertook to take effective measures to protect individuals from anti-Semitic violence;

WHEREAS the 1996 Lisbon Concluding Document of the OSCE called for improved implementation of all commitments in the human dimension, in particular with respect to human rights and fundamental freedoms and urged participating member States to address the acute problem of anti-Semitism;

WHEREAS the 1999 Charter for European Security committed Canada and other participating members States to counter violations of human rights and fundamental freedoms, including freedom of thought, conscience, religion or belief and manifestations of intolerance, aggressive nationalism, racism, chauvinism, xenophobia and anti-Semitism;

WHEREAS on July 8, 2002, at its Parliamentary Assembly held at the Reichstag in Berlin, Germany, the OSCE passed a unanimous resolution, as appended, condemning the current anti-Semitic violence throughout the OSCE space;

WHEREAS the 2002 Berlin Resolution urged all member States to make public statements recognizing violence against Jews and Jewish cultural properties as anti-Semitic and to issue strong, public declarations condemning the depredations;

WHEREAS the 2002 Berlin Resolution called on all participating member States to combat anti-Semitism by ensuring aggressive law enforcement by local and national authorities;

WHEREAS the 2002 Berlin Resolution urged participating members States to bolster the importance of combating anti-Semitism by exploring effective measures to prevent anti-Semitism and by ensuring that laws, regulations, practices and policies conform with relevant OSCE commitments on anti-Semitism;

WHEREAS the 2002 Berlin Resolution also encouraged all delegates to the Parliamentary Assembly to vocally and unconditionally condemn manifestations of anti-Semitic violence in their respective countries;

WHEREAS the alarming rise in anti-Semitic incidents and violence has been documented in Canada, as well as Europe and worldwide.

Appendix

RESOLUTION ON
ANTI-SEMITIC VIOLENCE IN THE OSCE REGION

Berlin, 6-10 July 2002

1. Recalling that the OSCE was among those organizations which publicly achieved international condemnation of anti-Semitism through the crafting of the 1990 Copenhagen Concluding Document;

2. Noting that all participating States, as stated in the Copenhagen Concluding Document, commit to "unequivocally condemn" anti-Semitism and take effective measures to protect individuals from anti-Semitic violence;

3. Remembering the 1996 Lisbon Concluding Document, which highlights the OSCE's "comprehensive approach" to security, calls for "improvement in the implementation of all commitments in the human dimension, in particular with respect to human rights and fundamental freedoms", and urges participating States to address "acute problems", such as anti-Semitism;

4. Reaffirming the 1999 Charter for European Security, committing participating States to "counter such threats to security as violations of human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief and manifestations of intolerance, aggressive nationalism, racism, chauvinism, xenophobia and anti-Semitism";

5. Recognizing that the scourge of anti-Semitism is not unique to any one country, and calls for steadfast perseverance by all participating States;

The OSCE Parliamentary Assembly:

6. Unequivocally condemns the alarming escalation of anti-Semitic violence throughout the OSCE region;

7. Voices deep concern over the recent escalation in anti-Semitic violence, as individuals of the Judaic faith and Jewish cultural properties have suffered attacks in many OSCE participating States;

8. Urges those States which undertake to return confiscated properties to rightful owners, or to provide alternative compensation to such owners, to ensure that their property restitution and compensation programmes are implemented in a non-discriminatory manner and according to the rule of law;

9. Recognizes the commendable efforts of many post-communist States to redress injustices inflicted by previous regimes based on religious heritage, considering that the interests of justice dictate that more work remains to be done in this regard, particularly with regard to individual and community property restitution compensation;

10. Recognizes the danger of anti-Semitic violence to European security, especially in light of the trend of increasing violence and attacks regions wide;

11. Declares that violence against Jews and other manifestations of intolerance will never be justified by international developments or political issues, and that it obstructs democracy, pluralism, and peace;

12. Urges all States to make public statements recognizing violence against Jews and Jewish cultural properties as anti-Semitic, as well as to issue strong, public declarations condemning the depredations;

13. Calls upon participating States to ensure aggressive law enforcement by local and national authorities, including thorough investigation of anti-Semitic criminal acts, apprehension of perpetrators, initiation of appropriate criminal prosecutions and judicial proceedings;

14. Urges participating States to bolster the importance of combating anti-Semitism by holding a follow-up seminar or human dimension meeting that explores effective measures to prevent anti-Semitism, and to ensure that their laws, regulations, practices and policies conform with relevant OSCE commitments on anti-Semitism; and

15. Encourages all delegates to the Parliamentary Assembly to vocally and unconditionally condemn manifestations of anti-Semitic violence in their respective countries and at all regional and international forums.—(*Honourable Senator Prud'homme, P.C.*).

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I had spoken to this item some time ago. I was asked by Senator Grafstein to bring to the attention of senators that the date in the resolution is "before June 30, 2003." If honourable senators were agreeable, I would ask to amend that date to December 31, 2003. The matter would then, content-wise, be meaningfully before us.

It would stand adjourned in the name of Senator Prud'homme.

On behalf of Senator Grafstein, I would ask for unanimous consent to amend that date from June 30, 2003, to December 31, 2003.

The Hon. the Speaker (*pro tempore*)**:** Is leave granted, honourable senators, to amend the motion?

Hon. Senators: Agreed.

On motion of Senator Carstairs, for Senator Prud'homme, debate adjourned.

UNIVERSITY RESEARCH FUNDING FROM FEDERAL SOURCES

INQUIRY—DEBATE ADJOURNED

Hon. Wilfred P. Moore rose, pursuant to notice of June 5, 2003:

That he will call the attention of the Senate to the matter of research funding in Canadian universities from federal sources.

He said: Honourable senators, it is my distinct pleasure to rise today to speak to the inquiry that stands in my name by way of which I will make a long-delayed response to the Speech from the Throne.

I would be remiss if I did not pause to thank senators on both sides of the chamber for their kindnesses and great concern expressed to me during my two rounds of surgery and convalescence over the past eight months. Your cards and messages were a great comfort to my family and to me. I want to express my sincere appreciation to my seatmate, Senator Kroft, for keeping me in the loop during my absence.

Over the past year, I have been watching with great interest the tremendous amount and high quality of work being done in this place. It is my firm belief that this body has never been so relevant and vibrant in terms of its contribution to the public good. It is with this in mind that I have returned, ready to add my efforts to yours, my colleagues. It is good to be back.

Today, I should like to focus on one aspect of the Speech from the Throne — the role the federal government would like to play in post-secondary education. One important message contained in the speech is that the federal government plans to:

> ...invest in access to our universities and in excellence in university research because Canada's youth need and deserve the best education possible, and Canada needs universities that produce the best knowledge and the best graduates.

Thus, there exists an emphasis on promoting a knowledge-based economy founded in research. This research will be conducted in our post-secondary institutions, for the most part. I believe that is a noble goal. Indeed, the promotion of education in our country is something that should occur every day in all aspects of our lives.

How do we intend to make this a reality? According to the Speech from the Throne, the federal government will invest in our universities by increasing funding to the federal granting councils. These councils will, in turn, provide research moneys to post-secondary institutions and individuals as well as businesses.

I spent a great deal of time and effort over the past year examining this system. I think it is important, in light of our government's commitment to a knowledge-based economy, to understand exactly how this system operates.

As you know, I have been extremely interested in our post-secondary institutions, especially those located in Atlantic Canada. The information revealed by my research points to a disparity which exists between Atlantic Canadian universities and researchers as they have been short-changed compared to their counterparts in the rest of the country.

It is my belief there exists three inherent problems with the very nature of our research-granting system. Briefly, I found that, one, there exists a depth of inequality between availability of funding for Atlantic Canada and the rest of the country; two, the inequality is continuing to grow; and three, a new culture must be initiated in the current system in order to address the disparity between regions.

• (2050)

The goal of our research system is to promote innovation and education across the country. If the system does not treat each region equally, I do not understand how we will be able to achieve this goal. I will now outline how some of the research-granting bodies are failing Atlantic Canada.

First, I will begin with the Canadian Research Chairs Program, the CRCP. In the year 2000, the Canadian government created this program with a budget of $900 million and a mandate to create 2,000 research chairs by the year 2005. Those chairs promote excellence in research as well as attract foreign researchers to this country. The chairs are either Tier 1, a five-year program with a $200,000 budget, or Tier 2, a five-year program with a $100,000 budget. The Tier 1 chair allocations generally go to established researchers. The Tier 2 allocations generally are awarded to lesser-known researchers. The problem, as I have discovered, is that these chairs are distributed based on a formula emphasizing past funding which has been granted by either the Canadian Institutes of Health Research, the National Science and Engineering Research Council, or the Social Sciences and Humanities Research Council. In other words, if a university does not have a history of receiving research funding from these sources, it is extremely difficult to now attract and share in the funding under the existing formula.

There is a provision to make available 6 per cent or 120 chairs to the "smaller" universities. The definition of "small" has nothing to do with the size of a university's facilities, faculty and enrolment, or its needs. The word "small" is used to refer, again, to the historic amount of research funding received or not received by universities from these granting councils. A university that received between $100,000 and $200,000 per annum would receive a further $200,000 in the form of a chair, research chair or chairs. Unfortunately, no Atlantic Canadian university met this criteria and thus no additional funding was granted under this formula.

A look at the overall funding under the Research Chairs Program reveals that of the 63 eligible universities, 37 received less than 1 per cent of the funding. That is to say, 37 universities received less than $12 million in research monies.

On the flip side of this equation, the University of Toronto stands to receive $73 million from this single source. While it can be appreciated that U of T should receive more funding due to the size of its research population, I have great difficulty understanding why it should receive six times more than Dalhousie University in Halifax, which possesses one third of U of T's research population. This hardly seems equitable. To date, 1,210 chairs have been allocated nationally. Atlantic Canada has received 94 chairs, only 4.3 per cent.

Next, I turn to the Canadian Foundation for Innovation. This is an independent corporation receiving its funding from Ottawa. CFI tends to promote specialization in university research. The Innovation Fund is the largest fund of this corporation. It distributes these grants through competitions between researchers. In order to be eligible for CFI funding, a university must have received at least $500,000 in sponsored research funding.

A researcher who is awarded support through CFI will receive 40 per cent of the total amount, but only if the other 60 per cent is also in place. That 60 per cent must come from the university or the private sector.

In Atlantic Canada, our universities do not have significant endowments and there is a relatively small corporate community. Due to these uncontrollable factors, our researchers find themselves in the situation of having much less opportunity to participate in this national wealth.

There are 15 members on the board of directors of CFI. Two of these are based in Atlantic Canada. There are also multidisciplinary committees, which make the direct decisions on funding. Of the 118 committee members, 8 are from Atlantic Canada, compared to 5 from France and 23 from the United States. There are fewer members on these committees from Atlantic Canada than from foreign nations!

There was a total of $1.7 billion distributed from CFI over the past three years. Of this, the Atlantic provinces ranked seventh, eighth, ninth and tenth on the list, receiving a total of $50 million in the form of 168 grants awarded to 17 institutions. This breaks down to a very bleak 3.9 per cent of the total funding, a meagre amount.

Under the umbrella of the Canadian Innovation Fund is the New Opportunities Fund. This program makes a similar approach to granting research funding as does CFI. The difference lies in the fact that the New Opportunities Fund, or NOF, focuses on younger, less-experienced researchers and attempts to provide funding without the need of competition between them and more experienced academics. This fund is available to researchers who are taking up their first full-time position with a Canadian university. This is a very important factor to Atlantic Canadian universities, as they have more trouble attracting international faculty than do their counterparts in the rest of the country.

Of the 968 funding grants allocated under the New Opportunities Fund, Atlantic Canadians received 67, or 6.9 per cent. This is a very inequitable amount when one considers that Atlantic Canada has 12 per cent of the total teaching faculty in Canadian universities. The NOF has a mandate to focus on the smaller universities, but this would not appear to be working in Atlantic Canada.

As far as both CFI and NOF are concerned, there is a tell-tale statistic. A professor in Ontario is 2.3 times more likely to have received grant money from either the NOF or the Innovation Fund of CFI than a professor working in Atlantic Canada.

Third, I would like to look at the Technology Partnerships Canada program. Centred on high-tech, TPC supports primarily the private sector with the help of university partnerships. This organization's track record of support for Atlantic Canada is simply abysmal. Over the past five years, TPC has provided $2 billion in funding. Ontario has received 43 per cent and Quebec has received 40 per cent. Atlantic Canada, four provinces put together, received a paltry $39 million, or 2 per cent, of this national wealth. It quickly becomes clear that TPC has very little interest in Atlantic Canada.

Fourth, I wish to speak briefly about the Millennium Scholarship Program. I know that it is designed to help students pay for their post-secondary education and is not targeted toward research. The allocation of scholarships under the local, provincial and territorial competitions is based on population. This simple formula results in one of the most positive federal policies for Atlantic Canada.

It is most noteworthy that at the national competition level, where the students of the country are pitted directly against each other in an attempt to win scholarship funds, freed from the confines of provincial quotas or allocation regulation, students from Atlantic Canada do very well. Our provinces have 7.6 per cent of the country's population, yet our students manage to win 14 per cent of the national scholarships in open competition. It would appear that while certain agencies seem to be disinterested in the academic potential of Atlantic Canada, that academic potential is ever present and vibrant.

I have attempted, through the course of this speech, to point out the federal agencies that I believe have not lived up to their national commitment to research in Atlantic Canada. I am deeply concerned with the low funding levels coming into Atlantic Canadian universities out of the Canadian Research Chairs Program, the Canadian Foundation for Innovation and the Technology Partnerships Canada program.

If no other aspect of this speech is remembered, honourable senators, at least keep this in mind: Atlantic Canadian researchers have been significantly less successful than their Central and Western Canadian neighbours when applying for funding from the federal government's granting agencies.

• (2100)

Ultimately, Industry Canada is responsible in whole or in part for all of these agencies, and thus must be singled out and approached about coming up with solutions to these discrepancies in funding. By the same token, there are newer agencies arriving on the scene, for example, Genome Canada, the Pierre Elliott Trudeau Foundation and the Canadian Graduates Scholarship Program. It is important that they are not allowed to follow the same path as those agencies mentioned above. They must not turn away from Atlantic Canada.

What is the solution to these problems? It is readily apparent that there is no easy answer. What is required is a complete overhaul of the manner in which we view university research and the method we choose to distribute funds. We need a change in the culture of the process. It is time for a sea change that results in an equitable distribution of this national wealth so that Atlantic Canada's youth, teachers and researchers can be full participants in our Confederation.

I, therefore, place before honourable senators for their consideration the following suggestions: A step in the right direction would be the creation of a separate and independent ministry to attend to these problems; a dedicated body at the federal level with a seat at the cabinet table, which could provide the leadership required to transform the words in the Speech from the Throne into reality. We should put in place a guiding hand to maintain funding at acceptable levels, and to distribute this funding equitably throughout our country.

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

Are you asking for leave?

Senator Moore: May I have leave, honourable senators, to complete this speech?

Hon. Senators: Agreed.

Senator Moore: The 2003-04 budget has allotted approximately $2 billion in research funding for our post-secondary institutions from these various funding bodies. This is about six times the $360 million budget of the Atlantic Canada Opportunities Agency, almost 10 times the Western Economic Diversification Agency budget of $293 million, and nearly five times the budget of the Economic Development Agency for the region of Quebec of $458 million. Each one of those agencies has a secretary of state responsible. I suggest that a ministry of post-secondary education be created. With a $2 billion budget there should be a dedicated portfolio to administer this national wealth.

One of the major motivations in creating the 2003 Health Accord was to provide more accountability for how federal funds for health care are being spent by the provinces. The health component was separated from the Canadian Health and Social Transfer Agreement to provide greater transparency and accountability. The educational component should be separated from the Canadian Social Transfer Agreement, thereby enabling federal funding for post-secondary education to be tracked more closely and accounted for more fully.

Improvements should be made to our research funding system. There should be a more equitable representation from all regions, including Atlantic Canada, on the boards that decide the amounts and recipients of research funding. The criteria for how research funding is awarded should be reformed. The system has been and is continuing to fail Atlantic Canada. There are biases built into the system, such as basing the CRC funding on previous funding from the three councils, hence, if the school has not done well under the three councils, it will not fare well under the CRC. If our universities cannot break the existing cycle of bias, they will never get to participate in this national wealth.

Under the current Canada Social Transfer Agreement, funding is granted on a per capita basis to the province of residence of the post-secondary student. This should be changed to the province of place of learning. It is the province of learning that is, after all, providing the educational infrastructure for students from outside its borders. Therefore, fairness and reason cry out for this formula to be changed to provide that this CST per capita funding be granted to the province of place of learning.

In summary, honourable senators, Atlantic Canada has been educating the youth of our country for centuries. We are very good at it. Atlantic Canada is home to 16 per cent of Canada's universities, which have enrolled therein 9.5 per cent of Canada's full-time students. As mentioned earlier, we employ 12 per cent of Canada's teaching faculty. We are home to 7.6 per cent of Canada's population.

By any measure or standard of merit and sense of equity, Atlantic Canada's post-secondary institutions are not receiving their fair share of the national research wealth. As senators representing our region, we must speak out with a view to correcting this situation. To do any less is to foster the very real possibility of our institutions losing their best professors, their leading researchers and our brightest students. We cannot and we must not let them down. I hope that other senators from both sides of the chamber will participate in this inquiry.

Hon. Senators: Hear, hear!

Hon. Yves Morin: I should like to compliment Senator Moore on his excellent speech and I would like to take the adjournment in my name.

Hon. Pierrette Ringuette: Would Senator Moore take a question?

Senator Moore: Yes.

Senator Ringuette: I want to congratulate my honourable colleague because he went through a lot of research and data to obtain these figures. From my previous speech in this chamber, honourable senators will know the kind of figures we are looking at, the kind of policy and programs that are developed nationally that have an impact on Atlantic Canada, and therefore the people and the institutions that developed the policy and programs that make it so important to ensure that a level playing field is built into every system.

How does the honourable senator think that, within the public service institution, we could have some kind of impact so we have a level playing field in the area of education, universities and the knowledge economy?

Senator Moore: I thank Senator Ringuette for the question.

In my remarks I indicated that there must be a change in the culture of how we are addressing research funding, and how we are making decisions on the distribution of that national wealth. We must change the approach. We must change the makeup of the decision makers so that — in speaking as a person from Atlantic Canada and as a Nova Scotian — that we have proper representation on these decision making bodies so that we can ensure our students and researchers are given full consideration and get their proper, merited share of the national wealth.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Would the honourable senator agree that part of the problem is that government funding to the universities in the past decade has decreased on a per capita basis by 17 per cent?

Senator Moore: Was the honourable senator making a statement or asking a question?

That is part of the problem but, regardless of whether or not the funding has been reduced, it does not negate the fact that we are not having the input we should have in terms of the decision-making process and the distribution of that wealth.

Hon. Eymard G. Corbin: In considering the relative distribution of wealth to Atlantic universities, has Senator Moore examined the dichotomies between the French-speaking and English-speaking institutions?

Senator Moore: No, I did not approach it in that way. I looked primarily at all of our schools in Atlantic Canada. I did not consider at it on the basis of preferred language. My approach was to consider the matter on a total institutional basis.

• (2110)

Senator Kinsella: For clarification, Senator Moore drew our attention to the CFI and the chairs program. Is not one of the problems that there has been a shift in the research paradigm in terms of funding? In the past, it was a competition between researchers for research funds, but under these programs it is a competition between institutions, and the larger institutions have a greater opportunity to be compared favourably than the smaller institutions. Is that not one of the problems?

Senator Moore: The honourable senator is correct. That has been a big part of the problem in recent years. If you are a small university — and the measure of smallness relates to the amount of research funding you received in the immediate past — you really do not qualify; you cannot get into the game. Hence, the big universities are competing among themselves for the big dollars. If we do not break that cycle, I do not know how we will ever get in step to receive our fair share. I am not talking about a handout. Our students are bright. We have excellent researchers and we deserve a shot.

Senator Kinsella: In his excellent speech, the honourable senator also drew our attention to the Canadian Research Chairs Program. Would he not agree that it is unconscionable that, across the infrastructure of Canadian universities, if the model that is in place excludes some members of the Canadian Association of Universities and Colleges from getting even get one chair, there has to be something systemically wrong with the model of funding for the endowed chairs?

Senator Moore: I agree with the honourable senator's comment. It is true. This is part of the culture that I am suggesting has to be changed. The fundamentals are wrong. We do not have the opportunity to be considered.

Hon. Rose-Marie Losier-Cool: I, too, want to congratulate Senator Moore. Has he looked at page 32 of today's *Quorum* where it states that of 237 successful research projects for 46 universities through the Canada Foundation for Innovation, only one came to New Brunswick?

Senator Moore: I did not see that, but it is consistent with the numbers that have come out of the research I have been doing over the past year on this subject.

On motion of Senator Morin, debate adjourned.

[*Translation*]

ROYAL ASSENT

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

RIDEAU HALL

June 19, 2003

Mr. Speaker,

I have the honour to inform you that the Honourable Louise Arbour, Puisne Judge of the Supreme Court of Canada, in her capacity as Deputy of the Governor General, signified royal assent by written declaration to the bills listed in the Schedule to this letter on the 19th day of June, 2003 at 8:39 p.m.

Yours sincerely,

Barbara Uteck
Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

Bills Assented to Thursday, June 19, 2003:

An Act respecting a National Acadian Day (*Bill S-5, Chapter 11, 2003*)

An Act to amend the Pension Act and the Royal Canadian Mounted Police Superannuation Act (*Bill C-31, Chapter 12, 2003*)

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 (*Bill C-47, Chapter 13, 2003*)

An Act to compensate military members injured during service (*Bill C-44, Chapter 14, 2003*)

An Act to implement certain provisions of the budget tabled in Parliament on February 18, 2003 (*Bill C-28, Chapter 15, 2003*)

An Act to amend the Members of Parliament Retiring Allowances Act and the Parliament of Canada Act (*Bill C-39, Chapter 16, 2003*)

An Act to establish Merchant Navy Veterans Day (*Bill C-411, Chapter 17, 2003*)

An Act to amend the Statutory Instruments Act (disallowance procedure for statutory instruments (*Bill C-205, Chapter 18, 2003*)

An Act to amend the Canada Elections Act and the Income Tax Act (political financing) (*Bill C-24, Chapter 19, 2003*)

• (2120)

[*English*]

TRANSPORT AND COMMUNICATIONS

MOTION TO AUTHORIZE COMMITTEE TO MEET DURING ADJOURNMENT OF THE SENATE— DEBATE ADJOURNED

Hon. Joan Fraser, pursuant to notice of June 17, 2003, moved:

That the Standing Senate Committee on Transport and Communications be empowered, in accordance with rule 95(3)(a), to sit during the traditional summer adjournment of 2003, even though the Senate may then be adjourned for a period exceeding one week, until such time as the Senate is ordered to return.

She said: Honourable senators, I should like to say a few words of explanation, following which I shall propose a slight amendment to my motion.

This motion was originally crafted in more or less the traditional fashion. It has been something of a habit here to say, "empowered to sit when the Senate is not sitting." I listened carefully to the remarks of Senator Bacon, and I have every sympathy with her concern for the Senate staff. I also listened with substantial sympathy to the remarks of the Leader of the Opposition, suggesting that a greater degree of precision would be a helpful practice to adopt in the context of these motions, hence my explanation.

It has never been the intention of the Standing Senate Committee on Transport and Communications to sit during the months of July and August. We actually hope that we will not have to sit in September before the Senate resumes. However, there is a possibility that one or, perhaps, two witnesses, who will be very important to this stage of our media study, may not be available at any other time.

Therefore, we would like to propose that we have the freedom to sit, in a normal committee session, at some time between September 2, that is to say the day after Labour Day, and September 16, when the Senate will resume its sitting.

We may not have to use this measure. However, we would respectfully request that we be given this leave. We would, of course, canvass all the committee members. I do not think I could give the assurance to have the committee sit with every single member of it present. As we all know, when you have a 12-member committee, it is frequently the case, even when the Senate is sitting, that one or two of those members might not be available for whatever reason. However, we would obviously undertake to sit only with the consent of both sides.

This would clearly indicate that we would not conflict with the opposition's caucus in Saint John. Obviously, we would only meet if there were a quorum.

On those specific undertakings, honourable senators, I ask for your approval to modify my motion so that it will read:

> That the Standing Senate Committee on Transport and Communications be empowered, in accordance with rule 95(3)(a), to sit as of September 2, 2003, even though the Senate may then be adjourned for a period exceeding one week, until such time as the Senate is ordered to return.

I have copies of the modified motion for the Speaker, and for any other senator who would like to see it. I do not think it is a complicated change that I am proposing.

Hon. Terry Stratton: Honourable senators, has the chair of the committee consulted with our members? Does she have a commitment from our members to do that work at that time?

Senator Fraser: I consulted specifically about this motion with the steering committee. However, discussion on hearing these witnesses in September, before the Senate sits, if that is absolutely the only time that we could do so, was held with the committee. There was general agreement that if that was the way we had to go, then that was the way we had to go.

Senator Stratton: Honourable senators, I have a real concern, as I have with the Finance Committee, sitting during that same time, which straddles our Senate caucus. The dates provided by Senator Fraser, which are from September 2 to September 16, would straddle through the time set for our caucus meeting. The amendment of the honourable senator does not address that issue.

All we have is that the committee would not sit during that time. I have a real concern there because, as we go through the summer and things evolve, you may need to sit on the ninth, the eighth or the tenth.

Senator Fraser: As I said, I do not think that could happen, since we would not be able to meet without the consent of the steering committee and without the presence of senators from both sides.

However, if it would meet the objection of Senator Stratton, I would be willing to modify my modified proposal to the effect that we would sit as of September 9, even though the Senate may be adjourned for a period exceeding one week, but not on September 9, 10 and 11.

Senator Stratton: Remember, honourable senators, we have to get there first. Our caucus is on the eighth, ninth and tenth, but it will require the week. Some of us will have to travel there on the seventh and return on the eleventh. I therefore ask that that week be omitted. That is what should take place.

Senator Fraser: Suppose some of your members were to say, "We would like to hear this witness, but he will only be available," for the sake of argument, "on September 12, and we can make it"?

Senator Lynch-Staunton: Try that on your caucus and see the reaction you would get.

Hon. Eymard G. Corbin: Honourable senators, Senator Fraser knows I have a great interest in the work of her committee. The honourable senator mentioned a person who could only come during this particular period. However, she did not inform us who that person is. I do not know if it is a propos to ask that question, but could the honourable senator take us into her confidence?

Senator Fraser: I really do not like to get specific about people in their absence without their commitment. I think it can be interpreted as a form of pressure. I do not believe in putting pressure on witnesses, unless we absolutely have to.

It was discussed in a meeting of the committee concerning future business a week ago today, I believe.

I should tell honourable senators that although Senator Corbin is not an official member of the committee he has attended quite a number of our meetings and has been making a valuable contribution to our work, which we greatly appreciate.

Senator Stratton: We have checked the calendar and September 8, 9 and 10 are the Monday, Tuesday and Wednesday. Members of the caucus would have to travel on Thursday to get home. That leaves Friday, a day on which you would not normally sit. It would be much simpler to say the following week, which is when we are sitting. That is exactly what transpired with Senator Murray, I believe.

For that reason, could the honourable senator not limit or tighten it up to that week?

Senator Fraser: In that case, Senator Stratton, I think the motion would be pointless. I am in the your hands, honourable senators.

As I said, this motion was designed as an insurance policy, which is why I did not give specific dates. It is always possible for committees to seek permission from the leadership of both sides, if they wish to sit at an unusual time, but that can present more burdens than simply having the authorizing motion.

However, I am in your hands, honourable senators. I do not consider this to be a matter of massive constitutional importance. I propose that we simply put first the question on my modified motion and, if that were to carry, then the question would be put on the motion.

Hon. Lise Bacon: We have asked the chairs for specific dates. We adjourned a debate because we did not have specific dates. Can we have a specific date?

• (2130)

Senator Fraser: I thought that a date between the September 2 and 16 was not a wildly vague and imprecise date. I still think that.

I have just said that I am in the hands of honourable senators, so may I propose that we put the motion to a vote?

On motion of Senator Kinsella, debate adjourned.

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

COMMITTEE AUTHORIZED TO MEET DURING ADJOURNMENT OF THE SENATE

On Motion No. 139:

> That the Standing Committee on Rules, Procedures and the Rights of Parliament be empowered, in accordance with rule 95(3)(a), to sit during the summer adjournment of 2003, even though the Senate may then be adjourned for a period exceeding one week, until such time as the Senate is ordered to return, and that, notwithstanding the usual practices of the Senate, the Committee be empowered to conduct its meetings by teleconference.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, Senator Milne is unable to be here this evening and she asked me to read her note in respect of an amendment to the motion. She writes: "I asked for the alteration in my original motion to be allowed to address the concern of some senators. The committee must meet some strict time lines if we are to properly formulate our recommendation to Internal Economy as to whether or not to file a notice to intervene before the Supreme Court in the matter of the *Vaid* case. We intend to hold two meetings on consecutive days and I only ask for a range of times in order to make certain that our meetings will not conflict with any staff holidays."

I will move on her behalf, seconded by Senator Robichaud, pursuant to rule 30 and with leave of the Senate, that I wish to modify the motion as follows:

> By removing the words "during the summer adjournment of 2003," and replacing them with the following:
>
> > "during the week of July 28 to August 1 and the week of August 5 to 8, 2003";
>
> And, further, by removing all of the words following the words "exceeding one week."

The motion would then read:

> That the Standing Committee on Rules, Procedures and the Rights of Parliament be empowered, in accordance with rule 95(3)(a), to sit during the week of July 28 to August 1 and the week of August 5 to 8, 2003, even though the Senate may then be adjourned for a period exceeding one week.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, what is the difference between this request, which is equally vague if we are talking about two weeks, and Senator Fraser's motion, which has a sense of urgency to it? Again, has staff been consulted about those two weeks? Have members been consulted about those two weeks? It is not a very satisfactory amendment.

Senator Carstairs: I can tell the honourable senator that the entire committee was canvassed with respect to these weeks. Senator Andreychuk, the Deputy Chair of the Rules Committee, has agreed to this motion according to the information that I have been given. The Rules Committee could not meet without large numbers of members from both sides of the chamber.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I understand the motion and there is a little bit more specificity for one of the weeks. However, the first Monday in August in most provinces across Canada is a civic holiday. That, therefore, raises the issue of travel time, particularly for honourable senators who come from the East Coast and the West Coast. As a member of that committee, in an ex officio capacity, I do not want to be travelling on New Brunswick Day. In the first week of August, Wednesday August 6, Thursday August 7, or Friday August 8 would be suitable. However, I do not want to meet on New Brunswick Day or the day immediately after, which would be a travel day.

Senator Carstairs: Senator, I would assume an undertaking on behalf of Senator Milne that a meeting would not be called for the day immediately following the holiday, but it would be called in the three days following.

Senator Lynch-Staunton: Honourable senators, I still want assurance on this matter. We are narrowing down the dates and that seems to meet the approval of two senators. However, I am not so much concerned about senators as I am concerned about staff. The first half of August is a popular vacation time. I want to know that the Rules Committee staff members have been alerted, have been able to make any necessary changes, and are satisfied that any disruption, if there is disruption, could be overcome. We have to give them that assurance. We cannot willy-nilly, vaguely allow committees to sit at some time within a given period and let the staff wait for the specific dates in order to make their plans, if such a situation exists. That is what I want to know.

Senator Carstairs: I can only read the note from Senator Milne in which she said that the committee intends to hold two meetings on consecutive days. Senator Milne asked for a range of time to ensure that the meetings would not conflict with any staff holidays.

Hon. Terry Stratton: Honourable senators, I was part of that meeting and the Clerk of the Committee, Blair Armitage, said that he would make adjustments and that it would not be a problem for him to attend such a meeting.

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

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

Motion, as amended, agreed to, on division.

[*Translation*]

ADJOURNMENT

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

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

That when the Senate adjourns today, it do stand adjourned until Tuesday, September 16, 2003, at 2 p.m.

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

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, September 16, 2003, at 2 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(2nd Session, 37th Parliament)
Thursday, June 19, 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 two amendments, disagree with two, and amend one 03/06/09 Referred to committee 03/06/11 Reported 03/06/12 Report adopted (insist on one, replace one, amend one) 03/06/19		
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

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-24	An Act to amend the Canada Elections Act and the Income Tax Act (political financing)	03/06/11	03/06/16	Legal and Constitutional Affairs	03/06/19	0	03/06/19	03/06/19	19/03
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	03/06/19	03/06/19	15/03
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	03/06/16	0	03/06/17	03/06/19	12/03
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	03/06/19	0	03/06/19	03/06/19	16/03
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	03/06/16	0	03/06/18	03/06/19	14/03
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	03/06/17	–	–	–	03/06/18	03/06/19	13/03

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-205	An Act to amend the Statutory Instruments Act (disallowance procedure for regulations)	03/06/16	03/06/19	–	–	–	03/06/19	03/06/19	18/03
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	03/06/17	National Security and Defence	03/06/18	0	03/06/19	03/06/19	17/03

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	03/06/19	11/03
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	03/06/19	0			
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	03/06/17	Official Languages					
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	03/06/19	National Finance					

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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