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OFFICIAL REPORT
(HANSARD)

Thursday, May 6, 2004

THE HONOURABLE DAN HAYS
SPEAKER

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THE SENATE

Thursday, May 6, 2004

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

Prayers.

ROUTINE PROCEEDINIGS

PUBLIC SERVICE COMMISSION

APPOINTMENT OF MARIA BARRADOS AS PRESIDENT OF THE PUBLIC SERVICE COMMISSION—REPORT OF NATIONAL FINANCE COMMITTEE PRESENTED

Hon. Lowell Murray, Chairman of the Standing Senate Committee on National Finance, presented the following report:

Thursday, May 6, 2004

The Standing Senate Committee on National Finance has the honour to present its

EIGHTH REPORT

Your Committee, in accordance with subsection 3(5) of the *Act respecting employment in the Public Service of Canada,* chapter P-33 of the Revised Statutes of Canada, 1985, that the Senate approve the appointment of Maria Barrados, of Ottawa, Ontario, as President of the Public Service Commission for a term of seven years, has, in obedience to the Order of Reference of Tuesday, April 27, 2004, heard from the Honourable Denis Coderre, P.C., M.P., President of the Queen's Privy Council for Canada, and from Ms. Maria Barrados, and recommends that the Senate approve her appointment as President of the Public Service Commission.

Respectfully submitted,

LOWELL MURRAY
Chairman

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

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

CITIZENSHIP ACT

BILL TO AMEND—REPORT OF COMMITTEE

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

Thursday, May 6, 2004

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

SIXTH REPORT

Your Committee, to which was referred Bill S-17, *An Act to amend the Citizenship Act*, has, in obedience to the Order of Reference of Thursday, April 1, 2004, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

MARJORY LEBRETON
Deputy Chair

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

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, with leave, later this day.

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

Hon. Senators: Agreed.

On motion of Senator Kinsella, report placed on the Orders of the Day for consideration later this day.

[*Translation*]

ROYAL ASSENT

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

RIDEAU HALL

May 6, 2004

Mr. Speaker,

I have the honour to inform you that the Right Honourable Adrienne Clarkson, Governor General of Canada, signified royal assent by written declaration to the bills listed in the Schedule to this letter on the 6th day of May, 2004, at 10:00 a.m.

Yours sincerely,

Barbara Uteck
Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

Bills Assented to Thursday, May 6, 2004

An Act to amend certain Acts of Canada, and to enact measures for implementing the Biological and Toxin Weapons Convention, in order to enhance public safety (*Bill C-7, Chapter 15, 2004*)

An Act to amend certain Acts (*Bill C-17, Chapter 16, 2004*)

An Act to give effect to the Westbank First Nation Self-Government Agreement (*Bill C-11, Chapter 17, 2004*)

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw to your attention the presence in the gallery of members of the Westbank First Nation.

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

• (1340)

[*English*]

BUDGET IMPLEMENTATION BILL, 2004

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-30, to implement certain provisions of the budget tabled in Parliament on March 23, 2004.

Bill read first time.

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

On motion of Senator Rompkey, bill placed on the Orders of the Day for second reading Monday next.

CANADIAN NATO PARLIAMENTARY ASSOCIATION

JOINT MEETING OF DEFENCE AND SECURITY, ECONOMICS AND SECURITY, AND POLITICAL COMMITTEES— FEBRUARY 15-19, 2004—REPORT TABLED

Hon. Jane Cordy: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian NATO Parliamentary Association, which represented Canada at the joint committee meetings of the NATO Parliamentary Assembly and at the annual consultation between the Economics and Security Committee and the OECD held in Brussels and Paris on February 15 to 19, 2004.

[*Translation*]

QUESTION PERIOD

FINANCE

FISCAL IMBALANCE

Hon. Jean-Claude Rivest: Honourable senators, my question is for the Leader of the Government in the Senate, and it concerns the fiscal imbalance. Everyone knows that in Canada the needs of the provinces, particularly with regard to health and education, are growing exponentially, while public revenue is piling up in the coffers of the Canadian government. In Canada, as everyone except the current government recognizes, there is a fiscal imbalance.

For the enlightenment of the Leader of the Government in the Senate, I will quote the words of the Right Honourable Pierre Elliot Trudeau who, in the late 1950s, saw this emerging fiscal imbalance as one of the factors weakening Canadian federalism. Mr. Trudeau wrote in *Cité Libre*:

> When a government has such an overabundance of revenue, the suspicion arises that such a government has taken more than its share of the fiscal capacity of the Canadian taxpayer.

Last week, the current Prime Minister of Canada wrote to the Speaker of the National Assembly of Quebec in response to a unanimous motion by all political parties in Quebec asking that the Government of Canada recognize the reality of the fiscal imbalance in Canada, echoing the concerns of the provincial premiers representing all regions of Canada.

In a rather curious answer, the Prime Minister of Canada indicated that if the provinces — Quebec in this case — had any additional needs — and God knows such needs exist — in the field of health, then they should simply increase provincial taxes.

My question is very simple: When will the current federal government recognize Canada's fiscal imbalance and when will it take the necessary steps to enable the provinces to assume their constitutional responsibilities and, in particular, to restore their health systems to a state where they can meet the pressing needs of Canadians?

[*English*]

Hon. Jack Austin (Leader of the Government): Honourable senators, Senator Rivest has posed a question of great interest. I can remember back some 25 years ago, when the fiscal imbalance seemed to be very much in favour of the provinces, the provinces were demanding that the federal government get its economic house in order. This is an argument that flows back and forth in a cycle. It has no science attached to it; no objective tests can be applied to it. It is the continuing dialogue that manages the federation.

Senator Rivest's question assumes there is a fiscal imbalance. That is actually the issue to be discussed. That assumption cannot be made. The federal government has a substantial debt remaining, in the nature of $510 billion, whereas the total provincial debt is $281 billion. With such numbers, one begins the argument by asking: What is the definition of a fiscal imbalance?

[*Translation*]

Senator Rivest: Honourable senators, if there is no fiscal imbalance, how can the minister and his government accept that thousands of Canadians have to wait weeks, even months, to receive the medical treatment they need? We could discuss the history of taxation in the Canadian federation, but do the minister and his government realize that in addition to being used to reduce the debt, the Canadian government's current surplus could meet the urgent needs of thousands of sick Canadians who do not have access to medical services?

It is not that the provincial governments are not assuming or do not want to assume their responsibilities, but simply that they do not have the financial resources to productively invest the necessary funds for improving health services.

This is a tangible and urgent problem that all stakeholders across the country are reporting and to which the government remains insensitive. When will the government change its policy? What was the use in electing a new government leader if the current Prime Minister, Mr. Paul Martin, applies the same fiscal policy as former Prime Minister Jean Chrétien?

[*English*]

Senator Austin: The honourable senator is arguing from a premise that has yet to be demonstrated. The argument that there are fiscal imbalances is far from proven. Of course, as I have said, the federal-provincial debate will go on and on as long as Canada is here.

Let me point out some facts that may help the debate. In 2002-03, the provinces' total tax revenues were $201 billion, including $34 billion in cash transfers from the federal government. By comparison, federal fiscal revenues were $178 billion before subtracting the cash transfers to the provinces. Therefore, the total provincial tax revenue is higher than the total federal tax revenue. The point is that the federal government does not see a fiscal imbalance when the provinces have higher revenues than the federal government. It is admittedly a subjective argument, as are all these arguments.

• (1350)

I point out that nearly all of the provinces have chosen to reduce their tax revenues in 2003-04. Provincial tax decreases added up to $21 billion since 1995. Let us have the provinces explain why they are not providing the services that their public requires and demands when they can enjoy the pleasure of reducing their revenue base.

[*Translation*]

Senator Rivest: The minister's response is very clear. The election promise of the current Prime Minister, Mr. Paul Martin, to take care of health, is nothing more than window dressing.

The Leader of the Government in the Senate has just indicated to us that everything that needed to be done was done in the past and that the Canadian government, under Mr. Martin's leadership, will remain totally insensitive to Canadians' concerns about health.

It is extremely dangerous for a government to take that road on the eve of an election, to be so insensitive, unable and unwilling to meet the needs of the provinces.

The provinces are not concerned about federalism; they are concerned about the men, women and children who need health care. That is the reality.

[*English*]

Senator Austin: Honourable senators, there are people all over the country who need services. I am delighted to hear from Senator Rivest, representing his party, that there is recognition of the importance of government in supplying services to Canadians.

It is very reassuring because a number of Canadians were beginning to wonder about the position of the Conservative Party.

I also want to say that my honourable friend is following very closely the Bloc Québécois line. I wonder whether that has become the line of the Conservative Party. The Bloc Québécois accused the federal Liberal government of strangling Quebec by deliberately maintaining a fiscal imbalance. They propose an immediate $2.3 billion increase to the Canada Health and Social Transfer for Quebec alone. They also want mechanisms for debt retirement where half of all the federal government surpluses, if any, would be transferred to the provinces.

Senator Lynch-Staunton: What is wrong with that?

Senator Austin: It is interesting to see the comparison and the accommodation of policy in this area between the Bloc Québécois, who are interested only in Quebec and have no investment in the stability or growth of the nation, and the Conservative Party adopting the same line. It is very close to the old Stephen Harper, is it not?

[*Translation*]

Senator Rivest: I would simply point out to the minister that, tomorrow, in Lac Saint-Jean, the premier of Quebec, Jean Charest, will join the Prime Minister of Canada to renew an announcement. As far as I know, Jean Charest is not a member of the Bloc Québécois. Anyway, political allegiances do not matter, since all provincial leaders — Jean Charest no less than others — want the federal government to be more sensitive and aware of the urgent needs in health care and to realize that it is time for action and not just words and that it needs to put its money where its mouth is. Many Canadians expect action from the government.

[*English*]

Senator Austin: It is interesting that a Quebec leader would aggressively represent the Quebec interest and Quebec interest only. I suppose that would be the case for any provincial leader, but the responsibility of a federal political party is for the nation as a whole.

Hon. Consiglio Di Nino: Honourable senators, I have been listening attentively to this exchange. Where would we be if the current government knew how to manage our citizens' money instead of blowing it on the HRDC scandal, instead of wasting billions on the gun control registry, instead of wondering where $161 million went from the RCMP, instead of being involved in the sponsorship scandal? If this government knew how to manage our money, would the exchange between my two honourable friends not be easier?

Senator Austin: Honourable senators, we have never had a better fiscal manager than the present Prime Minister. Canadians recognize his contribution to the economic stability of this country.

Senator Di Nino has a very short memory if he cannot remember what his political party, when it was the Progressive Conservative Party, did to the fiscal stability of this country. The Chrétien government inherited billions and billions of dollars in debt in 1993.

Senator Di Nino: This is great. I love a good debate. I think my friend the Leader of the Government in the Senate has one problem. It is called revisionist history.

If it were not for the previous Conservative government having the courage to introduce free trade and the GST, your government, my dear friend, would not be able to pay the bills.

Senator Austin: Honourable senators, no matter how much we argue, a debt-to-GDP ratio of 70 per cent is seen by the world economic community as a dangerous situation for any country. That is where we were in 1993.

Senator Di Nino: Most of that debt can be directed to the mismanagement of the previous Liberal government that left us with interest rates at 21 and 22 per cent. The country was essentially bankrupt until the Conservatives came to power.

Senator Austin: It is clear that the public will shortly be asked to pass its judgment.

INTERNATIONAL TRADE

UNITED STATES— BOVINE SPONGIFORM ENCEPHALOPATHY— OPENING OF BORDER TO BEEF EXPORTS

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate and concerns BSE.

On the heels of Paul Martin's visit with President Bush last week, news has come out that a Montana ranchers' group has won its fight to halt several types of Canadian beef imports, effectively reversing a U.S. government decision last month to open the border to an expanded list of Canadian meat, including ground beef and bone-in beef. Could the Leader of the Government explain what measures his government is taking in response to this re-imposition of a trade ban on this type of beef?

Hon. Jack Austin (Leader of the Government): Honourable senators, as Senator Oliver states, we have had reports of a decision taken by the Department of Agriculture in the United States with respect to the import of cuts on the bone and other exports from Canada that are not currently being permitted but which we expected, following May 7, would be permitted. Of course, the Government of Canada is making vigorous representations with respect to the decision and expects that the U.S. will base its decision, after review, on science.

Senator Oliver: Are those representations being made at the prime ministerial and presidential level?

Senator Austin: Honourable senators, there is an understanding between the Prime Minister and the President of the United States with respect to a renewed common market for beef.

• (1400)

As honourable senators know, the United States has a body of laws that allows various parts of the administration to make decisions, which are their own responsibility, but those decisions are, of course, reviewable at other levels. That is the process that is taking place.

Senator Oliver: Honourable senators, if one looks at the fine print of what was actually said between the Prime Minister of Canada and the President of the United States on the reopening of the border to Canadian beef, Mr. Bush said that it was merely a restating of what his administration had already said about this issue before the Prime Minister's visit. There seems to be a disconnect between the Prime Minister's rhetoric heralding his visit as a triumph for Canadian beef producers and the reality of the situation, where really not much has changed. As we saw with yesterday's American decision on ground beef and bone-in beef, things have really gotten worse for the farmer.

In light of this, my question to the Leader of the Government in the Senate is this: Could he explain what, if anything, the Prime Minister accomplished on the beef trade ban issue in his visit to Washington? After all, if the effect of Mr. Martin's visit was merely to find out what the American administration had already stated on the issue, then we must conclude that very little, if anything, was in fact accomplished.

Senator Austin: On the contrary, honourable senators, an understanding on a common policy between the President of the United States and the Prime Minister of Canada is a very important step forward.

Senator Oliver: What has that to do with the opening of the border to live cattle?

Senator Austin: Honourable senators, nothing happens in an instant in either country. As I have already explained to Senator Oliver, by statute, processes are required to be taken. There are opportunities for the public to make interventions. Those are reviewable. We must follow process. This is common with respect to the United States, and it is common with respect to Canada. Prime ministers and presidents are not absolute rulers.

HEALTH

APPOINTMENT OF CHIEF PUBLIC HEALTH OFFICER

Hon. Wilbert J. Keon: Honourable senators, I have a question for the Leader of the Government in the Senate.

Media reports indicate that the location for the national public health agency will finally be named next week. While this is moving forward, there has been some confusion in the last week surrounding the head of the agency, the chief public health officer. Public Health Minister Carolyn Bennett has said that the process to search for the chief public health officer has not yet begun, even though it was to have started two or three months ago. Minister Bennett had also stated that, regardless of the agency's location, the officer would be based in Ottawa; however, she was forced by the PMO to retract this statement when it raised questions over the officer's ability to remain independent from political interference.

Could the Leader of the Government in the Senate tell us when the federal government expects to appoint the chief public health officer?

Hon. Jack Austin (Leader of the Government): Honourable senators, I have no information about a specific deadline for that appointment, nor about a specific announcement with respect to the proposed Canadian public health agency.

Senator Keon: To the best of the minister's knowledge, will this officer be located in Ottawa, where I think the officer should be located?

Senator Austin: Honourable senators, I do not have that information because the decision has not as yet been taken. I would be very happy, as Leader of the Government in the Senate, to make a representation for Senator Keon, if that is his representation.

I do want to advise the chamber, not to the surprise of any here, that I have been an advocate for placing the chief public health officer and the Canadian public health agency in Vancouver.

Senator Keon: Honourable senators, I can understand that.

If I may be allowed a supplementary question, public health emergencies happen when we are not prepared for them, as we all well know. The World Health Organization announced yesterday the number of new diseases that leap from animals to humans is growing at a rate that scientists are ill-equipped to deal with. The WHO has made several recommendations, including encouraging greater research into surveillance data and non-traditional systems in an effort to predict these kinds of outbreaks.

I would ask the Leader of the Government in the Senate if he and his government are satisfied at this time, particularly with the political uncertainty that lies ahead of us. This is not anyone's fault, but we will be having some political uncertainty, and we could be into an extremely dangerous situation.

Could the Leader of the Government in the Senate tell me whether any discussion has taken place about some interim appointments or adjustments to carry us through this transitional time?

Senator Austin: I thank the honourable senator for that question. As he is well aware, more than any of us here, Health Canada has a standing capacity to deal with the threats that the honourable senator has described. Having had the experience of SARS as a potential pandemic, there has been a substantial gearing up in many centres of Canada. We have also had public reports that have indicated where systemic problems lie, and all of this material is under active consideration.

There is, as the honourable senator indicated in questions quite recently, a high alert with respect to the present recurrence of SARS in China, with at least one death and a number of other cases reported there. There is a great watchfulness with respect to travellers.

Having said all of that, to partially answer the question, I do have to agree with the implied premise that if we had a central agency, with its instant connections transferring information amongst a series of centres of excellence or expertise, we would reach an even better stage of capacity. I am saying, in summary, that the existing system is one that certainly deserves the confidence of Canadians, and we are working very aggressively to improve it by creating the public health agency.

LEVEL OF PREPAREDNESS TO RESPOND TO OUTBREAKS

Hon. Wilbert J. Keon: Honourable senators, as you know, I was a full member of the Ontario committee, which just turned its report in a short time ago. I am satisfied that Ontario, in the interim, is in fairly good shape with the new appointment of their chief public health officer, who is an outstanding woman and an outstanding individual. I have the greatest respect for the officers in Health Canada, having worked with them over the last 30 years. However, I think we all realized in the preparation of these reports that we have a serious problem in Canada. The problem will be corrected, I think, with our new public health agency and our new public health officer, but we are caught in a situation right now where there is high risk of a serious public health problem.

I am concerned that this matter is not getting the attention it deserves, given that it is not as high-profile an issue as others at this politically charged time. My concern is that I am not sure that we have the machinery in place to take care of ourselves if something really goes wrong. In that respect, I would ask the Leader of the Government in the Senate to raise my concerns in cabinet with a view to perhaps making some interim arrangements.

Hon. Jack Austin (Leader of the Government): Honourable senators, this is a topic on which there is high activity in the government. I personally have spent and am spending considerable time on the issue. The advice that I have been given is that the system is capable of responding, and I am quite

aware of the Ontario-based report to which Senator Keon referred. There are linkages today that did not previously exist among the various areas of expertise in Canada. I doubt if an interim step is required because it is my hope and expectation that an announcement will be made before we could organize any interim step.

• (1410)

NATIONAL DEFENCE

PROCESS FOR PURCHASING STRYKER MOBILE GUN SYSTEM

Hon. J. Michael Forrestall: Honourable senators, can the Leader of the Government in the Senate tell the chamber what the process will be for the purchase of the Stryker Mobile Gun System?

Hon. Jack Austin (Leader of the Government): Honourable senators, I have an answer with respect to what the mobile gun system is, what it does, and why DND thinks it is a good system. However, to answer the question specifically, namely, the process for acquiring the system — in other words, when the bids will be available, who will be asked to bid and what deadline the Department of National Defence is setting for procurement — those are questions I shall have to pursue for Senator Forrestall.

Senator Forrestall: Honourable senators, perhaps it would have been easier had I said do not talk to me any more about non-partisanship during Question Period in the Senate of Canada. Having listened to the minister, Senator Rivest and Senator Di Nino, I thought Senator Rivest won that debate.

Let me put the question this way, honourable senators: Can the minister tell the chamber whether the purchase of the Stryker vehicles will be an open process or a directed-contract process? If it is to be a directed-contract process, to whom will it be directed? If that decision has not been taken, could the government leader indicate when it will be taken? For example, will the decision be taken just before, during or shortly after the election, or some time next fall?

Senator Austin: Honourable senators, I shall take the question as notice.

With respect to Senator Forrestall's preliminary statement, I do not concede that Senator Rivest won any argument, but I will concede that Senator Di Nino lost it for him if he did win it.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour to present three delayed answers to oral questions posed in the Senate. The first delayed answer is to a question posed by Senator Carney on April 20, 2004, regarding the Canada Revenue Agency, concerning redress to citizens given incorrect information. The second delayed answer is to a question posed by Senator Lynch-Staunton on April 28, 2004, regarding the process of selection respecting appointments to Crown corporations. The third delayed answer is to a question posed on March 30, 2004, by Senator Andreychuk regarding the United States airline passenger pre-screening system.

NATIONAL REVENUE

CANADA REVENUE AGENCY—REDRESS TO CITIZENS GIVEN INCORRECT INFORMATION

(Response to question raised by Hon. Pat Carney on April 20, 2004)

Income Tax Information

The Canada Revenue Agency (CRA) makes every effort to ensure its telephone agents are provided with the required training and reference material to accurately answer Canadians' enquiries.

The CRA uses an external firm to test the quality of its responses and this information is used to continuously improve its service offerings.

Redress Mechanisms for Canadians

Fairness legislation allows the CRA to exercise discretion and cancel and waive penalties and interest.

Canadians can also contact the Problem Resolution Program in their local Tax Services Office, which is designed to deal with issues that have not been resolved through normal procedures.

In addition, Canadians can have their income tax issues reviewed by the CRA's Appeals Branch whose mandate is to conduct a formal and impartial review of those returns.

TREASURY BOARD

APPOINTMENTS TO CROWN CORPORATIONS— PROCESS OF SELECTION

(Response to question raised by Hon. John Lynch-Staunton on April 28, 2004)

- The Government announced a new merit-based appointment process for top executives of Crown corporations on March 15th. The President of Treasury Board sent letters to Chairs of Crown corporations confirming that they are now required to follow this process in the future appointment of their chief executive officer (CEO), chairperson and board of directors unless their enabling statute for their organization provides otherwise.

- It remains to be determined which Crowns would be included in the parliamentary committee review. The Leader of the Government in the House of Commons and the Minister responsible for Democratic Reform, the Honourable Jacques Saada sent a letter on March 16th to the Chair of the House of Commons Standing Committee with a list of all Crown corporation appointments. The Chair will provide the Committee's recommendations to Minister Saada and the House of Commons as to which of these positions should be subject to prior parliamentary review in due course.

- At this time, each Crown corporation has been asked to provide their selection criteria for the CEO and chairperson based on the needs of the organization; names of the nominating committee; and the competency profile for the board of directors. Their selection criteria and completed board competency profiles would then be discussed with the responsible minister's office, the director of Appointments in the Prime Minister's Office and the Senior Personnel and Special Projects Secretariat in the Privy Council Office.

- Once the Crown has finalized its discussions with PMO and PCO, their selection criteria would be in place for the future appointments of their CEO and chairperson. In general, selection criteria would consist of the following elements: education, experience, knowledge, abilities and personal suitability required for the positions. Abilities could include characteristics such as corporate vision, leadership and the ability to communicate effectively with stakeholders. Personal suitability could include attributes such as ethical character and sound judgment.

- Timing of putting 'in place' specific selection criteria for each Crown corporation will depend on how quickly they respond. It is anticipated that all replies should be received soon. In the meanwhile, proposed criteria would be assessed by a checklist established by the PCO in consultation with the PMO, to ensure that all strategic elements are considered by each Crown corporation.

TRANSPORT

UNITED STATES— AIRLINES PASSENGER PRE-SCREENING SYSTEM

(Response to question raised by Hon. A. Raynell Andreychuk on March 30, 2004)

THE MINISTER OF TRANSPORT ADVISES, THAT:

The United States' proposed CAPPS II requirements for provision of information would apply equally to its citizens as well as other nationalities entering or flying within the United States. The information provided would be a condition of entrance into, or boarding a flight within, the U.S. and would include date of birth, full name, address and phone number.

The CAPPS II program would require that air carriers provide this information to the U.S. government (CAPPS II office). The Government of Canada is not being requested to provide data to CAPPS II.

Under current Canadian law, an airline flying from Canada into the United States can provide to U.S. authorities only that information which it already has in its possession and which is contained in the list of 34 data elements specified under the current Aeronautics Act as a result of Bill C-44. The same list of 34 data elements appears in the Schedule to the proposed Bill C-7. There have been no requests from US authorities for any changes to Canadian laws or practices.

For clarification on the European stance, the European Union is engaged in discussions on what information European companies could provide directly to the United States for the purposes of CAPPS II. They have already reached an agreement for the purposes of Customs and for Immigration. Furthermore, the European Union Council has announced a draft Directive on the obligation of air carriers to communicate passenger data. As proposed by the Spanish government in March 2003, airlines operating within the EU would be required to provide passenger data to governments in the EU country of arrival.

The European Parliament, which has no jurisdiction in these matters, does not wish to share data with the United States. Also, a parliamentary committee has rejected the draft Directive referenced above.

As you can see, the situation on passenger information is under development. CAPPS II, itself, is not yet underway.

To reiterate, the United States proposed CAPPS II requirements for information would apply equally to its citizens as well as other nationalities entering or flying within the United States.

VISITORS IN THE GALLERY

The Hon. the Speaker: I wish to draw the attention of honourable senators to the presence in the gallery of Mr. Mario Garcia Delgado, Minister Counselor and Deputy Chief of Mission of the Cuban embassy in Canada. Mr. Delgado will be leaving Ottawa to assume a post as Director of Protocol for the Ministry of Foreign Affairs. He is accompanied by his wife, Ms. Deborah Ojeda, Secretary and Consul at the embassy.

Welcome to the Senate of Canada.

Hon. Senators: Hear, hear!

BILL TO CHANGE NAMES OF CERTAIN ELECTORAL DISTRICTS

REPORT OF COMMITTEE

Leave having been given to revert to Presentation of Reports from Standing or Special Committees:

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

Thursday, May 6, 2004

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

EIGHTH REPORT

Your Committee, to which was referred Bill C-20, to change the names of certain electoral districts, has, in obedience to the Order of Reference of Tuesday,

March 9, 2004, examined the said Bill and now reports the same without amendment but with observations, which are appended to this report.

Respectfully submitted,

GEORGE FUREY
Chair

OBSERVATIONS
to the Eighth Report of the Standing Senate Committee
on Legal and Constitutional Affairs

Bill C-20 changes the names of 38 electoral districts, all of which were established by the 2003 Representation Order under the *Electoral Boundaries Readjustment Act*. This is not the first time a bill to change riding names has come before us; nor is it the first time we have made substantial observations on such bills.

Since February 27, 1996, when the second session of the 35th Parliament commenced, there have been 15 bills to change the names of electoral districts, of which 6 have become law.

The *Electoral Boundaries Readjustment Act* establishes the independent process by which constituency boundaries, and their names, are established following each decennial census. A three-person commission in each province prepares a report, following which there can be public hearings and representations. Once the commission's reports on the new boundaries and names are completed, they are tabled in the House of Commons, where Members may file objections. The House Committee that studies the reports then reports back to the commissions, which make the final decisions.

Members of Parliament, however, often remain unsatisfied with the final decisions of the commissions and may introduce a bill to change the names yet again. Members also introduce such bills at times unrelated to a Representation Order. In June 2000, when studying a similar bill, Bill C-473, your Committee objected to changing boundary names in this fashion. Such a process was not as open and transparent as the one described above. We noted then that it was confusing and costly, and that there should be a degree of permanency to constituency names:

> 8. While there are many valid reasons for wanting to change constituency names, your Committee believes that the ad hoc and frequent nature of such changes must be discouraged. It is confusing and there are costs associated with it. There needs to be a degree of permanency to the names of the constituencies: they should not be changed whenever there is a newly elected Member or representation from part of a constituency. A clearly established procedure exists under the *Electoral Boundaries Readjustment Act*, which should be followed. This also has the advantage that the decision rests with the neutral three-person commission, and there is opportunity for public notice and input. ...
>
> 9. Your Committee understands that extraordinary situations can arise at other times that may require constituency name changes. Your Committee also believes that the process in such cases must be much clearer and more transparent. Your Committee received submissions that reinforced the need for public consultation and input, to respect the fact that residents of a constituency strongly identify with its name. There should be a requirement for some form of public notice in the constituency, and provision for public comments. Guidelines to this effect could be adapted from the procedures set out under the Electoral Boundaries Readjustment Act.

Those observations are as valid today as they were four years ago.

With respect to the costs associated with boundary name changes, on April 2, 2004, Mr Jean-Pierre Kingsley, Chief Electoral Officer, and Ms. Diane Davidson, Deputy Chief Electoral Officer and Chief Legal Counsel, testified before this Committee concerning Bill C-20. They informed your Committee that if the bill becomes law and an election is called after September 1, 2004 (the date the Act comes into force), the costs arising from the name changes would amount to some $500,000. Even if the election is called before that time, there will be significant costs as a result of the bill. This is not to say that these costs are unacceptable; it is just to recognize that they exist.

Your Committee notes that on April 2, 2004 the House of Commons Standing Committee on Procedure and House Affairs presented its Sixteenth Report to the House. The report related to the electoral boundaries readjustment process and the experience of the Subcommittee established to deal with objections of Members of Parliament to the reports of the electoral boundaries commissions. The report also dealt with riding names, and echoed your Committee's reluctance to deal with bills to change the names. As the report noted:

> 45. As a final point, as the commissions themselves recognized, if a riding name remains unchanged despite an objection, a Member can always use the option of a private Member's bill to change the name of the riding. It seems pointless to us for House business to be needlessly taken up with name changes from the commissions. Changes after the fact also lead to additional costs and work for Elections Canada. Therefore, we would alter the commissions' power in the case of riding names: when the responsible parliamentary committee unanimously supports an objection on a name change, the recommendation of that committee should be binding on the commission.

Recommendation 9

The Committee recommends that:

Section 23 of the *Electoral Boundaries Readjustment Act* be changed so that in the case of an objection to a proposed electoral district name, and where there is a unanimous recommendation of the relevant committee

of the House that considers the objection, that the electoral boundaries commission shall follow the recommendation of the committee. This would simplify the business of the House of Commons and the Senate, which has already expressed dissatisfaction with private Members' bills to change riding names.

Your Committee finds this to be a sensible recommendation and supports the amendment to the Electoral Boundaries Readjustment Act proposed by the House of Commons committee.

Your Committee reiterates that there should be a revised process with the support of Guidelines provided by the Chief Electoral Officer to govern the changes of names at other times should extraordinary situations arise that may require constituency name changes.

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

On motion of Senator Rompkey, 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, May 6, 2004

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

NINTH REPORT

Your Committee, to which was referred Bill C-3, to amend the Canada Elections Act and the Income Tax Act, has, in obedience to the Order of Reference of Thursday, April 22, 2004, examined the said bill and now reports the same without amendment.

Respectfully submitted,

GEORGE FUREY
Chair

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

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

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

THIRD WINTER SESSION OF THE PARLIAMENTARY ASSEMBLY OF THE ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE— FEBRUARY 19-20, 2004—REPORT TABLED

Leave having been given to revert to Reports from Inter-Parliamentary Delegations:

Hon. Jerahmiel S. Grafstein: Honourable senators, I have the honour to table in both official languages the report of the Canadian delegation of the Canada-Europe Parliamentary Association, OSCE, to the third winter session of the Parliamentary Assembly of the OSCE, the Organization for Security and Co-operation in Europe, in Vienna, Austria, February 19-20, 2004.

ORDERS OF THE DAY

CANADA NATIONAL PARKS ACT

BILL TO AMEND—SECOND READING— DEBATE ADJOURNED

Hon. Jack Austin moved second reading of Bill C-28, to amend the Canada National Parks Act.

He said: Honourable senators, I am pleased to present to the Senate Bill C-28, to amend the Canada National Parks Act. This bill has two objectives. The first is to ameliorate an error in a land description in legislation passed in the year 2000, which deprived the Keeseekoowenin Ojibway First Nation of a five-hectare strip of land to which they were entitled by agreement through a 1994 specific land claim settlement. For reasons I shall explain, the error can only be rectified by an amendment to the Canada National Parks Act.

The second objective is to correct an error in land planning of the establishment of the Pacific National Park Reserve on the west coast of Vancouver Island, in 1970. Adequate land space was not then reserved for the Tla-o-qui-aht First Nation, which is settled on the Esowista Reserve adjacent to the Pacific Rim National Park Reserve. It is proposed to remove 86.4 hectares of land from the Pacific Rim National Park Reserve and transfer that land to the Esowista Reserve, which will allow problems of living space, housing, health and infrastructure to be dealt with. Simply put, the purpose of this bill is to meet legal and moral obligations to those respective Aboriginal communities and in general improve trust and understanding with the Aboriginal community.

• (1420)

Now let me provide honourable senators with some relevant background. With respect to the Pacific Rim National Park Reserve, which was established in 1970, it completely surrounded the seven-hectare reserve of the Tla-o-qui-aht First Nation. At the time, Esowista was being changed from a seasonal fishing camp to a permanent residential community. The Government of Canada at that time recognized that a larger site would eventually be required to meet the needs of the Esowista community, and it committed itself to finding a long-term solution.

The land to be removed from the park — 86.4 hectares — will address acute overcrowding, allow infrastructure improvements to remedy sewage disposal and water quality concerns, and support the development of a model community that will exist in harmony with the national park reserve. This parcel of land represents less than 1 per cent of the park's total land base. Its removal from the park will have the least possible impact on Pacific Rim's ecological integrity and will accommodate the Tla-o-qui-aht First Nation community needs.

With respect to Riding Mountain National Park, which was created in 1929, it included Indian Reserve 61A of the Keeseekoowenin Ojibway First Nation. The First Nation, at that time, was relocated outside of the national park. A specific land claim settlement agreement, concluded in 1994 between Canada and the Keeseekoowenin Ojibway First Nation, re-established Reserve 61A. Most of the associated lands were removed from Riding Mountain in 2000 with the passage of the Canada National Parks Act. Due to an error in the preparation of the legal description for the land removal, a five-hectare strip of land was omitted and remained within the park.

There is only one legal way to remove lands from a national park, as honourable senators know, and that is by legislation. The amendments now proposed to the Canada National Parks Act will fully re-establish the Keeseekoowenin Ojibway First Nation Reserve 61A and rectify the error that occurred.

I would like to speak for a moment about environmental considerations. The removal of the 86.4 hectares of land from Pacific Rim will not unduly compromise the park's ecological integrity. The Tla-o-qui-aht First Nation has made a commitment to cooperate with Parks Canada to provide for the long-term protection of the natural and cultural resources of the parklands surrounding the Esowista Indian Reserve. Both the Tla-o-qui-aht First Nation and the Department of Indian Affairs and Northern Development have made commitments to develop and maintain the lands in ways that respect the ecological integrity of the park. In addition, a number of measures will be in place to ensure a sustainable community in harmony with the park. The development of the lands to be removed from Pacific Rim will be based on the Canada Mortgage and Housing Corporation's model community guidelines.

There will be an overall site development plan that Parks Canada will review and recommend for approval to the Department of Indian Affairs and Northern Development. In addition, each development project will be subject to assessment under the Canadian Environmental Assessment Act. Finally, to provide for appropriate protection of adjacent parklands, a $2.5 million mitigation fund will be provided to Parks Canada from the Department of Indian Affairs and Northern Development.

I should also mention that that department will not require any additional funding for the Esowista expansion. It is expected that a total of 160 housing units will be required over the next 25 years, of which 35 are required in the short term.

As for the five-hectare strip of land to be removed from Riding Mountain, it is a requirement, as I have said, of a 1994 specific land claim settlement agreement. Honourable senators will recall in the last session Bill C-6, which was presented here for the purpose of creating a statutory capacity for the present Order in Council Indian Claims Commission. This was, of course, a decision of the Indian Claims Commission. I want to reassure honourable senators that there are no environmental consequences associated with this amendment to the Canada National Parks Act.

With respect to public support, consultations have been undertaken around these initiatives and they indicate broad public support. For example, the following bodies have indicated their support for the proposed land withdrawal from Pacific Rim. Environmental non-government organizations include Green Peace, the Sierra Club, the Western Canada Wilderness Committee, the Friends of Clayoquot Sound, and the Canadian Parks and Wilderness Society, as well as provincial, regional and district governments, and the provincial level First Nation groups.

As a senator from British Columbia, I want to express my thanks to the Government of British Columbia for their support in this initiative to expand Esowista. Of course, the cooperation of the provincial Government of British Columbia is essential in ensuring that lands removed from Pacific Rim can be transferred to the Department of Indian Affairs and Northern Development for Indian reserve purposes. All of these parties consider Esowista to be a unique situation and are supportive of the need to keep the members of the community together, and to provide land from Pacific Rim for residential and related purposes.

I would like to turn briefly to the work being done in Canada's special heritage places, national parks and national historic sites, as it relates to the Aboriginal community. Parks Canada has over 170 different locations to manage in Canada. Many of these places contain evidence of the first peoples of Canada and are associated with events that have shaped Canada. Therefore, it is only fitting that Parks Canada created an Aboriginal Affairs Secretariat in 1999, coinciding with the statutory creation of the Parks Canada Agency.

That secretariat reports to a chief executive officer, who works closely with a network of staff in units across Canada. The broad objective of the secretariat is to facilitate the participation of Aboriginal people in Canada's national parks, national historic sites and national marine conservation areas. With a view to continuing to strengthen productive and mutually beneficial relationships with Aboriginal peoples, Parks Canada has developed five priority areas flowing from that objective, and I would like to give honourable senators some brief examples of how those priorities are being put into operation at the field level.

Many national parks have created a full-time staff position dedicated to liaison with Aboriginal communities. This gives the Aboriginal people a direct line to decision makers at the operating level of the parks. That staff advises the Aboriginal communities of any operational plans or decisions that may be taken with respect to the park. Special arrangements are sometimes made for the whole community, or specifically for the youth and elders, to engage in cultural gatherings in the park which gives them an opportunity to reconnect with their land and their stories.

• (1430)

Parks Canada Agency has also set a priority to increase the presentation and interpretation of Aboriginal heritage within national parks and at national historic sites.

Through a combination of oral traditions and archeological research, we are learning to appreciate the ways in which Aboriginal people lived on the land in a sustainable way.

As well, many parks invite Aboriginal people to demonstrate their traditional ways of living, of preparing food, and of celebrating a sacred bond with the land, all of which has in view the increase of understanding the contributions made by Aboriginal peoples to the Canadian nation.

A third priority is placed on encouraging economic partnerships between Aboriginal people and Parks Canada. This takes many forms. Local Aboriginal businesses may be given, and are often given, standing contracts to supply material and services to maintain trails or to monitor cultural resources. Aboriginal communities run businesses in national parks and sell handicrafts, art and traditional foods to park visitors.

In some parks, Aboriginal people who know the land intimately hold guiding and outfitting licences. Economic partnerships may also take the form of opportunities to practise and hone technical skills learned in the classroom. One example of interest to me is firefighting in Jasper National Park, along with archeology and techniques for collecting oral traditions.

Almost every park in the system has increased the number of Aboriginal people working there and increased the percentage of Aboriginal people who make up its staff. The representation of Aboriginal people within Parks Canada today is 8 per cent. Of the executive group, 10.3 per cent are of Aboriginal descent. In 2002-03, 12.1 per cent of people newly hired in Parks Canada were Aboriginal.

Finally, Parks Canada Agency is working toward increasing the number of people, places and events related to Aboriginal peoples' history that are commemorated as nationally significant, and that are members of the family of Canada-wide national historic sites. In the past five years, the Historic Sites and Monuments Board of Canada has identified 22 such aspects of history associated with Aboriginal people that are significant to Canada as a nation. This brings to 192 the total number of Aboriginal commemorations of national significance and more are contemplated.

Aboriginal communities own many of the most recent additions to the national historic sites register. To support Aboriginal communities to present these sites to the public, Parks Canada has an annual fund of $200,000 and has assisted Aboriginal owners of sites to create multi-year management plans to operate, present and protect such sites.

With respect to Pacific Rim National Park Reserve, significant strides have been taken in recent years to promote Aboriginal initiatives and to involve Aboriginal people in the cooperative management of the national park reserve, and the results have been remarkable. The Pacific Rim National Park Reserve worked with the Ucluelet First Nation to develop the new Channel Trail inside the national park. Opened in 2003, this interpretive trail provides extensive on-site interpretation of regional First Nations culture, history and language.

In June 2004, the Ucluelet First Nation will again honour the opening of the trail by erecting the first totem pole to be carved and raised in the traditional territory of this First Nation in 104 years. The welcoming pole will greet Canadians and international visitors to the trail, and to Ucluelet First Nation, to a new channel to traditional territory. It will symbolize the long history and continuing presence of First Nations people in the region and in the national park in particular.

Honourable senators, I have given you an extensive background of the work of Parks Canada with the Aboriginal community to illustrate a series of activities that perhaps should be well-known. While these activities are ancillary to the purposes of this bill, which is purely a land transfer, I believe that honourable senators and Canadians would like to know of the ongoing policies of Parks Canada and its agreements with Aboriginal peoples, and of the value to Parks Canada as well as to the Aboriginal communities of these activities.

This bill enjoys very broad support. I hope that honourable senators will deal with it expeditiously.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, before moving the adjournment of the debate on this bill, I should like to ask the honourable senator sponsoring the bill in the chamber several questions for clarification.

First, am I correct in understanding that the piece of property that we are speaking of is five hectares in size?

Senator Austin: With respect to Riding Mountain National Park, the area, which is one of the two objectives of the bill, comprises five hectares that belong to that Aboriginal community and which, by error, were omitted from the last legislation in 2000.

Senator Kinsella: Could the honourable senator indicate whether that particular parcel of land was the subject of a negotiation with the First Nation community 10 or 11 years ago?

Senator Austin: Yes, a claim was brought against the Crown, which was presented to the Indian Claims Commission. The result of that process was an agreement that they had been improperly and illegally deprived of the five hectares when Riding Mountain National Park was established in 1929.

Senator Kinsella: Is there a dollar estimate as to the value of that property?

Senator Austin: I could obtain such information. This is undeveloped land and I do not believe it has any significant commercial value.

Senator Kinsella: The second parcel is in the Pacific Rim National Park Reserve. How large a piece of property is this, and what is its value in real estate dollars? Does the honourable senator have that information?

Senator Austin: As I said in my address, the Pacific Rim National Park Reserve land proposed to be transferred to the First Nation is 86.4 hectares. This is undeveloped land within a reserve. By definition, it has no commercial value. There is no community or residential activity because, of course, it is in a park. The land is located adjacent to the Tofino municipal airstrip.

Senator Kinsella: Honourable senators, when we examine this short bill in committee, hopefully witnesses from the department will provide the committee members with maps so that we can see what is proposed on Canada Lands Surveys Records. That could only be done in committee.

Honourable senators, I move the adjournment of the debate. I will speak on Monday evening.

On motion of Senator Kinsella, debate adjourned.

[*Translation*]

PATENT ACT
FOOD AND DRUGS ACT

BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED

Hon. Eymard G. Corbin moved the second reading of Bill C-9, to amend the Patent Act and the Food and Drugs Act (The Jean Chrétien Pledge to Africa).

He said: Honourable senators, I have the privilege today to introduce in second reading the bill on the pledge by Canada and Jean Chrétien to Africa.

• (1440)

This is a truly historical document. It marks a significant step forward in the world's efforts to stop the decimation of the developing world by AIDS, malaria and other fatal diseases. It is based on hope and compassion, and a desire to help those who are the least well off. I believe it merits our support and, in fact, would go so far as to say that it must have that support, as a moral imperative.

The basis for this bill goes back to a decision reached on August 30, 2003 by the World Trade Organization to review the Agreement on Trade-Related Aspects of Intellectual Property Rights. That agreement defines the rules that must be followed by WTO members to protect such elements of intellectual property as patents, copyrights and trademarks. Although it tends to assign top priority to patent holders, it also includes provisions authorizing members to waive the effect of these rights when the public interest requires. In the case of emergency drugs, for instance, this can comprise awarding a license to produce patented drugs to generic drug companies who could produce them at a lower cost to the public.

Fortunately, such emergencies are rare in Canada, and this provision is therefore seldom used. Unfortunately, such is not the case in many developing countries. As we know full well, diseases like HIV/AIDS, tuberculosis and malaria are causing terrible devastation. Last year, nearly one quarter of all deaths worldwide were attributable to these diseases. A number of these deaths could have been prevented through access to appropriate drugs and treatment. For example, in Africa, only some 5 per cent of those who need antiretroviral agents to combat HIV/AIDS get any. The same is true of other critical drugs.

That is one area where the Agreement on Trade-Related Aspects of Intellectual Property Rights is causing a problem. While these provisions allow member countries to face situations of national emergency, they do not allow them to react similarly to emergencies outside their countries.

The decision made on August 30, 2003, was to correct this situation by waiving various prohibitions and allowing, under certain conditions, the export of authorized copies of patented drugs to WTO countries that do not have the capacity to manufacture their own. Despite all the fanfare around this decision, there was no obligation on any country to take action in this respect. There was no specific requirement.

Under the leadership of former Prime Minister Jean Chrétien and his successor, the current Prime Minister, Canada was not content with a wait and see approach. As Prime Minister Martin indicated, the government took action because it was the right thing to do, ethically.

We can be proud of the fact that Canada was the first to answer this call for help on the international scene. This bill has been praised as an example for the world to follow, and the eyes of the world are focussed on Canada. This bill innovates and clearly shows what the government, the business sector and the volunteer sector can achieve together when they set aside profit considerations to focus on humaneness, compassion and alleviating the suffering of others.

As you can imagine, the objectives of the bill were unanimously approved; everyone made a contribution. However, some compromises had to be made to deal with logistical details. On the one hand, we have our major humanitarian objectives. We want to facilitate access to critical pharmaceutical products. On the other hand, we must preserve the integrity of our intellectual property regime and continue to respect our international obligations in this regard. I think that Bill C-9 allows the government to strike a practical balance.

[*English*]

The proposed amendments to the Patent Act and to the Food and Drugs Act were first tabled in November 2003 as Bill C-56. This legislation had passed through second reading in the House of Commons when Parliament was prorogued in November of last year. The bill was subsequently identified by the Prime Minister as a key legislative priority and was reinstated as Bill C-9 on February 12, 2004.

From then on, the House of Commons Standing Committee on Industry, Science and Technology reviewed the legislation and, in doing so, heard from dozens of stakeholders, including representatives of the generic and brand name pharmaceutical manufacturers, non-governmental organizations and medical practitioners.

Over this period, stakeholders presented numerous suggestions on how to improve the legislation. Their input was reflected in the government amendments tabled in the standing committee on April 20, 2004.

These amendments reflect the balance that is necessary between Canada's humanitarian objectives of facilitating the flow of life-saving pharmaceutical products to developing countries while maintaining the integrity of its intellectual property regime and ensuring that its international obligations in this area are respected. They also improved the bill significantly and represent the spirit of compromise that many of the stakeholders deployed throughout this process. The role of Parliament was also enhanced through these amendments.

However, reading the bill in detail, I did notice that, once again, the Senate was left out of the review process. I brought this to the attention of ministers and officials. I have been told that this was, indeed, an error and that it certainly was not the intention of the House of Commons to leave the Senate out of the review process outlined in proposed section 21.18 of the bill. I have received commitments to the effect that — even though, for what are obvious reasons to most of us, it may not be possible to amend the bill at this stage — there will, indeed, be a commitment made by a minister at the committee stage to correct this error by way of legislation at the next earliest opportunity so that the rights of the Senate are maintained in the review of legislation and matters that flow from it.

• (1450)

Let me, for a moment, draw your attention to some of the highlights of the amendments that have been made to the original bill. The requirement that patent holders be given a right of first refusal on supply opportunities has been eliminated. Generic pharmaceutical manufacturers will continue to be required to seek a voluntary licence from the relevant patentees prior to making an application for compulsory licence. They will not, however, be required to notify the patentee prior to signing a contract with an eligible importing country.

The current bill utilizes a pre-approved list of drugs that the World Health Organization has recognized as being essential to the health needs of citizens around the world. The amendments that were made add a number of products to this list that, for technical reasons, were previously excluded. The government is also planning to include five additional products that are not on the WHO list, but that are patented anti-retroviral products approved for sale in Canada. Two of these are fixed-dose combination products. Do not ask me to explain, please. I will leave that to Dr. Keon and Dr. Morin, who I believe will want to respond.

The bill expands the number of countries that may be eligible under the regime. Safeguards will be put in place to ensure that non-WTO member countries that use the system to import pharmaceutical products act in good faith in meeting their public health needs as mandated by the WTO decision of August 30 of last year.

Under the legislation, the royalty rate is determined in a manner consistent with Canada's international trade obligations and the humanitarian non-commercial nature of this scheme, determined by means of a regulatory formula based on the ranking system of the United Nations Human Development Index for eligible importing countries. You will find the list of those countries in an annex to the bill. Importantly, for the majority of eligible importing countries, this formula will result in a royalty that is lower than the previous proposal of 2 per cent.

The Government of Canada has always recognized the critical role that NGOs play in providing health services throughout the developing world. In response to their concerns, the government has clarified the language in the bill so that a licensed product may be sold to "the entity or person" purchasing on behalf of an eligible importing country. At the same time, it is recognized that a country's government will need to be involved in this process, as a state has the ultimate responsibility for coordinating the provision of health services within its borders.

A new provision was also added to the legislation to ensure that the regime is used in good faith by participating companies in order to respond to public health problems, in accordance with the WTO general council chairperson's statement accompanying the August 30, 2003 decision. This provision will afford patentees the right to contest an authorized compulsory licence, if they can establish that the product is being sold above an established price threshold.

[*Translation*]

Therefore, honourable senators, I believe that Bill C-9 allows the government to strike a practical balance.

The bill includes a number of schedules that list various pharmaceutical products and the countries to which they apply. Should one of these countries feel that it needs one of these products to face a public health emergency, its government or an official may contact a Canadian manufacturer of generic drugs to negotiate a supply arrangement. These schedules are very inclusive and they can be quickly amended in case of an urgent need. The government intends to set up an expert advisory committee that will make recommendations on the drugs that should be added to the list and on the appropriate time to do so.

Under the terms of the bill, generic drug manufacturers can enter into supply agreements with foreign governments or their representatives at any time. The only obligation on the generic drug company is that before applying to the Canadian Intellectual Property Office for an export licence, it must first approach the brand name company holding the patents for that product to see whether the latter is willing to accord a voluntary licence on reasonable terms and conditions.

If the patent holder is unwilling to do so, the generic company is free to proceed with its application to the CIPO for a licence and, assuming the requisite health, safety and administrative conditions are met, a licence will be issued and the product can be exported.

As I was saying, the government believes it has found the right balance between the rights and the interests of the various stakeholders. I should also add that there are other provisions in the bill, for example, to guarantee respect for its humanitarian aspect. After all, its goal is not to help companies make a profit, but rather to save lives.

For example, after the review by the House of Commons Standing Committee on Industry, Science and Technology, a "good faith" provision was added whereby patent holders may apply to the Federal Court to block a licence, if they believe that the reasons for the application are not humanitarian, but commercial.

Some stakeholders have said that this provision could lead to abuse or slow down drug delivery by bogging things down in endless legal formalities. According to the government, that will not be the case. First and foremost, the provision only comes into play if the licence holder charges a price that casts obvious doubts on the humanitarian intention of his request. The bill sets the maximum price for generic drugs at 25 per cent of the average cost of the corresponding patented drug in Canada or at the direct supply cost plus 15 per cent. In my opinion — and according to experts — this is very reasonable and it is based on international precedents.

I want to point out that even if the provision is successfully invoked and the court deems the licence application to be commercial in nature, there is great flexibility with respect to the type of corrective measures that could be required. In other words, the courts will not automatically revoke contracts and ultimately stop the delivery of drugs. This would be inconsistent with the spirit of what we are trying to accomplish with this bill. That is only one of the many guarantees included in the legislative enactment to ensure that its humanitarian nature is respected.

It is worthy of mention that the legislator has incorporated into Bill C-9 a number of administrative requirements to guarantee that the drugs will not be steered into some other market or a country other than the one intended. The reason for this is to protect our patents but also, and more importantly, to prevent unscrupulous people from using these drugs for personal gain.

• (1500)

Honourable senators, these are the main points of the bill. What it proposes is good. It would, of course, have been impossible to draft such a bill without the good will, the skill and the commitment of a broad range of contributors, and I must include in that list all of the political parties here in the Parliament of Canada.

From the very beginning, the drug manufacturers and the patented and generic drug makers have strongly championed this project. As well, NGOs such as Doctors without Borders and OXFAM have made an appreciable contribution to ensuring that what is proposed in theory will work properly in practice. Thanks to their contributions, the bill has made great progress in recent months. I applaud their efforts as well as those of the dedicated staff in the various government departments and agencies. What they have managed to accomplish — in a relatively short time — is truly impressive.

Honourable senators, I urge you to support this initiative. All the political parties represented in the other place have supported Bill C-9, which has earned Canada praise from the international community. It even earned us the approval of activists and well-known public figures such as rock star Bono, who praised the Prime Minister and Canada's leadership on this and other development issues.

This bill needs to be passed urgently. The sooner the legislation is enacted, the sooner contracts can be negotiated and the drugs exported.

Ethically and from the point of view of our international obligations, I personally and sincerely believe — to borrow the words of Marc Fumaroli of l'Académie française — that our legislative ambition with respect to this bill is inseparably linked to the compassion we must have for the misfortune of others.

[*English*]

Hon. Wilbert J. Keon: Would the honourable senator take a question?

Senator Corbin: I would be pleased, if it is not too technical.

Senator Keon: It will not be technical.

I will be speaking later to the details of the legislation, but from the very beginning the one thing that has concerned me about this legislation is diversion. I think diversion is here, whether we like it or not.

Senator Corbin: Could the honourable senator explain what is meant by "diversion"?

Senator Keon: I mean that drugs are being manufactured in the Third World and in underdeveloped countries and then marketed in the developed Western world. There is no question that is occurring with performance-enhancing drugs, regardless of the kind of performance, athletic or otherwise.

Senator Corbin is a very experienced parliamentarian. He has looked at this bill carefully, but I do not see how this phenomenon can be avoided. We are supposed to have generic drugs manufactured in Canada. Then there will be a connection between the NGOs and the target countries; they will sell the drugs. However, the reality is much like the Chinese market for medical devices. They buy one, take it apart and build another one like it for one tenth of the price.

It is so easy, given modern scientific technology, to take a compound, roll it out on a chip, see what it is and just make another compound. That technology is available all over the world.

How will we deal with this problem? The reason I am asking Senator Corbin is that I do not know how to address the issue when I come to make my remarks. I am asking the honourable senator to respond first.

Senator Corbin: Honourable senators, my first instinct is to suggest that this bill does not relate to performance drugs or that sort of product. That is not what this bill is all about. Those drugs are obviously excluded. Some NGOs suggested in committee hearings in the other place that all drugs, anything called drugs, should be on this list. Obviously, that is not a reasonable expectation.

With respect to the honourable senator's well-founded concern, which I take seriously, the only place where one can deal with it is at the WTO and the World Health Organization conjointly, with all countries cooperating in a positive way.

Senator Keon mentioned China. China wants to be part of the WTO. It seems, then, that it is incumbent upon China, henceforth, to respect WTO trade rules. If China does not respect those rules, we will do as we have done in other instances — rule against them and post penalties or what have you. That is an excessively long and painful process. It does not immediately address the concern here, and I respect that fact.

I am sure the Government of Canada takes the honourable senator's concern seriously and would not hesitate to address that matter in international fora. That is the most I can tell him at this stage, and I invite the senator to elaborate when he rebuts.

Hon. David Tkachuk: Honourable senators, I have questions to clarify a number of things. I understand that this bill was studied by the House of Commons Standing Committee on Industry, Science and Technology. Can Senator Corbin verify that? Can he tell us which responsible minister introduced this bill?

Senator Corbin: Technically, five ministers are involved in the bill at this stage, in terms of the new cabinet restructuring. There is a lead minister. This bill contains amendments that add to the Patent Act and add to the Food and Drugs Act. The Minister of Industry is involved, as is the Minister of Health. Some ministers of state are involved as well, in view of their particular missions, such as CIDA. The Minister of Foreign Affairs, of course, is involved in respect of the overall political thrust of the humanitarian effort here.

We had hoped that the Minister of Foreign Affairs would come to defend this bill in committee, but I am told, at this stage, that the minister will be unavoidably absent on important business in Europe. The Minister of Industry, Madame Robillard, will appear before the committee with her officials, who have been really at the heart of this bill. They have come forward with amendments that have met the majority of the expectations of the parties involved in this process, including the NGOs.

Senator Tkachuk: In case there is a new tradition under the efficiency aspects of the new Martin government, this bill was introduced not by committee but by the Minister of Industry, Trade and Commerce; is that not correct?

• (1510)

Senator Corbin: Yes.

Senator Tkachuk: That is very good. Thank you.

I have one more question. I noticed that the bill is called "An Act to amend the Patent Act and the Food and Drugs Act (The Jean Chrétien Pledge to Africa)." I do not know what the historical implications will be. I do not know how many bills have been named after former Prime Ministers.

Senator Cools: None.

Senator Tkachuk: We are embarking on a new and groundbreaking enterprise. I do not think it would be possible for me to convince Senator Corbin that we should name it after a former Conservative Prime Minister. Mr. Pearson, who had a stellar record and won the Nobel Peace Prize for international affairs. Would the government be favourable to amending the bill to call it, "The Pearson Pledge" or, perhaps, "The Canadian People's Pledge to Africa"?

Senator Corbin: If the honourable senator introduced a bill that emphasized the great contribution that the former the Right Honourable Prime Minister Brian Mulroney made to the liberation of the South African peoples, I would be more than delighted to support it.

Senator Tkachuk: Thank you for that. To follow up, is this the first bill that is named after a former prime minister, or have there been others? Was there a particular reason for this?

Senator Corbin: This is one of Jean Chrétien's crowning achievements at the level of international humanitarian aid. This is Jean Chrétien's pledge, and Canada's bill. It is a bill from all of us.

I take the bill as it is. I, personally, do not find anything out of order with it. I know for a fact that, when Jean Chrétien was the leader of this government, he pushed hard on the international scene for this program. I think we ought to give him credit for it.

Senator Tkachuk: Honourable senators, from a legislative point of view, the bill amends the Patent Act and the Food and Drugs Act. It concerns itself with those two acts. When we are considering what committee this bill is to be examined by, that can be taken into consideration. Will it affect any other act of Parliament?

Senator Corbin: Could you repeat the last part of the question?

Senator Tkachuk: I want to be sure that no bills other than the Patent Act and Food and Drugs Act will be amended by this bill. Is it just those two?

Senator Corbin: Yes.

Hon. Herbert O. Sparrow: When the honourable senator made his remarks, he referred to the Senate being left out of the review process. Would he tell me to what section he was referring?

Senator Corbin: I was referring to the proposed section 21.18(2) on page 18. If the honourable senator wishes, I can give some background.

Senator Sparrow: Thank you. Senator Corbin mentioned that the Senate should be referred to in that section and that the minister and the bureaucrats agreed that it should have been. It was omitted by error. How many times have we, in this chamber, fought over this very issue? The Senate is being excluded. The honourable senator said that the minister promised that the change would be made later. He also mentioned that five ministers are involved. Which minister made the commitment that it would be changed? I understand that the bureaucrats made the same statement. Would Senator Corbin tell me under what authority they would have made that statement?

Senator Corbin: Honourable senators, the error occurred. I called it an error. Can we call it a bone fide omission? It was an oversight. The proposed subsections 21.18(1) and (2) were an amendment presented by the Conservative Party in the House of Commons. I am not playing partisan politics; I am giving you the facts. The Conservative members of the committee came forward with this amendment, and the result was an oversight. No one picked it up — not the minister, not the officials, and no one in the other parties. As I was going through the bill and preparing myself for this debate, I picked it up, as I did with a previous bill that I sponsored in the Senate. This is probably the seventh or eighth occurrence of the Senate being left out of a review process or a reporting process.

I brought it to the attention of my leader in the Senate, who told me to speak to Madame Robillard. Madam Robillard had someone in her office call me to explain the circumstances of this omission. They regret it tremendously. They apologized for it. However, it was not their amendment. It came from somewhere else. I did receive a commitment. That is what we are all about. Our job is to pick up faults and parts and pieces that do not fit together. That is why the Senate exists.

The honourable senator wanted to know who will fix this and when. Time is of the essence with respect to adopting this bill. If we make an amendment to this bill, it must go back to the Commons. I hope, and I say that respectfully, we will be able to adopt the bill without amendment sometime next week. The following week, the House of Commons will not be sitting. As to what will happen after that, the honourable senator's guess is just as good as mine. If we do not move the bill forward, it could be delayed for some months. Who will suffer as a consequence? Certainly not us, and not the House of Commons, but the people in developing countries who need the drugs.

Hon. Senators: Hear, hear!

Senator Sparrow: Thank you very much for that applause.

I heard Senator Corbin say that the minister and the bureaucrats said that they would make the necessary changes. Now he is saying that he did not even talk to the minister, that he talked to some bureaucrat who said that the minister would change it. There is a big difference between those two statements.

How many times have Senate committees and this chamber heard promises by ministers that they will make changes if there is something wrong? We are not talking about the value of the bill; we are talking about the actions of the Parliament and the government in excluding the Senate. The honourable senator can make any excuse he wants. Whether it was a Tory amendment or whatever, it is in this bill. Now that we are facing an election, who knows that after the next election the same ministers, any one of them, will be in the same position? The Minister of Health was mentioned, but Senator Corbin did not talk to the minister, he talked to some bureaucrat who said that the change would be made. We have no indication of that. It may not even be feasible that, following the election of a new government, the same minister will hold that portfolio. If that minister is not reappointed, they will say, as has happened so many times before, "I am not the minister anymore; that is not my problem any more. A new minister has the job."

• (1520)

Can the honourable senator confirm that it was the minister he talked to? To whom did he speak?

Senator Corbin: Yes, I talked to Minister Robillard. I brought this matter to Minister Robillard's attention, and she said she would get back to me herself or through someone in her office. They called and apologized. They said it was an honest error and would be looked after. I was given that assurance.

This matter ought to be properly dealt with at the committee stage, if I may respectfully suggest, and I am sure we will hear from the minister at that point.

I deplore this situation just as much as Senator Sparrow does.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, perhaps Honourable Senator Corbin could help me understand proposed section 21.01 on page 1 of the bill, which states that the purposes of proposed sections 21.02 to 21.17 are to give effect to Canada's and Jean Chrétien's pledge to Africa. Is there a distinction between the pledge of Canada, as

given by the Prime Minister of Canada, and the pledge of Canada and a pledge by Jean Chrétien? I laud the principle of this bill and will be supporting it, but I am concerned that we make a disjunction between Canada, which is typically represented by the head of the Government of Canada — the Prime Minister — and inserting into the bill the name of an individual Canadian. Is it the pledge of Jean Chrétien the individual as well as the pledge of the Prime Minister of Canada? It is spoiling, in my opinion, a perfectly good piece of work by the Government of Canada.

Senator Corbin: Honourable senators, this pledge to African leaders was given at the Kananaskis G8 meeting; was it not? That is where Jean Chrétien's pledge comes into play.

The honourable senator catches me by surprise when he asks me to respond. I have not focused on this aspect of the bill. I take the title at face value, but he will agree with me that a title like "An Act to amend the Patent Act and the Food and Drugs Act" is not very sexy. Maybe I should withdraw those words.

I am trying only to be open and candid. If the honourable senator goes to Fredericton and my hometown of Grand Falls and tells the people there that we had an exchange on an act to amend the Patent Act and Food and Drugs Act, what will be the reaction? However, if he tells them about the Jean Chrétien pledge to Africa, that may turn on a few lights.

Senator Kinsella: I am more concerned that after the people of Grand Falls, New Brunswick, read the Hansard of this debate, they will hear about a sexy leader and performance-enhancing drugs.

Honourable senators, I do not want to delay the debate, but how many bills can we point to that have this kind of title? I cannot find any. My concern is the part of the title that is in brackets.

I will not raise a point of order, but honourable senators should read what Erskine May says about long titles, at page 462, which is very clear.

With respect to the proposed section of the bill I mentioned earlier, I would hope that my colleague would agree with me that the committee should take a peek at its wording.

The Hon. the Speaker: Honourable senators, I have a number of questioners rising, but I regret to advise that Senator Corbin's 45 minutes have expired.

Hon. Anne C. Cools: Maybe I should raise a point of order. He should ask for more time. This is a complicated debate.

The Hon. the Speaker: I will see Senator Cools on a point of order.

Senator Cools: It is not really a point of order. We can raise these same questions on a point of order.

I appeal to Senator Corbin to ask for leave to continue this debate. I am sure it would be granted so that some of these questions of deep constitutional importance can be clarified. I, for example, want to put particular questions to Senator Corbin because he is very informed on this matter.

Honourable senators, if we do not want to debate, then close the place down.

The Hon. the Speaker: Senator Cools, I understand your point. I have on my list, in addition to yourself, Senator Fraser, Senator Tkachuk and, I believe, Senator Sparrow, all who wish to ask more questions.

In any event, Senator Corbin's 45 minutes have expired. The rules are clear. He has not asked for additional time. We have other speakers, and I will go to them now.

Before I do, Senator Corbin spoke on the government side, and Senator Morin wishes to be recognized. I believe that the principal speaker for the opposition side will be Senator Keon. I take it we agree that the 45-minute time should be limited to the first speaker, namely, Senator Keon. Is that agreed?

Hon. Senators: Agreed.

[*Translation*]

Hon. Yves Morin: Honourable senators, I would like to briefly comment on Bill C-9 and on the excellent speech made by the Honourable Senator Corbin.

The health problems that exist in developing countries are unprecedented. The legislation now before us will certainly provide a means of dealing with this calamity.

[*English*]

I would like, however, to raise one specific issue that has not, to my knowledge, been addressed thus far in the debate surrounding this important legislation. We all understand that this bill will render essential drugs available to developing countries at a fraction of the cost we pay for them in Canada. My question is, therefore, where does the money come from to account for this difference in cost?

We are talking about large sums of money. The cost to treat a case of AIDS in Canada is around $20,000. Under the new system, the cost to developing countries would be around $200. Who will pay the difference? It is not the government. The government has simply legislated the process without allocating any funding.

In fact, the cost of this generous legislation will be entirely borne by the research-based pharmaceutical industry. The price of an innovative drug is not that of the ingredients but that of the research that led to its discovery and approval, which costs more than $1 billion, a sum that must be recovered in only 10 to 15 years before the patent protection expires.

What we are doing today is very unusual. For the first time, we are ordering a private company to donate its products, admittedly to a most worthwhile cause and health emergency.

• (1530)

Nonetheless, when the government commits other Canadian goods or services to developing countries, for instance, through CIDA, it pays for them. Bill C-9, however, is different. Its confiscation of a Canadian product is a precedent in Canada; and we are the first country in the world to take this step.

The decision to take such a step is a measure of the importance we attach to combatting AIDS throughout the world and the bill has received widespread support to achieve that goal. We have, though, gone one step further. By removing the right of first refusal that was in the first version of the bill, we are preventing the research-based pharmaceutical companies from participating fully in the provision of medicines.

First, that does a disservice to the industry's long history of humanitarian involvement in developing countries, not only in the field of pharmaceutical delivery, but also in setting up adequate medical facilities and ensuring that proper diagnoses and adequate monitoring are carried out.

For example, six companies are participating with the World Health Organization and UNICEF in efforts to improve access to anti-retroviral medicines in 84 countries. In addition, Merck & Co., in cooperation with the Bill and Melinda Gates Foundation, has taken the responsibility of developing a comprehensive plan for the treatment of AIDS in Botswana. There are many more examples of this type of comprehensive action by the innovative pharmaceutical industry.

As a matter of fact, an article in the last issue of *Health Affairs*, which is the most prestigious journal in the field, has shown that essential patented drugs are deeply discounted in developing countries, so that the original products and their generic counterparts are priced similarly. This is important in the context of this bill.

Second, the fact that the innovation industry is not participating in the program increases the risk of diversion, to which Senator Keon alluded earlier. The diversion of medicines that have been supplied to the least-developed countries is the plague of this type of undertaking, and there are many documented instances of that taking place.

For example, in July 2002, a large proportion of anti-retroviral drugs that had been sold at preferential prices to a number of African countries was illegally diverted back to Europe and sold on the black market. Similarly, a supply of vaccines sent to Nigeria was falsified and the original diverted. Two thousand children died as a consequence.

We all agree that AIDS is a major public health problem in developing countries. Over the last five years, global AIDS sufferers have increased from 9 million to 42 million. In addition, according to recent reports, notably in the *British Medical Journal*, viral resistance is making some AIDS drugs less effective and others virtually useless. Certainly, none of them is curative.

Making existing drugs more available is but a short-term solution. The longer-term solution lies in research — research to develop new vaccines and new, more effective drugs. Major companies such as Merck Frosst, Bristol-Myers Squibb and GlaxoSmithKlein are spending more money on AIDS research than ever before. For those who are concerned with the magnitude of the problem, this is where hope lies.

Canada's research-based pharmaceutical companies have, since the introduction of Bill C-9, wholeheartedly supported the principles of this compassionate legislation, while insisting on transparency and on its humanitarian, non-commercial nature. In return, however, we need to acknowledge their realities, including the reality that, without their investment in innovative research, we will not have the new drugs we need so badly.

I should like to conclude by quoting Dr. Mark Wainberg, past president of the International AIDS Society, and one of Canada's leading AIDS experts. He said:

> Pharmaceutical firms are to be commended for allowing the production of low-cost, generic versions of their HIV drugs for poor nations. In fact, all of the world's major companies have agreed to dual-price structures for their anti-HIV drugs. The debate over drug access has largely ignored such overtures by the pharmaceutical companies.

I believe it is also time for us to recognize this in relation to Bill C-9.

Hon. Shirley Maheu: Honourable senators, I am pleased to add my comments to the debate on Bill C-9, the Jean Chrétien Pledge to Africa act.

[*Translation*]

Last summer, Canada was the first country in the world to support the decision of the World Trade Organization to provide life saving and affordable drugs to doctors and nurses working in developing countries.

[*English*]

Notwithstanding some concerns, this bill is a bold initiative. It will help fast track medical relief to Third World countries on a humanitarian and non-commercial basis. Generic drug makers will be able to produce low-cost versions of patented drugs for export to developing countries. These drugs will be for humanitarian, non-profit and non-commercial use.

I confess that I have a parochial interest in this bill. The constituency that I represented in the other place for many years is the home of corporate giants in pharmaceutical production. Many Canadian jobs are affected by public policy in this field, especially in my part of Montreal. Drug costs, brand names, generic labels, and the provision of diagnostic and prophylactic products and other medical issues all intersect. A balanced public policy must prevail. I believe that the provisions of this proposed legislation reflect such a balance.

[*Translation*]

Honourable senators, the pharmaceutical industry, non-governmental organizations and the public broadly support this initiative. It is critical to set aside any diverging views in order to increase the effectiveness of this measure. Of course, in order to measure the degree of success of this undertaking, we will have to determine whether diseases were diagnosed accurately in these countries, whether treatments were applied properly, and whether there was diligent follow-up.

[*English*]

As a humanitarian program, I believe this initiative is as important as any public policy proposal in the field of foreign affairs being pursued currently by the Government of Canada. It speaks to several issues and vulnerabilities that are so mutually entangled and systemic as to defy solutions. It speaks to human rights, poverty, education, equal opportunity, and especially public health, as the elements of the foundation of societies wherein people can make their own choices and govern themselves.

[*Translation*]

The whole African continent will have to rise to the challenge and move away from tribalism, cronyism and dictatorship.

[*English*]

It speaks to the ultimate anarchy created by depopulation brought about by disease, especially by the plague-like epidemics of tuberculosis, malaria and HIV/AIDS.

Finally, it speaks to the dignity of the human spirit. Much has been said over the years about the responsibilities, indeed about the mission, of those who have in relation to those who do not have. I believe that we ignore at our peril this message. Future generations, the descendants of the affluent, will pay the price dearly for a refusal of duty, mission and vision now, directed to those who do not have.

[*Translation*]

This bill has a lofty purpose. What makes it even more important is that it is not tied to any conditions set out by the World Bank and does not come with all the bureaucracy that tied assistance usually entails.

[*English*]

• (1540)

This proposed legislation is a grand gesture of stand-alone ability, untarnished and unencumbered by the counterproductive conditions that are too often imposed on Third World recipients.

This legislation is both a small and large "L" liberal initiative. I believe this bill cries out for speedy approval. I urge all honourable senators not to let the imminent election call derail this bill. I urge you to hasten the progress of this bill. Let us pass this bill before the dissolution of our Parliament.

This effort promotes security and prosperity and is a recipe for peace in the developing world. Our planet has long ceased to be a globe of scattered and remote diversity. Our planet is now our very own neighbourhood.

I believe everything we do to promote stability in the developing world demonstrates that Canada is the best neighbour to have.

On motion of Senator Keon, debate adjourned.

CITIZENSHIP ACT

BILL TO AMEND—THIRD READING

Hon. Noël A. Kinsella (Deputy Leader of the Opposition) moved the third reading of Bill S-17, to amend the Citizenship Act.

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

Hon. Senators: Question!

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

Motion agreed to and bill read third time and passed.

STUDY ON PRESENT STATE AND FUTURE OF AGRICULTURE AND FORESTRY IN CANADA

REPORT OF AGRICULTURE AND FORESTRY COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the fourth report (interim) of the Standing Senate Committee on Agriculture and Forestry entitled: *The BSE Crisis — Lessons for the Future*, deposited with the Clerk of the Senate on April 15, 2004.—(*Honourable Senator Fairbairn, P.C.*).

Hon. Donald H. Oliver: Honourable senators, this stands in the name of Senator Fairbairn, and with her leave I should like to speak to this report of the Agriculture and Forestry Committee.

Honourable senators, I am pleased today to address with you the findings of the recent report entitled, *The BSE Crisis — Lessons for the Future*, prepared by the Standing Senate Committee on Agriculture and Forestry.

As we know only too well, a single case of BSE was discovered last May in Alberta, just under a year ago. The discovery immediately caused turmoil in Canada's cattle industry and rural communities, a turmoil that continues to affect us today.

The committee saw an urgent need to study the implications of the situation and to explore potential solutions that could help prevent the recurrence of such a disaster in the future.

The committee heard from stakeholders from the entire beef chain, including individual farmers, farmers' organizations, packers and retailers, as well as the Minister of Agriculture and Agri-Food, the Honourable Bob Speller, and representatives from the Canadian Food Inspection Agency and Agriculture and Agri-Food Canada. We also invited representatives from rural municipalities to tell us about the impact on rural Canada.

The committee held seven meetings, sitting 14 hours in total, and listened to 27 witnesses.

This report gives an overview of the current situation and problems and proposes a long-term approach to ensuring greater security and stability for the Canadian beef industry.

Let me first note some of the key facts in this disastrous chain of events that have affected our cattle industry since the discovery of the single case of BSE in Alberta one year ago.

As soon as the discovery was announced, Canada's export of beef and cattle, which totalled about $4 billion in the year 2002, dropped to nothing, as countries immediately closed their borders to all our cattle and beef products. Some two and a half months later, on August 8, 2003, the United States, by far our major market, accounting for some 70 per cent of Canada's exports of beef products and for nearly all of our export of live cattle, announced a partial opening of its border, allowing imports of boneless meat from cattle less than 30 months old and boneless meat from calves 36 weeks or younger. Mexico, our second market for beef, made a similar announcement on August 11, 2003.

Here is what happened, honourable senators: On December 23, 2003, a case of BSE was discovered in Washington State, in the United States of America. This discovery suspended actions that had been taken to reopen the U.S. border to Canadian live cattle. It also reinforced the argument that this was more a North American issue than a national one. In fact, the international team of scientific experts that examined the U.S. investigation of the Washington State BSE case concluded that — and this is the key, honourable senators — even though the affected animal had originated in Canada, the U.S. case could not be dismissed as simply imported. The experts stated that both the Alberta and the Washington State case must be recognized as being indigenous to North America.

The Canadian reaction to the crisis has been exemplary. Canada undertook an immediate and exhaustive investigation of the May 2003 case of BSE, an investigation that was praised by recognized international bodies such as the office international des épizooties, or OIE, the World Organisation for Animal Health, and the Food and Agriculture Organization of the United Nations. Adequate measures to increase the safety of beef were put in place, including the removal of specified risk materials. That refers to tissues such as the brain and spinal cord that, in BSE-infected cattle, contain the agent that may transmit the disease. Finally, Canadians across the country showed tremendous support to the cattle industry by increasing the domestic consumption of beef by 5 per cent from 2002, a world premiere in a country affected by an unforeseen case of BSE.

Honourable senators, in spite of these measures and even though the safety of beef is absolutely not in question in Canada, the industry has suffered and still suffers from the closure of its export markets.

Why has there been such a disaster? The answer concerns, in part, the state of Canada's domestic packing capacity. Prior to the BSE crisis, Canadian ranchers had access to packing plants not only in Canada, but also in the United States. They were thus able to benefit from competitive forces when they wanted to sell their livestock. One entire year after the U.S. border was closed, live cattle and meat from animals older than 30 months still have no access to the U.S. packers.

This situation has created a huge oversupply of live cattle that cannot pass through the bottleneck of Canada's domestic packing capacity even though Canadian packers have been slaughtering at a rate close to their maximum capacity during last fall and winter.

The Canadian cattle herd has, therefore, reached unprecedented levels. It stood at 14.7 million head in January 2004. One report we read indicated that there are 1.2 million more head of cattle than in January 2003.

With a huge oversupply of live cattle, the price of cattle and calves dropped, almost 50 per cent between May and July 2003. In December 2003, average prices for slaughter steers and heifers in Alberta were still 18.5 per cent and 15.5 per cent lower than in December 2002, respectively. Cow-calf and feedlot operators have suffered a sharp loss of income and equity that has reduced their cash flow and their access to financing. It is estimated that the cow-calf sector lost $3 billion in equity due to the decline in the value of the breeding stock.

• (1550)

Honourable senators, this crisis in the cattle industry has spread outward to affect other Canadian businesses and communities. Other parts of the agricultural sector such as hog, sheep and bison are feeling the effects of border closures and depressed prices. Witnesses reported many layoffs in the feedlot sector, as well as bankruptcies in the trucking industry and layoffs in a number of service industries.

Rural Canada is being hard hit. The damage needs to be addressed as soon and as broadly as is possible. There is no doubt that reopening the U.S. border in order to remove the surplus of live cattle is our first priority in the short term. Interim measures are also needed as a bridge between the current situation and the time when the U.S. border will reopen to live cattle.

These solutions have been discussed at length. At this time, therefore, I would rather address the long-term solutions that we, as a committee, have been proposing. Our first recommendation calls on the Government of Canada to funnel some of the venture capital funds that were announced in the budget specifically into additional value-added capacities for the livestock sector in both Western and Eastern Canada, and to develop, with the industry, a long-term vision for future processing in that sector so that we can do more processing in Canada.

As I mentioned previously, it is Canada's domestic packing capacity or, rather, the limitations of that capacity, that created a bottleneck, preventing the movement of cattle and creating an oversupply. This fact underlies the risk in being dependent on another nation's infrastructure to process our cattle.

As evidenced by the current trade situation with the United States, which allows imports of beef but not live cattle, borders are more sensitive to issues related to live animals. This is not to say that there is no risk in the meat market, but there is evidence that the risk is more manageable with processed products than with live animals.

We must not forget that, when the U.S. border reopens to live cattle, Canadian cattle producers will have renewed access to U.S. packing plants, turning an oversupply market into a competitive one for the packing industry. In the long term, however, there are important opportunities to build and sustain an increased capacity within Canada, notably in developing specific brands and filling niche markets.

Our second and, perhaps, most important recommendation calls for increased harmonization of sanitary standards between the United States and Canada, and a mechanism to quickly address the trade flow between NAFTA partners when a sanitary or a phytosanitary issue occurs.

In September 2003, honourable senators, you should know that the United States and Mexico jointly requested the OIE, the World Organization for Animal Health in Europe, to provide an internationally agreed-upon, scientifically-based trade response to BSE. They got together and asked for a proper response to this crisis.

After it conducted its research, the OIE issued a statement in January 2004. indicating that science-based standards for resuming trade with BSE-infected countries exists already. However, the problem is that countries do not follow it. Specifically, the OIE said:

> ...the existence of valid up-to-date standards did not prevent major trade disruptions due to a failure by many countries to apply the international standard when establishing or revising their import policies.

In fact, international scientific standards already exist to deal with many aspects of agriculture. The Codex Alimentarius develops standards with respect to the safety of food products; the OIE establishes standards for a number of animal diseases; and the International Plant Protection Convention has developed standards to avoid the spread of plant diseases such as potato wart. These are meant to facilitate the movement of products between countries with different health and safety status.

Trade agreements such as the NAFTA and those under the World Trade Organization require that any sanitary or phytosanitary measures that a country adopts shall be based upon scientific principles and shall not be maintained where there is no longer a scientific base for it. When a sanitary measure is thought to be disrupting trade, the WTO uses standards developed by the OIE, the International Plant Protection Convention and the Codex Alimentarius to determine whether the measure is based on sound scientific principle.

For example, in the dispute that everyone will remember between Canada and the European Union over the EU ban on beef products that had been subjected to growth promoting hormones, the WTO based its rulings on the Codex Alimentarius standard on the use of such hormones.

The fact that trade barriers related to BSE have never been challenged under the WTO, however, is probably our biggest problem. It shows that there is a need to develop a more practical approach to resuming trade when the disease appears in a country. This is the focus of our committee's second recommendation, enabling trade to resume in a timely manner in order to avoid the kind of dire situation our beef industry is facing today. It has been 12 months since our export of live cattle over the border was stopped.

Our second recommendation also urges the North American partners to enhance the harmonization of their sanitary and phytosanitary standards. To this end, the committee calls for the establishment of a new, permanent NAFTA agricultural secretariat, with the mandate to apply harmonized standards and recommend actions by NAFTA partners to regulate the trade flow when a sanitary or phytosanitary issue occurs.

In the case of BSE, it quickly became clear that there was no scientific basis for further restricting the movement of live animals and beef products in relation to this disease. As an independent body operating under a legally binding agreement, a NAFTA secretariat would have recognized this fact and made the appropriate recommendations to the three NAFTA partners, Canada, Mexico and the United States, thus providing leverage to remove undue trade barriers.

If this practical approach had been implemented within an approximate time frame, the BSE crisis as we know it today in Canada would not have been so damaging to our beef industry.

In conclusion, honourable senators, such a process could be helpful in any situation where a disease affects the agricultural industry. We all remember the difficulties experienced by potato farmers in Prince Edward Island when potato wart was discovered in one corner of one field in the year 2000.

We must not make our farmers hostages to politics. We must give them the assurance that there are proper mechanisms to ensure the safety of their products and that normal trade flows will be re-established as soon as the sanitary issue is under control.

Promoting rules-based trade and developing value-added processing in Canada would reduce the vulnerability of our cattle industry. The committee hopes that this study and its recommendations will help strengthen and stabilize Canada's cattle industry, and thus benefit all related aspects of agriculture that support the well-being of our rural communities and our national economy.

On motion of Senator Fairbairn, debate adjourned.

• (1600)

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SIXTH REPORT OF COMMITTEE ADOPTED

On the Order:

> Resuming debate on the motion of the Honourable Senator Bacon, seconded by the Honourable Senator Maheu, for the adoption of the sixth report of the Standing Committee on Internal Economy, Budgets and Administration (document entitled Senate Administrative Rules) tabled in the Senate on March 31, 2004.—(*Honourable Senator Atkins*).

Hon. Norman K. Atkins: Honourable senators, I adjourned debate on this item when it was raised in the Senate for one purpose and one purpose only: to give senators and their staff a chance to read the Senate administration rules. I have now read them. I get the feeling that a number of senators have not and I think that they should.

I have been dealing with Senator Furey, and my concerns regarding this report have been satisfied. I congratulate him for his hard work on this file. As far as I am concerned, the report can now be approved.

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

Some Hon. Senators: Question!

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

Some Hon. Senators: Agreed.

Senator Cools: On division.

Motion agreed to and report adopted, on division.

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

MOTION TO AUTHORIZE COMMITTEE TO STUDY PRIVATE MEMBERS' BUSINESS—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Poy:
>
> That the Standing Committee on Rules, Procedures and the Rights of Parliament study the manner in which Private Members Business, including Bills and Motions, are dealt with in this Chamber and that the Committee report back no later than November 30, 2004.—(*Honourable Senator Cools*).

Hon. Anne C. Cools: Honourable senators, last Thursday, April 29, 2004, I indicated that it had been my intention to speak on this motion. I would like to begin by recapitulating what happened last Thursday.

Last Thursday, in effect, a motion for the previous question was moved by Senator Robichaud. It seems that Senator Carstairs — they say "we," so I am assuming we means the two of them — felt that it was necessary to move this extremely high-handed draconian measure without any explanation, I would say, in order to supposedly force her motion along. I would like to quote from the record, page 987 of the *Debates of the Senate* of April 29, 2004, where Senator Carstairs stated:

> We are quite prepared to accept Senator Cools' word that she will speak on Tuesday, and I am sure Senator Robichaud will be quite prepared to withdraw his motion to put the question on the basis that she will speak on Tuesday.

Not only was a draconian measure moved, but it was also moved and acted upon with conditions. I submit to honourable senators that this is most unparliamentary and extremely improper. Senators should be giving long and careful pause to supporting these kinds of measures because I often think that senators do not really understand the implications of some of these initiatives.

Before continuing to the motion itself, I note that in moving his motion, Senator Robichaud has a double standard. I would like to recount that and to show that Senator Robichaud does not practise what he preaches. I would like to look to the record of the last session, in fact debate on my marriage bill, which was Bill S-15. On June 12, 2003, I moved a motion to restore my Bill S-15 to the Order Paper. Immediately, Senator Robichaud pounced on it and moved adjournment of debate on the motion. Senators must understand that there was not a substantive motion. It was simply to restore something to the Order Paper.

For the next several months, Senator Robichaud did not speak to the item, nor did he express any interest in the bill itself. He held the adjournment in his name, standing the item daily until it died on the Order Paper when Parliament was prorogued on November 12, 2003. I repeat, from June 12, 2003 to November 12, 2003, Senator Robichaud wilfully and deliberately ensured that my marriage bill, S-15, would not proceed. In effect, Senator Robichaud killed the bill by not allowing it to proceed.

Furthermore, I would like you to know that Senator Carstairs has used the same procedure in respect of my initiatives in the past.

In addition to expressing that I believe these actions are deplorable, I would like to proceed now to the substance of the question before us, which is Senator Carstairs' motion for an order of reference to the Standing Committee on Rules, Procedures and the Rights of Parliament. The motion is interesting. It asks that the Rules Committee study the manner in which private members' business, including bills and motions, is dealt with in this chamber and that the committee report back no later than November 30, 2004.

I have many problems with that motion, the first of which is that the motion is extremely vague. It is very unclear and imprecise. It does not indicate or articulate clearly what the committee is being asked to do or what the committee is being asked to study. An order of reference should be crystal clear, with the instructions laid out in extremely unambiguous ways.

To learn what is being really asked by that motion, one has to look to the content of Senator Carstairs' and Senator Poy's speeches. Those speeches reveal that these two senators are desirous of having a process here in the Senate that is similar to or identical to the process in the House of Commons in respect of the reinstatement of private members' bills. I am saying that that fact is not clear. What the committee is being asked to do is not clear from the motion itself. One has to go to their speeches to discover really what is being asked for.

Essentially, it would appear that these senators are asking the committee to provide a report to the Senate making proposals in respect of what they had talked about in their speeches. I have problems with the manner and the framing of such an order of reference. There is something fundamentally flawed and wrong with it. It is so flawed, I think, as to be defective.

On the substance of the matter itself, I submit to honourable senators that the wishes of these senators in respect of what they are asking the committee to do are somewhat bizarre and unusual. Perhaps the first thing I should do is cite the House of Commons rule that is purported to be wanted, to be followed or likened or imitated in this house. That rule is 86.1 of the Standing Orders of the House of Commons. It has been put on the record here before, but I would like to say that such a process is not open to the Senate. The reason is that part of the process according to 86.1, both the old and the new 86.1, relies heavily on a certification from the Speaker of the House of Commons.

• (1610)

I shall read that part of rule 86.1.

> ...when proposing a motion for first reading of a public bill, states that the said bill is in the same form as a private Member's bill that he or she introduced in the previous Session, if the Speaker is satisfied that the said bill is in the same form as at prorogation, notwithstanding Standing Order 71...

Honourable senators, that process in the House of Commons relies on the Speaker of the House of Commons making an attestation or certification that the bill is in the same form as it had been previously. I would submit that the Speaker of the Senate has no such power to perform that kind of function. My basis for that is found in the differences of the offices of the Speaker of the House of Commons and the Speaker of the Senate.

These differences can be borne out by looking at the BNA Act, section 34. That section clearly sets out that the Speaker of the Senate is appointed by the Governor General by instrument under the Great Seal of Canada. The appointment of the Speaker is at pleasure. The manner and the mode of that appointment makes the Speaker of the Senate the king's man or the Queen's man.

On the other hand, the Speaker of the House of Commons is chosen in a different manner. The form of choosing the Speaker of the House of Commons is by election by the members of the House of Commons. The election of the Speaker of the House of Commons is provided for in section 44 of the BNA Act. That section reads as follows:

> The House of Commons on its first assembling after a General Election shall proceed with all practicable Speed to elect One of its Members to be Speaker.

Honourable senators, there is a reason why the Speaker of the House of Commons is called "Mr. Speaker" and ours is not. That reason is the constitutional process that makes the Speaker of the House of Commons the House of Commons person, the voice of the House of Commons. That is not the case in the instance of the Senate. The Speaker of the Senate is not the voice or the representative of the Senate.

There have been many debates in this place about this subject. I remember Senator Molgat once suggesting that the only way to remedy this was to ensure that the Senate could elect its Speaker in the same manner as the House of Commons. I do not know how that can be done constitutionally, but that is a different question.

On two other points, I should like to say why such a measure is not really available to us, the Senate. I should like to go to the question of the business of a prorogation, which is what these measures are attempting to overcome. I would submit to honourable senators that, in my view, the rule in the House of Commons is not properly constitutional. We should not attempt to imitate it because their standing order purports to defeat a prorogation.

I should like to quote George Bourinot on prorogation, from *Parliamentary Procedure and Practice in the Dominion of Canada*, fourth edition.

> The legal effect of a prorogation is to conclude a session; by which all bills and other proceedings of a legislative character depending in either branch, in whatever state they are at the time, are entirely terminated, and must be commenced anew, in the next session, precisely as if they had never been begun.

I should also like to share with honourable senators what a prorogation is. A prorogation, honourable senators, is a proclamation — an order, command — of Her Majesty authorized under the letters patent constituting the office of the Governor General of Canada. Section 6 is essentially the authority for the Royal Prerogative of prorogation to go into effect.

I should like to submit to honourable senators that there is no rule of the Senate and there is no standing order of the House of Commons that can have the effect of defeating, overcoming or amending a prorogation. If I could find someone to explain how it can be purported to be done, I would be quite grateful. It is extremely improper and, I would say, contrary to the law of Parliament and contrary to the law of the prerogative.

We are in an era where chambers feel they can do quite what they like without ever articulating the principles or without ever telling us the basis in the law. The law is not something that is invented every day. The law is something that follows like a thread for centuries and centuries.

I just wanted to make the point that a prorogation cannot be defeated by any order of the House of Commons or of the Senate. I have very strong feelings about this.

There is another little bit of business of the law of Parliament that these reinstatements are overcoming. This practice is so well established, honourable senators, that it is not even in our rules — that is, the requirement that every bill will be given three readings in each chamber.

For a bill to become an act of Parliament, it must be given three readings in the House of Commons and in the Senate. The reinstatement process is improper because it does not involve three readings. As a matter of fact, it displaces and supplants the notion that every bill should have three readings in the chamber.

I would submit some authority for this, honourable senators. William Stubbs told us, in his 1890 *Constitutional History of England*, fourth edition, the following:

> The three readings of the bills are traceable as soon as the form of bill is adopted; the committees for framing laws find a precedent as early as 1340...

That fact that a bill must have three readings is an extremely ancient law. It is simply not overcome by any mere rule or order of either chamber. This is the law of Parliament. It is a body of law. It is the most understudied law in the world. In my view, it has become moribund and unknown to most members of Parliament.

I keep trying to do my little bit to bring out some of it every now and again and put it on the record so that the students, scholars, lawyers and constitutionalists can at least look to some reference to some of these great systems on the floor of the chamber in debates.

Honourable senators, I have further authority for that. Sir Thomas Smith, a famous Member of Parliament around 1576, wrote:

> All bills be thrice, in three diverse days, read and disputed upon, before they come to the question.

The Acting Speaker: I am sorry, Honourable Senators Cools, your time has expired.

Senator Cools: I would ask for leave to complete my thoughts, honourable senators.

The Acting Speaker: Is it agreed to give the honourable senator further time to finish her thoughts?

Hon. Senators: Yes.

Senator Cools: Thank you.

Honourable senators, in essence, I am saying that there is no basis whatsoever in our law of Parliament to be effecting these reinstatements. The process that is being conducted and used in the House of Commons is not up to scratch. I hope the Senate does not set out to imitate a process that is already flawed. I have discussed these processes with authorities from other jurisdictions. They are appalled when I tell them of the way in which we are reinstating bills following prorogations. I should like to submit for the record that the reinstatement process is an extremely improper one and should not be imitated or followed in any way in this chamber.

In closing, honourable senators, deviations from the rules and standards are usually only ever done for good and dramatic reasons. Returning to my original point about using motions for the previous question, which is the original closure motion, it is customary that when honourable senators move such motions they are to be moved after a speech. They do not replace speeches; they displace them.

• (1620)

In those speeches, three items, three essences should be outlined. One is the urgency for the measure — in other words, the measure is urgently needed; two, that the measure is in the public interest; and, three, that there has been prolonged and extended obstruction of the measure.

Honourable senators, I thank you for those extra minutes. As I said before, my position is, fundamentally, that the order of reference here is unclear, it is imprecise and it is not properly articulated. In fact, it is so unclear as to be defective. That is my first point. My second point is that the order of reference seeks a response and some actions from a committee, which the law of Parliament forbids. I would remind His Honour that *Beauchesne's* and all the authorities tell us that, at all times, the Speaker should refrain from putting questions before the house that are irregular, out of order or improper.

Having said that, honourable senators, perhaps some of these issues seem arcane, but I served in this chamber during a time when a minister on the other side — it was another party — was trying to figure out how he could do away with the need for three readings for a bill because he thought one reading was enough. I know those who fought that. Honourable senators, it is most important that we maintain a parliamentary tradition and resist any attempts to transform this chamber into an assembly of some sort of a banana republic.

On motion of Senator LeBreton, for Senator St. Germain, debate adjourned.

FOREIGN AFFAIRS

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF TRADE RELATIONSHIPS WITH UNITED STATES AND MEXICO

Hon. Peter A. Stollery, pursuant to notice of May 4, 2004, moved:

> That, notwithstanding the Order of the Senate adopted on February 10, 2004, the date for the final report of the Standing Senate Committee on Foreign Affairs regarding its study of the Canada—United States of America trade relationship and the Canada—Mexico trade relationship be extended from June 30, 2004 to March 31, 2005.

Hon. Marcel Prud'homme: Honourable senators, I attach a great deal of importance to foreign affairs. I always regret that this committee is not, in my view, the most flamboyant committee of the Senate but, having said that, I will attempt to do that in due course.

Can Senator Stollery, who has requested such a late date for the committee to report, tell us what will happen if Her Majesty dissolves Parliament some time before Christmas? Will he table it next session or will the committee start its work again? I ask this question for information because, as the honourable senator knows, I am not a member of the committee.

Senator Stollery: Honourable senators, of course, if there is dissolution of Parliament, all items will die on the Order Paper. The committee will cease to exist.

It would be totally improper for me to anticipate what the committee might do in the next Parliament. That must be a decision of the committee of the next Parliament. However, I am obliged to make certain assumptions, and so we have asked for the terms of reference to be extended until the end of the fiscal year.

Some Hon. Senators: Question!

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

Motion agreed to.

[*Translation*]

ADJOURNMENT

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

Hon. Bill Rompkey (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 Monday, May 10, 2004, at 8 p.m.

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

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned to Monday, May 10, 2004, at 8 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(3rd Session, 37th Parliament)
Thursday, May 6, 2004

GOVERNMENT BILLS
(SENATE)

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

GOVERNMENT BILLS
(HOUSE OF COMMONS)

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-3	An Act to amend the Canada Elections Act and the Income Tax Act	04/04/01	04/04/22	Legal and Constitutional Affairs	04/05/06	0			
C-4	An Act to amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Officer) and other Acts in consequence	04/02/11	04/02/26	Rules, Procedures and the Rights of Parliament	04/03/23	0	04/03/30	04/03/31	7/04
C-5	An Act respecting the effective date of the representation order of 2003	04/02/11	04/02/20	Legal and Constitutional Affairs	04/02/26	0	04/03/10	04/03/11	1/04
C-6	An Act respecting assisted human reproduction and related research	04/02/11	04/02/13	Social Affairs, Science and Technology	04/03/09	0	04/03/11	04/03/29	2/04
C-7	An Act to amend certain Acts of Canada, and to enact measures for implementing the Biological and Toxin Weapons Convention, in order to enhance public safety	04/02/11	04/03/11	Transport and Communications	04/04/01	0	04/05/04	04/05/06	15/04
C-8	An Act to establish the Library and Archives of Canada, to amend the Copyright Act and to amend certain Acts in consequence	04/02/11	04/02/18	Social Affairs, Science and Technology	04/03/11	3	04/03/29	04/04/22	11/04
C-9	An Act to amend the Patent Act and the Food and Drugs Act (The Jean Chrétien Pledge to Africa)	04/05/04							
C-11	An Act to give effect to the Westbank First Nation Self-Government Agreement	04/04/27	04/04/29	Aboriginal Peoples	04/05/04	0	04/05/05	04/05/06	17/04
C-13	An Act to amend the Criminal Code (capital markets fraud and evidence-gathering)	04/02/12	04/02/24	Banking, Trade and Commerce	04/03/11	0	04/03/22	04/03/29	3/04
C-14	An Act to amend the Criminal Code and other Acts	04/02/12	04/02/25	Legal and Constitutional Affairs	04/04/01	0	04/04/21	04/04/22	12/04
C-15	An Act to implement treaties and administrative arrangements on the international transfer of persons found guilty of criminal offences	04/04/27	04/05/05	Legal and Constitutional Affairs					

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-16	An Act respecting the registration of information relating to sex offenders, to amend the Criminal Code and to make consequential amendments to other Acts	04/02/12	04/02/19	Legal and Constitutional Affairs	04/03/25	0	04/04/01	04/04/01	10/04
C-17	An Act to amend certain Acts	04/02/12	04/03/09	Legal and Constitutional Affairs	04/04/29	0	04/05/04	04/05/06	16/04
C-18	An Act respecting equalization and authorizing the Minister of Finance to make certain payments related to health	04/03/10	04/03/22	National Finance	04/03/23	0	04/03/25	04/03/29	4/04
C-20	An Act to change the names of certain electoral districts	04/02/23	04/03/09	Legal and Constitutional Affairs	04/05/06	0			
C-21	An Act to amend the Customs Tariff	04/03/24	04/04/01	Banking, Trade and Commerce	04/04/22	0	04/04/28	04/04/29	13/04
C-22	An Act to amend the Criminal Code (cruelty to animals)	04/03/09	04/04/20	Legal and Constitutional Affairs					
C-24	An Act to amend the Parliament of Canada Act	04/03/22	04/03/29	Social Affairs, Science and Technology	04/04/29	0			
C-26	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	04/03/22	04/03/25	—	—	—	04/03/26	04/03/31	5/04
C-27	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005	04/03/22	04/03/25	National Finance	04/03/30	0	04/03/30	04/03/31	8/04
C-28	An Act to amend the Canada National Parks Act	04/05/04							
C-30	An Act to implement certain provisions of the budget tabled in Parliament on March 23, 2004	04/05/06							

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-212	An Act respecting user fees	04/02/03	04/02/11	National Finance	04/02/26	10	04/03/11	04/03/31	6/04
C-249	An Act to amend the Competition Act	04/02/03	04/04/01	Banking, Trade and Commerce					
C-250	An Act to amend the Criminal Code (hate propaganda)	04/02/03	04/02/20	Legal and Constitutional Affairs	04/03/25	0	04/04/28	04/04/29	14/04
C-260	An Act to amend the Hazardous Products Act (fire-safe cigarettes)	04/02/03	04/02/23	Energy, the Environment and Natural Resources	04/03/10	0	04/03/30	04/03/31	9/04
C-300	An Act to change the names of certain electoral districts	04/02/03							

SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-2	An Act to prevent unsolicited messages on the Internet (Sen. Oliver)	04/02/03	04/03/23	Transport and Communications					
S-3	An Act to amend the Constitution Act, 1867 and the Parliament of Canada Act (Speakership of the Senate) (Sen. Oliver)	04/02/03		subject-matter 04/03/11 Legal and Constitutional Affairs					
S-4	An Act to amend the Official Languages Act (promotion of English and French) (Sen. Gauthier)	04/02/03	04/02/26	Official Languages	04/03/09	0	04/03/11		
S-5	An Act to protect heritage lighthouses (Sen. Forrestall)	04/02/03	04/02/05	—	—	—	04/02/05		
S-6	An Act to amend the Criminal Code (lottery schemes) (Sen. Lapointe)	04/02/04	04/02/11	Legal and Constitutional Affairs					
S-7	An Act respecting the effective date of the representation order of 2003 (Sen. Kinsella)	04/02/04	Bill withdrawn pursuant to Speaker's Ruling 04/03/23						
S-8	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	04/02/05	04/02/12	Energy, the Environment and Natural Resources	04/03/10	0	04/03/11		
S-9	An Act to honour Louis Riel and the Metis People (Sen. Chalifoux)	04/02/05							
S-10	An Act to amend the Marriage (Prohibited Degrees) Act and the Interpretation Act in order to affirm the meaning of marriage (Sen. Cools)	04/02/10							
S-11	An Act to repeal legislation that has not been brought into force within ten years of receiving royal assent (Sen. Banks)	04/02/11	04/03/09	Legal and Constitutional Affairs					
S-12	An Act to amend the Royal Canadian Mounted Police Act (modernization of employment and labour relations) (Sen. Nolin)	04/02/12	04/04/28	National Finance					
S-13	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)	04/02/19							
S-14	An Act to amend the Agreement on Internal Trade Implementation Act (Sen. Kelleher, P.C.)	04/03/10		subject-matter 04/03/22 Banking, Trade and Commerce					
S-16	An Act to amend the Copyright Act (Sen. Day)	04/03/11	04/03/23	Social Affairs, Science and Technology					
S-17	An Act to amend the Citizenship Act (Sen. Kinsella)	04/03/25	04/04/01	Social Affairs, Science and Technology	04/05/06	0	04/05/06		

PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-15	An Act to amend the Act of incorporation of Queen's Theological College (Sen. Murray, P.C.)	04/03/10	04/03/11	Legal and Constitutional Affairs	04/03/25	0	04/03/25	04/04/01	

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