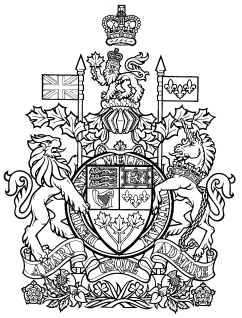

CANADA

Debates of the Senate

1st SESSION • 37th PARLIAMENT • VOLUME 139 • NUMBER 112

OFFICIAL REPORT
(HANSARD)

Thursday, May 2, 2002

THE HONOURABLE DAN HAYS
SPEAKER

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

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THE SENATE

Thursday, May 2, 2002

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

Prayers.

[*Translation*]

SENATORS' STATEMENTS

RADIO-CANADA

LOCKOUT

Hon. Lucie Pépin: Honourable senators, the Montreal Y Foundation held its ninth annual Women of Distinction Awards gala last night. A number of women were honoured for their community involvement.

In the "Communications" category, the honouree was Marie-France Bazzo, host of the well-known CBC French network program *Indicatif Présent*. This excellent communicator devoted the bulk of her acceptance speech to the Radio-Canada lockout.

She has graciously granted me permission to quote some excerpts from her message, which is totally in line with my feelings about this labour conflict.

The following is what Ms Bazzo had to say about the lockout:

> I am touched, but disturbed at the same time, for it is nearly six weeks now since I have been able to switch on a microphone. I am no longer a communicator, and I am not the only one: all of my colleagues are locked out by Radio-Canada.
>
> What disturbs me the most in this situation is the silence imposed on our radios, and the watered-down version of our TV we are getting. It is an insult to the public, which is nevertheless paying for Radio-Canada, loves it, and misses it. That is what we are hearing from them.
>
> When Radio-Canada is silenced, when our press has become so concentrated and virtually all papers take the same point of view, democratic debate is being dulled. Without Radio-Canada, it has lost an effective, distinct and essential tool, but one whose nature is fragile as well.
>
> For the sake of respect for public intelligence and for democracy, I hope this situation will be ended very soon.

I am completely in agreement with Marie-France Bazzo's statements. I also find it abnormal that, in 2002, we still have to resort to union action to gain wage parity between women and men. We hear that agreement has been reached to strike a committee to investigate wage parity at Radio-Canada.

What the management of Radio-Canada need to be told is that there must be a time limit to the implementation of the results of this study. It should not exceed three years.

• (1340)

I am therefore calling upon the government to assume its responsibilities and to get Radio-Canada to come to a negotiated agreement, in the interests of all parties, including the taxpayers, who are helpless witnesses to these strong-arm tactics and are suffering from not being able to access the quality radio and television programming to which they are entitled.

[*English*]

SPORT HUNTING

Hon. Jim Tunney: Honourable senators, I rise to express a serious concern of mine that should be on the minds of all Canadians. My concern relates to a relatively new practice of enclosing our wildlife — deer, elk, moose, et cetera — in large acreage pens, where wealthy people, most often from other countries, will come to Canada and pay high fees to engage in the slaughter of these animals. They call it "sport hunting."

Honourable senators, this activity is neither hunting nor sport. The sport is taken out of the process when these animals are enclosed and is often referred to as "shooting fish in a barrel."

One of the serious problems with these types of endeavours is the outbreak of disease that can occur, such as mad cow disease and others, to which animals would never be subjected in the wild. The problem is, however, that our wild animals and those in these enclosures are beginning to mix. Wild animals can clear fences to get in, fences that the ones inside could not clear to get out. These animals from the wild come in and are exposed to the captive animals. The wild animals then leave the enclosures and spread these diseases throughout our wild animal population. All Canadians should be concerned about this situation. Not only are our wild animals being affected, but they are also affecting our domestic animals across this country.

Honourable senators, we should strive for some kind of prohibition for this hunting practice and the sooner the better.

[*Translation*]

ROUTINE PROCEEDINGS

TECHNOLOGY PARTNERSHIPS CANADA

ANNUAL REPORTS TABLED

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the annual reports of Technology Partnerships Canada for 1999-2000 and 2000-2001.

[*English*]

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

THIRTEENTH REPORT OF COMMITTEE PRESENTED

Hon. Jack Austin, Chair of the Standing Committee on Rules, Procedures and the Rights of Parliament, presented the following report:

Thursday, May 2, 2002

The Standing Committee on Rules, Procedures and the Rights of Parliament *(formerly entitled the Standing Committee on Privileges, Standing Rules and Orders)* has the honour to present its

THIRTEENTH REPORT

1. Pursuant to the order of reference dated December 4, 2001, as extended by motion on March 26, 2002, your Committee has considered the issue of time allotted to tributes in the Senate.

2. The issue of time spent on tributes has been a source of concern for a number of Senators for some time. On November 8, 2001, Senator Jean Lapointe gave notice that he would call attention to the issue, and the matter was discussed in the Senate on November 8, November 20, and November 21, 2001. Senator Lapointe subsequently moved the motion of December 4, 2001 that your Committee examine and report on this issue. Among the Senators who spoke on this issue in the Senate, there was unanimous support for the proposal that the time spent on tributes should be limited.

3. Your Committee considered this issue at its meeting on April 17, 2002. The appropriateness of tributes upon the retirement, resignation or death of Senators and former Senators is not in dispute. There is, however, widespread concern over the amount of time that can be devoted to individual tributes. Not only does this detract from the regular public business of the Chamber, but tributes can also take on a life of their own with many Senators feeling that they have to make a contribution. Comparisons have inevitably been made between the time and number of Senators paying tribute in individual cases.

4. After canvassing various issues and proposed solutions — including the placement of tributes on the *Order Paper*, the setting aside of special times of the week, the filing of written tributes for inclusion in *Hansard*, et cetera — your Committee has concluded that the time allocated to tributes should be strictly limited to 15 minutes. The decision as to when to schedule tributes will remain with the Senate leadership. The tributes will generally occur near the beginning of the sitting. It is likely the Leader of the Government and the Leader of the Opposition, or their designates, will speak first. Your Committee does not believe that individual speeches should last more than three minutes. On those occasions when a large number of Senators wish to speak, it may be necessary to reduce the time allotted to individual speakers. Your Committee strongly believes that 15 minutes ought to be a maximum, and that no leave to extend the time should be sought, or granted.

5. Your Committee notes that Senators have various other opportunities in which to pay tribute to former colleagues. These include: Senators' Statements, motions, and notices of inquiries. There are, of course, other avenues in addition to the Senate Chamber for conveying congratulations, best wishes or condolences.

Therefore, your Committee recommends that Rule 22 of the *Rules of the Senate* be amended by adding after subsection (9) the following:

"Tributes

(10) At the request of the Government Leader in the Senate or the Leader of the Opposition, the time provided for the consideration of "Senators' Statements" shall be extended by no more than fifteen minutes on any one day for the purpose of paying tribute to a Senator or to a former Senator, and by such further time as may be taken for the response under subsection (13).

Time limits

(11) The Speaker shall advise the Senate of the amount of time to be allowed for each intervention by Senators paying tribute, which shall not exceed three minutes; a Senator may speak only once.

No leave

(12) Where a Senator seeks leave to speak after the fifteen minutes allocated for Tributes has expired, the Speaker shall not put the question.

Response

(13) After all tributes have been completed, the Senator to whom tribute is being paid may respond.

Senate Publications

(14) The tributes and response given under subsections (10) to (13) shall appear under the separate heading "Tributes" in the *Journals of the Senate* and the *Debates of the Senate*.

No bar

(15) Nothing in this rule prevents a Senator from paying tribute to another Senator or to a former Senator at any other time allowed under these rules.

Other tributes

(16) Nothing in this rule prevents an allocation of time for tributes to persons who are not Senators or former Senators.".

Respectfully submitted,

JACK AUSTIN, P.C.
Chair

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

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

HUMAN RIGHTS

BUDGET AND REQUEST FOR AUTHORIZATION TO ENGAGE SERVICES AND TRAVEL—STUDY ON CANADA'S ADHERENCE TO INTERNATIONAL HUMAN RIGHTS INSTRUMENTS— REPORT OF COMMITTEE PRESENTED

Hon. A. Raynell Andreychuk, Chair of the Standing Senate Committee on Human Rights, presented the following report:

Thursday, May 2, 2002

The Standing Senate Committee on Human Rights has the honour to present its

THIRD REPORT

Your Committee, which was authorized by the Senate on Thursday, February 21, 2002 to examine and report on the status of Canada's adherence to international human rights instruments and on the process whereby Canada enters into, implements and reports on such agreements, respectfully requests that it be empowered to engage the services of such counsel and technical, clerical and other personnel as may be necessary, and to travel outside Canada for the purpose of its study.

Pursuant to section 2:07 of the *Procedural Guidelines for the Financial Operation of Senate Committees*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

A. RAYNELL ANDREYCHUK
Chair

(*For text of budget, see today's* Journals of the Senate, *Appendix "A", p. 1565*.)

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

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

LEGAL AND CONSTITUTIONAL AFFAIRS

BUDGET—STUDY ON IMPLEMENTATION OF STATUTORY REVIEW PROVISIONS— REPORT OF COMMITTEE PRESENTED

Hon. Lorna Milne, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, May 2, 2002

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

SIXTEENTH REPORT

Your Committee, which was authorized by the Senate on March 25, 2002, to examine and report on the implementation of statutory review provisions contained in selected legislation relating to legal and constitutional matters, now requests approval of funds for 2002-2003.

Pursuant to section 2:07 of the *Procedural Guidelines for the Financial Operation of Senate Committees*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

LORNA MILNE
Chair

(*For text of budget, see today's* Journals of the Senate, *Appendix "B", p. 1573*.)

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

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

COMPETITION ACT COMPETITION TRIBUNAL ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Marie-P. Poulin, for Senator Kolber, presented the following report:

Thursday, May 2, 2002

The Standing Senate Committee on Banking Trade and Commerce has the honour to present its

SIXTEENTH REPORT

Your Committee, to which was referred Bill C-23, An Act to Amend the Competition Act and the Competition Tribunal Act, has, in obedience to the Order of Reference of Tuesday, February 5, 2002, examined the said Bill and now reports the same:

a) with the following amendment:

Page 37, clause 14: replace line 25 with the following:

"tered 30 days after its publication"

b) and with observations which are appended to this report.

Respectfully submitted,

E. LEO KOLBER
Chairman

(*For text of observations, see today's* Journals of the Senate, *Appendix "C", p. 1579*.)

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

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

HERITAGE LIGHT HOUSE PROTECTION BILL

FIRST READING

Hon. J. Michael Forrestall presented Bill S-43, to protect heritage lighthouses.

Bill read first time.

• (1350)

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

On motion of Senator Forrestall, bill placed on the Orders of the Day for consideration two days hence.

QUESTION PERIOD

NATIONAL SECURITY AND DEFENCE

UNITED STATES—PROPOSAL TO CREATE NORTHERN COMMAND

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, my question is addressed to the Chairman of the Standing Senate Committee on National Security and Defence. It has to do with the recent announcement by the American military of the formation of Northern Command. There has been a great deal of contradictory debate on its significance to Canada, in particular, whether or not Canadian sovereignty is being challenged by it. I must say that in attempting to follow the discussion I am getting more confused.

Is the chairman of the committee — whom I hope I am not taking unawares — familiar enough with the issue to give us an explanation and, hopefully, reassure us as to whether Canada's sovereignty is being challenged by this proposal, should we become a participant in it?

Hon. Colin Kenny: Honourable senators, I should like to thank the Honourable Senator Lynch-Staunton for his question. Recognizing that I do not speak on behalf of the government, I can say that the committee has looked at this issue.

When the committee was in Washington, we had discussions on the subject with the Senate armed services committee, the house armed services committee and with Secretary Rumsfeld. I have had discussions on the subject as recently as today with the Chief of Defence Staff.

My impression is that this is a very positive initiative and one that Canada should seriously consider. The options that we have are to continue as we are with NORAD, which provides us with a direct linkage to both command authorities in Washington and Canada. There is an option open to Canada to have a similar arrangement with the naval and army forces that currently operate fairly extensively under the Supreme Allied Commander, Atlantic, or SACLANT, which is a NATO position.

I would describe the situation to the honourable senator as follows: Who in this chamber would not want to join with the United States in the event of an attack on North America? The purpose of this command is to protect North America from attack. If North America is attacked, to my way of thinking, it is only logical that we would want to respond in a joint manner.

The purpose of having a command of this sort is to prepare for scenarios and to do planning. The size of a command of this sort is likely to be relatively small. The number of troops involved in total is likely to be in the 300-400 range. If Canada were to participate, we would be looking at 30 to 50 officers and enlisted people. It would be a very small commitment in terms of troops.

The misunderstanding with regard to sovereignty relates to the fact that some people think that whole units would be assigned to the command of an American general. That is not the case. None of the commanders in chief has forces assigned to them on a permanent basis. They do planning on an ongoing basis and then go to force generators, other commanders, when they need additional forces to carry out a certain task.

If Canadian forces were needed in a certain situation, Canadian authorities would first have to be asked before the Canadian troops would be committed. One can visualize it as two switches. The commander would have to turn on a switch saying, "I would like the use of some troops." The Canadian government would then turn on another switch saying, "Yes, you can," or, "No, you cannot." If both switches were not in the "on" position, Canadian troops would not be involved. Therefore, I do not see where our sovereignty would be threatened.

Hon. J. Michael Forrestall: Honourable senators, my question is also to the Chair of the Standing Senate Committee on National Security and Defence.

Given the complexity of Northern Command and this entire question, could we have the assurance, to the degree the honourable senator is able to give it, that when this matter does come before this chamber it will be referred to the Standing Senate Committee on National Security and Defence?

Senator Kenny: Honourable senators, as I am sure the honourable senator is aware, I have little influence over where matters in this chamber are referred. I can tell the honourable senator that if the chamber should choose to refer it to our committee, I, for one, would be happy to deal with it and address it. However, where it is referred is a matter for the chamber itself to decide.

Senator Forrestall: Honourable senators, I understand the position of the chair. I join with all senators in hoping that the health of the Leader of the Government will take a turn for the better soon and that she will be back with us next week.

May I, through the Deputy Leader of the Government, ask that this question be given to the government leader as notice, together with the strong recommendation that this subject matter, though essentially dealing with transport, is, in fact, much more appropriate for the Standing Senate Committee on National Security and Defence?

Hon. Douglas Roche: Honourable senators, my supplementary question is also directed to the Chairman of the Standing Senate Committee on National Security and Defence. It follows on the point raised by Senator Lynch-Staunton.

The chairman, Senator Kenny, will be aware that former Foreign Minister Lloyd Axworthy has issued a report from the Liu Centre for the Study of Global Issues on the subject of Northern Command. On Monday, Mr. Axworthy will be testifying before the House of Commons Foreign Affairs Committee meeting in Vancouver.

Is it possible for the National Security and Defence Committee to hear Mr. Axworthy on this subject?

Senator Kenny: Honourable senators, I suppose anything is possible.

Senator Roche: Honourable senators, I suppose anything in the whole world is possible. However, what I am really asking is whether the Senate committee will seek to hear Mr. Axworthy's views on this subject.

UNITED STATES—DEPARTMENT OF NATIONAL DEFENCE REPORT ON CREATION OF MISSILE DEFENCE SYSTEM

Hon. Douglas Roche: Honourable senators, in a report issued by the Canadian Department of National Defence it is stated that the U.S. is seeking to build part of its missile defence system on Canada's East Coast to give the U.S. a time advantage in destroying incoming rockets fired by Middle East countries. Will the chairman of the National Security and Defence Committee tell us if his committee has taken note of this report, which was released recently by the Department of National Defence under the access to information laws?

• (1400)

Hon. Colin Kenny: Honourable senators, the answer to the first part of the question is that presently we have no plans to do that. The answer to the second part of the question is no.

UNITED STATES—PROPOSAL TO CREATE NORTHERN COMMAND—EFFECT ON NORAD

Hon. Norman Atkins: Honourable senators, my question is to the Chair of the Standing Senate Committee on National Security and Defence. Does the Northern Command concept have any impact on the agreements that we have through NORAD?

Hon. Colin Kenny: Honourable senators, I believe it is fair to say that the treaty we signed in relation to NORAD would be incorporated as one component. That agreement already exists. It is there, it is functioning and it is working. If there were to be further Canadian involvement in the Northern Command, or in CINC north, the NORAD agreement would obviously continue in place. There would have to be other agreements to accommodate sea and land if they were deemed to be part of Canada's interests and involvement.

INTERNAL ECONOMY

PERCENTAGE OF SENATE BUDGET ALLOCATED TO COMMITTEE MATTERS

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, my question is for the Chair of the Internal Economy Committee. I wonder whether the honourable senator could advise the house, given that we are engaged in approving budgets for various committees, as to what percentage of the total amount in the Senate budget allocated to Senate committees will have been committed, should all of the committees receive approval from the chamber for the individual allotments? How much will have been committed and how much is left over until the end of the year?

Hon. Richard H. Kroft: Honourable senators, if I understand the question, it is how much of the allocation for committees will have been committed. Senator Furey is here, and I stand to be corrected by him.

The total figure in the budget is $1.8 million, and I believe that $1.6 million has been committed with a $200,000 contingency. If I am out, I am out by $100,000 and it is a $100,000 contingency.

Hon. George J. Furey: Honourable senators, Senator Kroft is quite correct with one exception. There was a $200,000 contingency fund, but the Internal Economy Committee allocated $70,000 of that amount to Senator Nolin's committee.

The Hon. the Speaker *pro tempore***:** Honourable senators, I wish to advise Honourable Senator Furey that questions may be addressed to the chair only.

PERCENTAGE OF SENATE BUDGET ALLOCATED TO SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE

Hon. Noël A. Kinsella (Deputy Leader of the Oppostion): Honourable senators, yesterday the Chair of the Standing Senate Committee on Social Affairs, Science and Technology described the important work on health care undertaken by his committee. The work of that committee is a laudable effort and one that demonstrates the work of Senate committees at their best, and the fact that they are far more cost-efficient than royal commissions in given policy areas.

However, honourable senators, the chair of that committee did alert us to the fact that there will be an important piece of unfinished business for them probably in this fiscal year when the Romanow commission report is released. As Senator Furey has indicated, we have less than $200,000 in contingency. When we were discussing the Energy Committee's budget, Senator Taylor made reference to the possibility of requesting Supplementary Estimates.

My question to the Chair of the Internal Economy Committee is: Is the honourable senator satisfied that there is enough in reserve to respond to Senator Kirby's needs? Second, is the idea of Supplementary Estimates part of the contingency planning of his committee?

Hon. Richard H. Kroft: Honourable senators, these matters can never be decided finally until circumstances are known, but the answer to the first part of the question is that there will not be adequate funds, with the present numbers as allocated and if all the money is spent, to provide the additional funds for that next phase of Senator Kirby's committee.

Honourable senators, there are two options. One is to monitor the spending programs and the actual spending of the various committees over the intervening months. The practice and the machinery is in place for money not spent by a committee to be brought back and reassigned. It may well be, because of the uncertainties in budgeting, that funds will come available in that way within the existing envelope.

Failing that, and if the subcommittee of the Internal Economy Committee felt there was an appropriate need to act on that matter, as indeed on any matter affecting the business of the Senate, we would consider bringing to the house a recommendation on Supplementary Estimates at a later date.

Hon. Terry Stratton: Honourable senators, my question is addressed to the Chairman of the Internal Economy Committee.

Is the commitment on the part of the vast majority of chairmen of different committees to live within their budgets? It is commendable that they would be willing to do that for the balance of the fiscal year, and they should be applauded for that commitment. I believe there were only two such committees: the National Security and Defence Committee and the Social Affairs Committee. It is still an unknown in regard to the Banking Committee and the Human Rights Committee. For the most part, they have made that commitment.

Honourable senators, given that commitment, perhaps the effort could be made to come up with the amount required to allow Senator Kirby's committee to complete its study, and perhaps that money could be found with the cooperation of the other committees.

Senator Kroft: Honourable senators, I am not sure that is really a question. I believe the honourable senator has addressed a hope and I certainly hear the hope.

The Internal Economy Committee task is not to spend as little money as possible. It is to spend the money available as well as possible. If the Senate feels that the work of Senator Kirby's committee or any other is a priority that it wishes to have carried forward, then the Internal Economy Committee will, by all means, work with all the committees in order to achieve the priorities that this house feels are important.

HILL PRECINCT—CHANGES TO SECURITY SERVICES

Hon. Marcel Prud'homme: Honourable senators, my question is also directed to the Chairman of the Internal Economy Committee. Yesterday I raised an issue during Senators' Statements, and I should like to raise it now with the chairman, in the absence of the Leader of the Government in the Senate.

• (1410)

I made a statement yesterday about changes to security that are being discussed. This is not new. For 25 years, people have put forward great plans for the Hill. I first heard about having no cars on the Hill about 25 years ago.

I ask the honourable senator if he can assure us that before any change takes place, there will be multiple consultations, especially consultation with members who may have very strong views about this subject. We know that in a time of crisis, there are always people who use the crisis, the paranoia and the fear to slip in change. Once changes take place in our institution, it is very difficult to amend or reject them later. Can we have the assurance of the chairman that many discussions will take place before we give in to the master plan of having the RCMP inside the premises, or certain other changes?

I repeat that this discussion is creating a lot of sadness among our guards. They will not talk publicly. We know that they are well disciplined. However, if we care for the institution and we talk to them individually, we will see that they are ill at ease. They want to know what will happen. I think the chairman is in a position to help us in our reflections and in our answers to them.

Hon. Richard H. Kroft: Honourable senators, of course there would be no change of any significance to security arrangements in the Senate without full discussion in the Standing Committee on Internal Economy, Budgets and Administration. That committee is open and available for all senators to attend and participate, as my honourable colleague does so often.

I do give assurance that there is a great deal of respect for all the traditions of the Senate inherent in all of these discussions at all times. There is no great, evil master plan lurking anywhere, nor, though, should we fear change if it is helpful, productive and in the interests of this institution.

[*Translation*]

POSSIBILITY OF SUPPLEMENTARY ESTIMATES

Hon. Roch Bolduc: Honourable senators, my question is for the Chair of the Standing Committee on Internal Economy, Budgets and Administration. Did I hear him say that if there was a shortage of funds before the end of this year, Supplementary Estimates would be proposed?

[*English*]

Did I understand correctly?

Hon. Richard H. Kroft: Honourable senators, I did not say there would or would not be. I said the possibility of a supplementary budget is open. That decision will be made finally in the fall when the time comes. Nothing can be done now in terms of supplementary budgets.

My specific answer was in relation to committee budgets. The passage of time gives us a better knowledge of what the actual needs are when we see what committees are spending. I did not give an absolute "no," and certainly the possibility of a supplementary for committee budgets or other reasons may very well be a prospect.

THE SENATE

ABSENCE OF LEADER OF THE GOVERNMENT—
POSSIBILITY OF ADVANCE NOTICE

Hon. Gerry St. Germain: Honourable senators, my question is to the Deputy Leader of the Government in the Senate. When the minister is not available, is there any way we can be advised? We have a total disaster on our hands in British Columbia at the moment with the imposition of the softwood lumber tariff by the United States. I would possibly have been in a position to make a statement during the time allocated for Senators' Statements had I known that the Leader of the Government in the Senate would not be present.

I am not sure whether this intervention is proper. I know it is not proper to speak about the absence of a senator in the Senate, but I wonder whether it is proper to be advised before the sitting of the Senate if the Leader of the Government in the Senate, who normally takes questions, other than the respective committee chairmen, is not available. We could then deal with issues that are important to the regions, such as the softwood lumber tariff that was imposed today by the U.S. International Trade Commission.

[*Translation*]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I am taking note of Senator St. Germain's comments as to whether we should inform all honourable senators of the absence of the Leader of the Government in the Senate.

In her absence, I can take note of the questions that are addressed to her, so that she can reply through delayed answers.

VISITORS IN THE GALLERY

The Hon. the Speaker *pro tempore***:** Honourable senators, I wish to draw to your attention the presence in the gallery of the Forum for Young Canadians.

[*English*]

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

Hon. Nicholas W. Taylor: Honourable senators, after hearing Her Honour introduce the Forum for Young Canadians, many of us missed the breakfast with them. Some senators had committee meetings early this morning. I wanted to extend an apology to them if they did not see some of the senators they were hoping to see from their home provinces.

The Hon. the Speaker *pro tempore***:** Apology accepted.

ORDERS OF THE DAY

CRIMINAL LAW AMENDMENT BILL, 2001

MESSAGE FROM COMMONS—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Robichaud, P.C.,
>
> That the Senate do not insist on its amendment numbered 1(a) to Bill C-15A, An Act to amend the Criminal Code and to amend other Acts to which the House of Commons has disagreed; and
>
> That a message be sent to the House of Commons to acquaint that House accordingly.

Hon. A. Raynell Andreychuk: Honourable senators, Senator Nolin spoke to this issue and the motion that Senator Carstairs has proposed. I want to put on the record my reflections, some of which will be a repeat of what I said in the committee.

The proposed section on child pornography in Bill C-15A states that:

> Every person who transmits, makes available, distributes, sells, imports, exports or possesses for the purpose of transmission, making available, distribution, sale or exportation any child pornography is guilty of...

The word that troubles us is "transmits."

We know that those who provide the hardware in today's modern world have no obligation to verify what is being transmitted. However, that has been more by custom than by law. Here, a proposed Criminal Code section says that, without exception, everyone who transmits child pornography will be guilty.

The minister, when he appeared before us, said, "We never contemplated attacking the industry." That may be, but the minister has no way of guaranteeing that the courts and the police — the administration of justice — will not interpret the words in their simple meaning so that everyone who transmits, irrespective of who they are, will be found guilty. While the minister indicated that the intention was not to go after those who provide the hardware for distribution and transmission, nothing in any of our industrial acts, and certainly nothing in the Criminal Code, would preclude charging them.

• (1420)

It may be very well for the minister to indicate that this is not their intention, but within a court process and within the administration of justice, all those officials have discretion. They exercise their discretion according to law. If, in some jurisdictions, for example, Canadians are so concerned about child pornography, there is pressure on the administration of justice to get rid of and control child pornography, is it not reasonable that someone be charged for supplying the hardware? They would be brought before the courts, and I believe a prosecutor, a judge and anyone else involved in the administration of justice could very reasonably come to the conclusion that there should be no exceptions, because there is nothing in law to exempt them. Consequently, to make it clear that it was never the intention to get at those who provide the hardware — we heard Senator Nolin explain that matter in great detail — we made an amendment. The amendment passed the committee, this chamber and was sent to the other place.

What concerns me more than anything is that we are politicizing something so important.

If you look at the opposing testimony, you will see that it was politicized. Both the government and the opposition expressed how much better they are at protecting our children than the other side. There were very few distinctions in how they handled this subject. No one asked why we would want to deflect into our court system needless cases for determination. Should we be cluttering our courts? Should we be deflecting into our courts what might turn out to be a technical issue? Why would we not want to send a clear signal to everyone that those who are providing the hardware were never intended to be caught?

If those people transmitting solely for the purpose of providing the hardware are also utilizing that hardware to provide child pornography knowingly and, in fact, do it because they have a preferred position, the law would cover them, and the police certainly will be screening. However, if there is no onus in law on those people to monitor what goes through their systems, and it is not the intention of the government to put such a provision in place, the Senate felt that such should be indicated to prevent the necessity of having it tested before the courts. We do not need in this situation appeal upon appeal, deflecting resources and attention to something that is unnecessary. It would be more worthwhile to clarify the law, as we did. Resources can then be directed toward the perpetrators, as the section intended.

We should not have inconsistencies or statements in the law that can be interpreted in more than one way.

Honourable senators, this is a highly emotive area. What if a judge or prosecutor in the justice system makes the interpretation that everyone, including those who provide the hardware, comes under this section? Should a court then say, "No, we will not include them, because we have taken into account the intention of the legislators?" You can imagine the hue and cry when someone appears to be let off on a charge of child pornography.

Again we will be blaming the courts, not an ill-drafted law. We will say, "There go the activist courts again." Surely, after 20 years with the Charter of Rights and Freedoms, when we said last month that parliamentarians have a role to make clear laws, to uphold our Constitution and to ensure that we pass laws that are in the public interest and serve the public good —

The Hon. the Speaker: I am sorry to interrupt, Senator Andreychuk.

Honourable senators, there is a disturbance affecting our ability to hear Senator Andreychuk. I ask senators to please take their seats and not make noise.

Senator Andreychuk: I was about to raise my voice, because I think it is a very important issue. I would hope that senators present understand what is at stake.

What is at stake here is our obligation as parliamentarians to pass the kind of laws that can be enforced, that have the public's support, and that do not create divisiveness. Therefore, the committee identified the problem that suppliers of hardware may be caught under this law; and I use that term generically. We want to get at the perpetrators of child pornography. We chose one methodology and proposed our amendment.

The House has chosen to ignore that amendment. I think it is important for the committee to reflect on other methodologies to make that provision certain. Perhaps the minister could come before the committee and say, "I will give a letter of undertaking that there will be resources to educate the courts across the country that our intention was to go after the perpetrators." Perhaps there is some other kind of amendment.

However, it seems to me that this is so critical that we cannot take it as routine business. The House has said to us that it does not accept our amendments, so we should not put in any amendments.

We are referring to children here. If we care about children, let us not politicize the issue, as has happened in the House of Commons. I encourage all of you to read those debates. We all love our children and want to protect them.

Honourable senators, it is good that the Senate can approach child pornography on a non-partisan basis, for we truly care about children and want to make sure that the laws give clear signals. This law does not give a clear signal.

Honourable senators, a recent court case in British Columbia has given the defence of artistic merit to child pornographers. We heard the hue and cry. Some of it was ill-conceived, because it attacked the judge. The judge exercised his discretion appropriately. Perhaps he did not come to the decision that I would have come to, but the reaction in the community was the type of emotional response that I might have considered. The response involved taking action against the judge and his family, which was totally inappropriate.

Therefore, it seems to me that, if we care about curbing child pornography, we must clarify the legislation. The Senate has an opportunity here to really do something about child pornography. Not only could we clarify the legislation, we could examine this particular defence and narrow it from what the court stated.

The court acted appropriately. The court had a series of options. The court took one; perhaps not the one I would have, but it took it. However, Parliament has the right to put its stamp on what it believes is an acceptable defence. We could, today, do a service to people across Canada by utilizing this bill to not only clarify the clause Senator Nolin has pointed out, but perhaps also identify an appropriate defence in that situation, more limited, more proportioned, more balanced and more in the interests of children. We could do it here and we could do it now. We do not need new legislation. We do not need more amendments.

This is a golden opportunity. I appeal to the government side to rethink what the committee has said. All members of the committee took child pornography seriously. The committee believes in creating laws in the public good in a clear manner. That kind of experience can be brought to bear on this legislation now.

• (1430)

Hon. Tommy Banks: Would the honourable senator take a question?

Senator Andreychuk: Certainly.

Senator Banks: Honourable senators, I certainly would not presume to talk about the last part of what the honourable senator said because I do not know anything about the law to speak of. However, the first part concerned broadcasting, which I do know something about.

In these days, the previously clear delineation between broadcasting in what I might call the traditional sense, on the one hand, and broadcasting through the Internet, on the other, is becoming blurred. Proprietors are going back and forth across that line and the line is beginning to disappear.

I have a worry down the line, and I should like you to address your legal mind to it. If we were to preclude charges against people who operate, as you put it, the pipeline, then would it be the case that, sometime down the road, a suggestion might be taken that the proprietor of a traditional broadcasting system — that is, a stick, an operator broadcasting with a stick in the air and not on cable — would not be charged for putting pornography on that stick and broadcasting it into the air, or for putting it through the stick on cable television and on the air in that sense, but that only the producers of the offending materials would be subject to prosecution?

I am looking down the line, but that line is becoming blurred and I have a concern about that potential liability.

Senator Andreychuk: Honourable senators, I do not have expertise in that area either, so we are on an equal footing here.

My understanding, as presented by the government officials and the industry, is that we are talking about those who provide the machinery — that is, the tube. They have no way of knowing what is inside it and are not obliged by law to monitor. For comparison purposes, as Senator Nolin pointed out, both in his speech and in committee, telephone companies provide the telephones and the phone lines. However, those companies are not responsible for what is transmitted, for what is said by one person to another over the telephone.

It is the same case with the new technology. If the hardware provider has no knowledge of what is being transmitted, the provider cannot be held responsible. On the other hand, the fact that you are providing the hardware does not mean that you might not be charged. If the provider knows what is being transmitted and does nothing about it, the provider is guilty. This is not about giving free rein. Providers simply provide the hardware. They are not expected to monitor each and every digital signal, among others. No law obliges them to that.

However, should they come across child pornography, they are responsible for reporting it. If they are child pornographers, they are guilty. The monitoring should be done under the Telecommunications Act; I am told that it would be costly and impossible to monitor otherwise.

Why would we hold accountable those who are providing the machinery that we all want and all use? The provider has no obligation to guarantee what goes on the line. It is different from a broadcaster and a newspaper, but similar in the old days to the telephone. The provider has no more obligation than you and I to know what is being transmitted.

The Hon. the Speaker: Honourable Senator Andreychuk, I regret to advise you that your time has expired.

Senator Andreychuk: Honourable senators, I ask for leave for a short time.

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

Hon. Fernand Robichaud (Deputy Leader of the Government): For a short time, yes.

Hon. Nicholas W. Taylor: Honourable senators, I am having trouble following Senator Andreychuk's argument that the hardware provider should not be responsible. The honourable senator has turned the argument around so that the hardware providers can get away with this. It is similar to the bartender who used to be able to serve all the liquor a customer wanted. A bartender can now be charged for doing so. The honourable senator has opened a bigger hole on the other side than they are trying to close on this side.

Senator Andreychuk: Honourable senators, I am pleased that Senator Robichaud gave me the time to explain. This is precisely the point: Most of us do not know what we are talking about when it comes to that hardware.

Senator Taylor: On a point of order, the honourable senator refers to the pornographers as "he" all the time. I want to make this a sexless argument.

Senator Andreychuk: I thank the honourable senator for pointing that out. Hereon, if I use the pronoun "he," please understand it to mean "he or she."

This is a highly technical area. The question I am now hearing is this: "Why should the provider be exempt?" If we are not going to exempt them, then the government must go back to the drawing table because the government was saying it was exempting them. If we want to have them caught by virtue of supplying the hardware, then we must change this law because it was never the intention of the government to do so.

My concern is that there is this confusion. A telephone company that supplies the lines and the boxes — and, now, the telephones — is not responsible for telephone conversations between people. In terms of the issue we are dealing with, the same argument can be made vis-à-vis the hardware provider. The hardware is installed for transmission purposes. The provider is responsible for maintaining the hardware, so that it works, but is not responsible for monitoring transmission. There are millions of transmissions; it is not the responsibility of the provider — that is, unless the government believes that the suppliers should be held responsible. If so, we will pass a law to that effect.

The government, however, is saying that there is no law empowering providers to monitor transmissions. The government understands why it is virtually impossible to monitor transmissions. The government then introduces proposed legislation to get at child pornographers, saying that it is not going after the transmission, that it would never do that. They are not getting into your debate that they should or should not. They are saying, "We will not," because that is not the intention of the government.

Since there is this much confusion, it is incumbent on the government to have said, "Either we want to trap them or we do not want to trap them." That is the point I am making.

On motion of Senator Kinsella, debate adjourned.

BILL ON ACCESSION TO WORLD TRADE ORGANIZATION AGREEMENT BY PEOPLE'S REPUBLIC OF CHINA

SECOND READING—DEBATE ADJOURNED

Hon. Jack Austin moved the second reading of Bill C-50, to amend certain Acts as a result of the accession of the People's Republic of China to the Agreement Establishing the World Trade Organization.

• (1440)

He said: Honourable senators, the development of a rules-based world trading system, now expressed by the establishment of the World Trade Organization, has been one of the most significant steps taken by the family of nations in setting up and operating their international commerce. The members of the World Trade Organization seek to achieve fairness and equity among nations large and small, rich and poor, and to include all nations within the WTO rules-based agreements.

Members of the Senate know that the WTO is a work in progress and will ever be, but it is also a work that is making progress. One of the key events in the world trading system took place in mid-November of last year in Doha, Qatar, when Canada and 141 other members to World Trade Organization agreed to launch a new round of international trade negotiations. This Doha round is rather ambitiously planned to be negotiated and concluded by the end of 2005.

The Doha round includes in its focus particular attention to the needs of the economically developing nations. It will have important issues to deal with in trade and agriculture, in financial services, and in the use and protection of intellectual property, to name only a small set of key topics.

Some members of the Senate and the other place were invited by the Honourable Pierre Pettigrew, Minister for International Trade, to accompany him to the Doha negotiations last November. Unfortunately, I was not among them, but I hope there will be another day.

Along with Doha, a second and not less significant step forward in the world trading system took place on December 11, 2001, when the People's Republic of China acceded to the WTO and will now play its full and well-deserved role as an emerging global trading player. To move nearer the WTO goal to represent virtually all the key exporting/importing nations in the world economy, there remains the future inclusion of Russia, Ukraine and other nations formerly part of the Soviet Union. Russia has shown clear interest, but its economy is not yet ready to meet both the permanent and transitional criteria of the WTO. I expect that the Standing Senate Committee on Foreign Affairs will, in its forthcoming report to the Senate, have some interesting comments on the Russian economy and its current level of operation.

In admitting China to the WTO, the world trading system is including a member whose GDP was U.S. $1.5 trillion in the year 2000, making China the world's seventh largest economy. China stood, at the end of 1999, as the world's ninth largest exporter with 3.5 per cent of total world exports. To add some general perspective, let me mention China's population, the world's largest, at about 1.3 billion people, 22 per cent of the total world population, and its GDP per capita of about U.S. $3,500. While some communities on the eastern seaboard of China have per capita income exceeding U.S. $10,000, such as Shanghai and Guangzhou, other parts of China can easily be compared to the least developed parts of the world. China's domestic development policy clearly sees its WTO participation as a major step in the economic modernization of China and its objective of reaching effective competitiveness in the world trading system.

In accepting its role as the newest member of the WTO, China has agreed that it will now be subject to, but also have a role in setting, rules for the international trade system. These rules include WTO's internationally negotiated rights and obligations concerning the administration of international trade, and particularly those related to principles of national and most favoured nation treatment, rules for the resolution of trade disputes and commitments for the further liberalization of international trade.

Canada's international trade minister, the Honourable Pierre Pettigrew, stated, on the occasion of the signing of the Canada-China WTO trade accession agreement in November of 1999 in Toronto, Canada's view that:

> The full participation of an economy as important as that of China, which is in full expansion, can only strengthen the multilateral trade system.

I am proud to add that the signing of that bilateral agreement by the Honourable Pierre Pettigrew and Shi Guangsheng, the Chinese Minister of Foreign Trade and Economic Cooperation, took place at the annual meeting of the Canada China Business Council at which time I served as president and Senator Kelleher, a former international trade minister, served as a vice-chairman. The Canada China Business Council was formed in 1978 and is today made up of nearly 300 companies in the Canada-China commercial relationship. The council helped organize and host Prime Minister Jean Chrétien's Team Canada mission to China in November 1994, which included the premiers and territorial leaders and 363 Canadian business executives. The Prime Minister has participated in all Team Canada visits to China, including 1996, 1998 and 2000. The council has also hosted visits to Canada by then Premier Li Peng, President Jang Zemin and Premier Zhu Rongji, as well as many Chinese ministers, governors of provinces and other high officials.

Since 1993, Prime Minister Jean Chrétien has played a leading role in engaging the leadership of China in our bilateral relationship and in encouraging China's entry into the world trading system. Canadian business has also played a significant role, both through the Canada China Business Council and otherwise.

No doubt honourable senators are interested in what China in the WTO and Bill C-50 will do to assist the Canada-China bilateral trade relationship. Thus, I will turn to comment on a number of features; however, I cannot take the time here that will be required to do more than touch on highlights. Senators interested in further detail will, I am certain, avail themselves of the opportunity to attend Senate committee sessions, should the Senate refer this bill to a committee.

Canada and China have taken important steps to enhance their bilateral trade, which stood at about $15 billion in the year 2000. With respect to goods, China's WTO accession provides immediate and permanent tariff cuts on both industrial and agricultural products. Industrial goods will see tariffs decrease in stages, such that by 2010 they will be roughly half of what they were in 1999. The simple average of tariffs on agriculture and agri-food imports into China will fall significantly by 2005 and in some cases will be eliminated completely.

China's service sector has had virtually no foreign participation as a result of policies of protectionism combined with severe regulatory restraint. In the financial services area, the major Canadian banks that are present have had their activities limited to services to foreign clients only. Canada's insurance sector has been allowed two joint ventures with Chinese companies, and their business development is still in its earliest stages. Canadian and other foreign mutual fund companies and investment bankers have been allowed only representative offices and a limited advisory role to domestic companies.

China's entry into the WTO will bring about substantial change and opportunity to Canada's service sector. In many cases, major foreign ownership will be permitted within two to three years, and even wholly owned foreign subsidiaries in two to five years.

It is important to note provisions are included in Bill C-50 to strengthen intellectual property rights, increase transparency of the Chinese legal system and improve investment access in all service sectors, including banking, insurance, other financial services and telecommunications. These are sectors where Canada believes it can add value and effectively compete in the China market.

Another significant modification relates to China's current import quota system, which will be replaced by the WTO system of tariff rate quotas, or TRQs. Under the TRQ system, imports from any exporting company, up to a fixed quota level, will enter at a relatively low tariff rate. A higher tariff rate is levied on any imports over this quota. The World Trade Organization system is designed to give foreign exporters access to a predictable, minimum share of an importer's marketable goods.

• (1450)

China has committed itself to eliminate the quotas that have applied to barley, soybeans, canola, peanut oil, sunflower oil, corn oil and cottonseed oil and to subject them only to tariffs. Tariff rate quotas will govern agricultural products such as wheat, corn, rice, soybean oil, palm oil, canola oil, sugar, wool and cotton.

It is the foundation stone of China's accession to the WTO rules system and it is China's key objective that its commercial system will be the market system, allowing for traded goods and services in virtually all sectors to be determined by market forces. Its past multi-tiered pricing policies are being eliminated.

Unlike many other WTO accession agreements, where only the country acceding to the WTO is required to change its domestic laws and regulations, in the case of China, both Canada and other countries concerned with China's enormous export capacity, based on the size of its domestic market, sought and obtained from China certain rights to invoke safeguards that are China-specific and apply to such circumstances as required rules for a non-market economy in anti-dumping investigations. As I have mentioned, these China safeguards differ from other WTO agreements in that they will be applicable only to imports from China. They will have a lower injury threshold and they will be temporary. The safeguards are based on the high degree of intervention that remains in the Chinese economy on the part of the government sector and are expected to be revised as the market economy in China matures in the years ahead.

It is specifically agreed between Canada and China that the China-specific safeguards will apply for 12 years — that is, until December 11, 2013, Canada will be able to impose special trade measures to protect Canadian industry from injurious surges of imports from China. As well, the anti-dumping provisions in Bill C-50 allow WTO members to use special rules to determine price comparability in an anti-dumping investigation. This rule will be in effect for 15 years, until December 11, 2016.

Perhaps I should make clear that the China-specific measures will not apply to imports from Hong Kong or from Taiwan, which are separate members of the WTO. I should also make clear that the Canadian government does not expect a surge of imports from China, which would require the use of the China-specific safeguards. China has achieved a reasonably open access to the Canadian market, and Canada expects that growth will be within normal trading ranges. Canada also expects to continue its constructive and open relationship with China, which is Canada's fourth largest trading partner after the United States, Japan and the United Kingdom.

Honourable senators, China began its application to join the world trading system 15 years ago in 1986. It is entitled to a further 15 years to bring itself into full compliance with the WTO system. Thirty years to move from a full command system to an open market economy, by comparative standards with any other country, is to move at lightening speed. It took two centuries for Western Europe to develop its market system and at least 150 years for the United States to do so. Nor did those countries have to begin from a per capita base of less than $100 in 1971 dollars. Nor did they have to manage the social, political and economic challenges of the world's largest population. China has to be given credit for its efforts to build its new economic society and for recognizing that it enhances the security of the world community as well its own security to be a full member of the world trading system.

In respect of Bill C-50, I should advise the Senate what laws are herein proposed to be amended. These include the Canadian International Trade Tribunal Act, to create the special procedures for initiating and conducting China-specific safeguard inquiries; the customs tariffs, to allow for the imposition of surtaxes pursuant to a China-specific safeguard action; the Export and Import Permits Act, to allow the addition of goods to the import control list for purposes of enforcing a China-specific safeguard action; and the Special Import Measures Act, to deal with the special price comparability rules that I mentioned earlier.

Honourable senators, in the international business community there remains some concern whether China will honour its agreements. Vice-Premier Wen Jiabao has been emphatic in stating that "China will respect its WTO commitments." He is the senior official with that responsibility. This does not mean that there will be no disagreements; in fact, I believe China will be targeted by a large number of WTO dispute settlement actions. The immaturity of China's administrative and enforcement capacity to ensure WTO implementation, along with the unfamiliarity of thousands of officials in China's judicial systems with WTO requirements, will lead to many problems in the transition years. Yet I believe China will make the adjustments necessary to keep its obligations. In the meantime, there will be many opportunities for trade lawyers and consultants.

Honourable senators, China's economic growth over the last 20 years has averaged more than 7 per cent GDP per annum. World Bank projections for the next 20 years indicate that such growth will continue. For several years, China has been the world's second largest recipient of foreign direct investment, or FDI, after only the United States of America. As well, FDI was up 27.5 per cent annually in the first quarter of this year. The post-WTO foreign investment interest will be maintained as China frees up its economy to foreign participation.

It must be appreciated that China's expanding economy will be one of two or three economies that will provide momentum to the growth of the world trading system and underpin many of the hopes for the success of the Doha round.

Canada's relations with China are strong. Indeed, Premier Zhu Rongji said in Beijing in 1998, at a Canada China Business Council annual meeting attended by Prime Minister Jean Chrétien, that Canada was China's best friend in the developed world. Canada provided the initiative in October 1970 through the leadership of then Prime Minister Pierre Trudeau and then Minister of Foreign Affairs Mitchell Sharpe to find the formula to exchange diplomatic recognition, a first step in removing China from the world isolation that surrounded it. Then Prime Minister Brian Mulroney led a business mission to China in 1986. Prime Minister Jean Chrétien has worked assiduously to engage China in world issues — none less important than the WTO accession.

Today, our future in Canada-China commercial relations is more the responsibility of the business sector. Let us hope and expect that Canadians do not miss this opportunity presented to us.

Hon. Consiglio De Nino: Honourable senators, would Senator Austin take a question?

Senator Austin: I would be delighted to take a question.

• (1500)

Senator Di Nino: When the honourable senator spoke to the China-specific exemptions, he informed the chamber that those exemptions would not apply to Hong Kong and Taiwan. I was confused by the reference to Taiwan. Has the government's policy on Taiwan changed such that Taiwan has been incorporated with China, or is Taiwan still deemed an independent country?

Senator Austin: I thank Senator Di Nino for his question. I do not speak for the government, but I am the sponsor of Bill C-50. I was saying, to make clear as a matter of fact in case anyone could be confused, that the China-specific rules do not apply to Taiwan. There is a connection in that Taiwan was not permitted to become an economic entity under the WTO until China acceded to the WTO. Some people have wondered whether the WTO arrangement with China somehow incorporated Taiwan. It does not. It has its own separate and independent arrangement. I want it to be clear to Canadian business that what concerned us, given China's large domestic market, was the possibility of surges of what, for China, would be incremental exports. This does not apply to Taiwan.

Hon. Douglas Roche: I would like to congratulate Senator Austin on his very interesting speech. It has awakened an explosion of questions in my mind. In the interests of all senators, I will husband my questions into two categories. The first category is China internationally and the second is China and Canada.

Senator Austin made an important point when he compared the growth of China's economy, which is extremely rapid right now, to the two centuries that it took Western Europe's economies to develop to where they are and 150 years for the United States to acquire momentum.

It is 25 years since I first went to China, seeing there a largely agrarian society. In the space of a quarter of a century, to see China now as the seventh largest economy in the world is breathtaking. Today, China seems to be one huge construction camp as there is so much economic activity ongoing.

I am getting to Senator Austin's assessment of the effect of all of this on China's place in the geostrategic balance in the world. What is his view of the role of China in international politics and global security matters, given the enormous rate of growth of China today and the fact that, as has been said, the rate of investment is among the highest in the world? Does he see the new role of China, which is now enhanced by its entry into the World Trade Organization, overtaking Russia's? As Senator Austin very properly noted, Russia is still in an inferior position economically speaking and but for the maintenance of its nuclear weapons would probably be regarded as not much more than a developing country, in strictly economic terms. I do not mean that in any pejorative sense to the Russian culture, which has made an outstanding contribution to the world.

My point is that China's rapid economic growth and Russia's current stagnancy is bringing China front and centre in world politics. Where will that take us?

Senator Austin: Honourable senators, I am very grateful to Senator Roche for his intervention. I will reply in brief at this time with an invitation to Senator Roche to pursue this line of inquiry in the committee, should this bill be sent there. Senator Roche's major premise is absolutely correct. China is emerging as a key global player, both economically and strategically. Economically, China has some distance to go because of its enormous population, and China is preoccupied with its own modernization — with building its own infrastructure, social capital and competitiveness. For those reasons, I feel reasonably assured that China is not interested in being an adversary within the global security system. However, China, in my view, does want to have a significant voice, a voice commensurate with the size of its population and, increasingly, with the size of its economy in the global system.

This very week, as Honourable Senator Roche knows, the Vice-President of China, Hu Jintao, is having meetings in the United States including, I believe, with President Bush in Washington. Those meetings have a larger significance than is appreciated by most of Canadians and the world public. As colleagues here know, when the Bush administration entered office, apparently it wanted to distinguish itself from the Clinton engagement policy with China and sought to declare China a competitor. Of course, the words "engagement" and "partner" on one side and "competitor" and possibly "adversary" on the other are very significant departure points of policy.

The events of September 11 seem to have given the United States pause to reconsider its policy. China has been very helpful to the United States in dealing with the aftermath of September 11. Indeed, U.S. review of its China policy seems to be indicating, given the APEC meeting in the fall of last year in Shanghai and the discussions between President Bush and President Jiang Zemin and other meetings, that a collaborative relationship and one of mutual respect, if not affection, seems to be very much in train.

I believe that world stability has a considerable foundation in the relationship between the United States and China. I also believe that Canada and all prime ministers going back to Prime Minister Trudeau have worked assiduously to engage China, to bring China forward as a collaborative player in the world system, and great success is illustrated by China's accession to the WTO.

As Senator Roche knows very well, China is a permanent member of the Security Council of the United Nations. I believe its role as a permanent member shows that it has a very constructive attitude toward the world system. Although I may not agree with everything that China decides and supports, it is nonetheless engaged in world issues as a responsible player.

In summary, I believe that we have achieved a great deal of advantage for the world system in the way in which China is playing its role, thanks to the attitudes of countries like Canada and their support of China.

Senator Roche: I thank Senator Austin for that informative answer. Senator Austin's answer contained an extremely important sentence, that is, that China has been helpful to the United States, although he referred to post-September 11. In the context of which Senator Austin was speaking, I believe honourable senators will agree that the potential for China to play an important and constructive role in the geopolitical balance in the world and particularly the desire to obtain world stability is of the first order today. This bill will play a part in doing that from a Canadian point of view.

• (1510)

I shall now turn to my second question. It was Canada that was in the first row in the recognition of China. Here we should remember the foresight of Prime Minister Trudeau. Prime Minister Mulroney and Prime Minister Chrétien followed up on the actions of Prime Minister Trudeau. The run of Canadian prime ministers has fully understood the potential of China not only for its position in the world, but also for the enhancement of Canadian trade.

I believe it was in the 1970s that the Canadian International Development Agency opened a program in China. Many wondered why CIDA would go into China and what difference it would make, because of the enormity of China to begin with and, in quantitative terms, the smallness of the actual dollar figure of the CIDA program. When one considers that one of the roles of CIDA is indeed to anticipate future trading growth, then one can see that it was a wise decision for CIDA to go into China.

In answering this question, I should like Senator Austin to put his answer in the framework of the development model that China used. Whereas countries such as India chose an industrial model upon which to build their economy and let the agrarian economy fend for itself, China went the other way. China put its resources that were limited at the time into the agrarian development and agriculture.

The Hon. the Speaker: Senator Roche, I will advise you that the rules provide for a comment or question. However, in light of the signals I am getting, I wonder if I could ask you to get to the question.

Senator Roche: Honourable senators, Senator Austin will realize that I was framing the question to allow him to draw upon the resources that are in his mind to give a satisfactory answer on Canada-China relations.

In the agrarian development of China, it has now been proved that that model of development has brought them to a point where they can industrialize at a rapid rate, and that is what Senator Austin said.

With this in mind, what is the intention of the government with respect to the continuation of any CIDA programs in China? Will they be needed? Will CIDA be lost in the welter of the growth of the Chinese economy? In what manner will Canada try to use its enhanced access to the Government of China to further China-Canada relations?

Senator Lynch-Staunton: "Yes" or "no."

Senator Austin: Honourable senators, this bill deals with Canada's trade relationship with China. Senator Roche is asking me questions that range widely on the general subject of the development of China and the Canada-China relationship.

In brief, I believe, as does Senator Roche, that CIDA has played a significant role in the Canada-China relationship and that it has been targeted in the right sectors: the rural economy of China, the alleviation of poverty and a special support to those parts of the Canadian business sector that can carry out CIDA's objectives.

In response to the question of which is the right way to go, China's prime mandate was to feed its people. Historically, this has been an enormously difficult problem in China, one that has been solved by China's policies and the assistance of the world.

I need only mention, in the same bipartisan way that I believe this bill demands that we treat it, that it was in 1960 that Canada provided China with the first assistance to purchase wheat, at a time when China's population was suffering from deprivation.

Senator Lynch-Staunton: Name the minister.

Senator Austin: I should be delighted to name the minister, as Senator Lynch-Staunton has requested. Mr. Alvin Hamilton was the Minister of Agriculture at that time. I am happy to also acknowledge that this program was established under the Right Honourable John Diefenbaker. This was a policy correctly decided and carried out in 1960. The point I wish to make again is that we have seen a number of prime ministers of Canada recognize the importance of China. Our policy towards China has not been partisan.

Finally, this bill was specifically drafted to put in place provisions to protect Canadian industry. While nothing must be done immediately in the event that something unexpected happens, Canadian industry would like to see these provisions implemented soon. These are the domestic industries of Canada that might, under certain circumstances, be adversely affected by import surges.

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

[*Translation*]

THE SENATE

COLOMBIA—RESOLUTION OF CONCERN OVER VIOLENT EVENTS AND RECENT THREATS TO DEMOCRACY—MOTION—DEBATE ADJOURNED

Leave having been given to proceed to Item No. 138 on the Orders of the Day:

Hon. Céline Hervieux-Payette, pursuant to notice given May 3, 2002, moved:

Recognizing the important efforts made by the Colombian government to seek a lasting peace for the people of Colombia;

Regretting the breakdown in the peace process;

Stressing that the protection of Colombia's civilian population remains a primary concern;

Noting that the intensification of violence since the breakdown in the peace negotiations between the Government of Colombia and the Revolutionary Armed Forces of Colombia (FARC) is seriously undermining the legitimacy of the electoral process; and

Considering that attacks by the armed actors, including the abduction of Presidential candidate Ingrid Betancourt on February 23, 2002, and plots to assassinate other leading candidates, are compromising the democratic process in Colombia;

The Senate of Canada

Expresses concern regarding the violent events and recent threats to democracy in Colombia;

Urges the Revolutionary Armed Forces of Colombia (FARC) for the immediate and unconditional liberation of all hostages that remain kidnapped, including Mrs. Betancourt and her assistant Clara Rojas; and

Calls on all parties to respect their obligations under international humanitarian law and to take steps leading to a negotiated and just peace, that will provide a secure future for all Colombians and end the armed conflict; and

That a Message be sent to the House of Commons informing that House that the Senate has passed this Resolution and requesting that House to unite with the Senate therein.

She said: Honourable senators, almost two years ago, we created the Inter-Parliamentary Forum of the Americas. If we are serious, we have a duty to take part in the activities of a group that will work for the advancement of the Americas. We also have a duty to help consolidate the democratic process of one of the team members.

• (1520)

I drafted this motion so that Canadian parliamentarians could send a clear message about the parliamentary process, which begins with free elections in which citizens are allowed to take part without constraints or threats.

Honourable senators, it is in this spirit that I seek your support.

[*English*]

Hon. A. Raynell Andreychuk: Honourable senators, I, too, wish to say a few words on this motion. First, I wish to thank Senator Hervieux-Payette for bringing the motion forward. As most of our attention in the recent past has been on the Middle East and Afghanistan, it is only right that we look to all difficulties around the world, and Colombia has certainly been facing them for many years as the motion and its preamble point out.

The preamble to the motion fairly states the issues. As honourable senators know, one of the presidential candidates, Ingrid Betancourt, along with her assistant, have been abducted. To date, there have been no successful efforts to free them, nor, for that matter, many other hostages. As we all know, hostage taking is a recurring event in Colombia.

Canada continues to be a key player, and I commend the government for its actions in that regard. I also want to commend the Canadian embassy in Colombia. The people who work there actually put their lives on the line. There is very little security in Colombia and it is most difficult for our embassy staff to do the kind of work we can do in other countries. I believe they are often under threat.

In Colombia, altercations often occur between paramilitary groups and revolutionary groups. NGOs have been trying to work with civilians to ensure safe passage. I am speaking of the traditional NGOs with which we in Canada are familiar, along with some of the newer ones, such as Peace Brigades International. Because of the involvement of civil society and the Canadian government it is important that Parliament note the situation and express its concern, as Senator Hervieux-Payette has outlined in her motion.

MOTION IN AMENDMENT

Hon. A. Raynell Andreychuk: Honourable senators, having said that, I should like to move an amendment to the motion. I move:

That the motion be amended by adding the following after the last paragraph:

That the Speaker of the Senate transmits this Resolution to the following authorities:

1. The Canadian Ambassador to Colombia

2. The Canadian Ambassador to the Organization of American States — OAS

3. The President of the Colombian Senate.

Senator Hervieux-Payette is in agreement with my amendment, which simply elaborates on what she has indicated.

With that, I trust all senators will be supportive of this resolution.

The Hon. the Speaker: Honourable senators, is the house ready for the question?

Hon. Anne C. Cools: Honourable senators, it seems to me that there is quite a substantial initiative before us. I was hoping we could have some more debate on the subject matter.

The Hon. the Speaker: Does the Honourable Senator Cools wish to speak?

Senator Cools: This is somewhat unusual, honourable senators. There is a motion before us. As soon as the motion was brought before us, a motion in amendment was introduced.

The Hon. the Speaker: I think I follow the Honourable Senator Cools. Please take your seat.

Is the house ready for the question?

Some Hon. Senators: Yes.

Senator Cools: On what?

The Hon. the Speaker: To respond to the question of Senator Cools, I am asking if the house is ready to deal with the vote on the motion in amendment proposed by Senator Andreychuk, seconded by Senator Hervieux-Payette.

Is the house ready for the question?

Senator Cools: No. We do not have copies of it.

Senator Di Nino: Adjourn the motion if you like.

Senator Cools: It would be nice to debate it.

The Hon. the Speaker: Senator Cools, I understand what you are saying. It is up to the house to decide whether or not it wishes to deal with the question.

Senator Cools: I will take the adjournment of the debate, then.

On motion of Senator Cools, debate adjourned.

FOOD AND DRUGS ACT

BILL TO AMEND—THIRD READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Cook, for the third reading of Bill S-18, to amend the Food and Drugs Act (clean drinking water).—(*Honourable Senator Sibbeston*).

Hon. Thelma J. Chalifoux: Honourable senators, I rise today to support Bill S-18. First, I would like to express my appreciation to Senator Grafstein for having the foresight and courage to address this most important issue facing all Canadian communities.

Water is our staff of life. Without it, or if it is polluted, we die. As Senator Banks stated in his remarks, we ingest water, along with all foodstuffs. Government regulations state that anything that is ingested must be safety approved. We ingest water.

I will not repeat what my other colleagues have stated. However, I will tell honourable senators why it is so important for us to support Bill S-18.

During the 1970s, I was living and working in the Lesser Slave Lake area of Northern Alberta. It was common knowledge that six to 12 babies died every year in Wabasca from an intestinal disease called shigella and other parasitic diseases. Many other children and elders died because they ingested the water from the Wabasca River and the lake.

These babies were sent to Edmonton for autopsies and then shipped back home by bus in cardboard boxes without even having their little cut-up bodies repaired. My youngest son was infected with diphtheria and spent a long time in the hospital. If water had been included in the Food and Drugs Act as a commodity that we ingest, just maybe some of our babies would be alive today.

To the best of my knowledge, water quality in the Wabasca area has improved somewhat. However, there are many reserves and Aboriginal communities that are still ingesting bad water.

A 1995 Health Canada report found that 171 reserves, which means one in five, had unsafe water systems. Some of the northern reserves do not even have water. These statistics have not changed to this day. We suffer beaver fever, which is a chronic, debilitating affliction caused by unsafe water. The Yellowquill First Nation in Saskatchewan has been forced to boil their water since 1995.

If we are to make positive changes to the health of all Canadians, we must support Bill S-18. Water is truly our staff of life. We ingest it every day. Aboriginal communities are a large part of the Canadian mosaic, yet it appears our communities are the most neglected.

With the passing of Bill S-18, we will be better able to make the necessary improvements to water quality without challenging provincial jurisdictions. Dr. Schindler, the world renowned environmental expert, continues to remind us that, yes, we need watershed management across constitutional lines, but first and foremost we need to address the burning issues of public health arising out of bad drinking water in every region across Canada.

To do nothing, to delay, is to convert this festering problem of public health into a national tragedy. This, we cannot afford.

I urge all senators to support Bill S-18.

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

• (1530)

FEDERAL NOMINATIONS BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Stratton, seconded by the Honourable Senator Cohen, for the second reading of Bill S-20, to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions.—(*Honourable Senator Cools*).

Hon. Anne C. Cools: Honourable senators, I rise to speak to second reading of Bill S-20, to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions.

Honourable senators, Bill S-20 is wholly concerned with Her Majesty's Royal Prerogative, in particular, the prerogative of making appointments, the prerogative known as the patronage of the Crown. Consequently, it needs a Royal Consent from Her Excellency the Governor General Adrienne Clarkson for Parliament to even consider and debate this bill.

Honourable senators, on several occasions I have raised the question of the need for Royal Consent to this class of bills — bills that touch the prerogative law-making interests of the sovereign, the Queen. Some of us have been proved right on many occasions. In June 2000, the Senate debated the clarity bill, Bill C-20. At that time we raised this very question, asserting that Bill C-20 then required the Royal Consent.

To that end, on June 20, 2000, a point of order was raised on that very point. The Senate Speaker, Senator Molgat, never answered the question, but the politics did. We were right. Bill C-20 required the Royal Consent.

Some days later, on June 29, 2000, Senator Boudreau, minister, Leader of the Government in the Senate, gave the Royal Consent here. Similarly, a year or so later, I insisted that Senator Lynch-Staunton's Royal Assent bill, Bill S-13, in its last reincarnation, needed a Royal Consent. On October 2, 2001, Senator Lynch-Staunton withdrew his Bill S-13. That same day, the government, in the person of Senator Sharon Carstairs, introduced its own Royal Assent bill having the same objective, being Bill S-34, respecting Royal Assent to bills passed by the Houses of Parliament.

On October 4, 2001, as she moved second reading — and this is important — Senator Carstairs, Leader of the Government in the Senate, signified the Royal Consent. That Royal Consent had been obtained by Her Majesty's ministers even before the bill was introduced for first reading in this chamber. Upon moving the motion for second reading, Senator Carstairs said in part:

> I have the honour to advise this house that:
>
> Her Excellency the Governor General has been informed of the purport of this bill and has given consent, to the degree to which it may affect the prerogatives of Her Majesty, to the consideration by Parliament of a Bill...

Honourable senators, I come now to Senator Stratton's Bill S-20. Senator Stratton is a private member and an opposition member. In response to a point of order raised June 5, 2001, by Senator Joyal, the Senate Speaker, Senator Hays, ruled on October 25, 2001, that Bill S-20 did need a Royal Consent. He stated at page 1490 of the *Debates of the Senate*:

> Having now arrived at the conclusion that Bill S-20 affects the prerogative, I must conclude that it requires the Royal Consent.

Obviously, honourable senators, Bill S-20 needs the Royal Consent. The matter is therefore settled. The only outstanding question now before the Senate is how and when Senator Stratton proposes to obtain that Royal Consent. Her Majesty's ministers are known and chosen by her, and known to have ready access to Her Majesty. However, that is not the case in the instance of a private member or member of the opposition. They have no such access to the Crown. There are many precedents in parliamentary jurisprudence that inform of the procedure for members of the opposition to follow to obtain the Royal Consent.

Honourable senators, I assert yet again that Bill S-20 requires the Royal Consent prior to its second reading vote. This is a prescribed procedure laid down by the two fundamental laws, the law of Parliament, the *lex parliamenti,* and the law of the prerogative, the *lex praerogativa*. The authorities and parliamentary jurisprudence dictate this. I shall repeat some of these authorities on the need for Royal Consent. First, *Beauchesne's Parliamentary Rules & Forms*, sixth edition, paragraph 727(1) states:

> The consent of the Crown is always necessary in matters involving the prerogatives of the Crown. This consent may be given at any stage of a bill before final passage; though in the House it is generally signified on the motion for second reading. This consent may be given by a special message or by a verbal statement by a Minister, the latter being the usual procedure in such cases.

I repeat, "by a minister."

> It will also be seen that a bill may be permitted to proceed to the very last stage without receiving the consent of the Crown but if it is not given at the last stage, the Speaker will refuse to put the question. It is also stated that if the consent were withheld, the Speaker has no alternative open except to withdraw the measure.

Honourable senators, I shall speak to this outstanding question of obtaining Royal Consent by private members, as is the case of Bill S-20. As was shown by Senator Bernard Boudreau, a minister, and Senator Carstairs, a minister, the Royal Consent must be announced in this chamber by a minister, a member of the Privy Council. They were both members of the Privy Council. That is one of the reasons that the Government Leader in the Senate must be a minister of the Crown and must be a privy councillor.

The process of obtaining the Royal Consent by a private member, however, is different from the process of obtaining that consent by a minister of the Crown. A private member can only obtain the Royal Consent by an address, that is, by moving a motion for an address of the house to Her Majesty, or to Her Majesty's representative, praying for her approval, her Royal Consent, to place the issues before Parliament.

For those honourable senators who may not know what an address is, an address is the peculiar name for a motion and the peculiar name for a conversation with the sovereign, with Her Majesty in this instance, Her Majesty's representative being the Governor General.

The private member's first task is to ask the Senate and all its members, by motion, to agree to seek the Governor General's approval. If the entire Senate gives such approval, the Governor General must then agree to the address and then indicate that agreement by a message to the Senate. That message must be indicated to all honourable senators. The authorities tell us this. Beauchesne's, sixth edition, paragraph 728, states:

> In any case where a private Member wishes to obtain the consent of the Crown, the Member may ask the House to agree to an Address for leave to proceed thereon before the introduction of the bill.

Sir John George Bourinot in his *Parliamentary Procedure and Practice in the Dominion of Canada,* fourth edition, 1916, said the same, that:

> In any case where a private member wishes to obtain the consent of the Crown, he may ask the house to agree to an address for leave to proceed thereon, before the introduction of the bill. The consent should be properly given before the committal of the bill...

I repeat: "The consent should be properly given before the committal of the bill..." For those honourable senators who do not know, "committal" means referring the bill to committee.

These parliamentary authorities are unanimous that on the law of Parliament, the *lex parliamenti*, the parliamentary procedure dictates that private members must move a motion to secure the agreement of the house to seek leave of the Governor General to proceed to introduce, consider and debate the bill.

Honourable senators, every single senator here has a right to debate and vote on such a motion address asking the Governor General to agree. Any attempt to deprive any senator of that is a breach of privileges and a contempt of Parliament. To do so is to breach the law of Parliament and Parliament's privileges. The process for determining the need for Royal Consent is the very debate on the motion for the address itself, a fact that seems to elude Senator Stratton.

• (1540)

The debate on the address is the parliamentary procedure for making the determination of Parliament's will for asking the Governor General's agreement. It is not good enough to say, "Send the bill to committee." This chamber alone can make that determination. The method, the procedure and the proceedings for making such a determination are the debate and the conclusion on a motion for an address.

Honourable senators, I speak now to the fact that the sponsor of Bill S-20 is not only a private member but is also a member of the opposition. I shall come to the peculiar issue involved here for opposition members. For opposition members seeking the Royal Consent, the parliamentary procedure for a motion for an address to Her Majesty becomes even more compelling and absolute. The two most famous precedents in parliamentary jurisprudence on addresses from opposition members are the 1868 instance of William Ewart Gladstone in the United Kingdom's House of Commons and the 1911 Lord Lansdowne instance in the House of Lords.

In the first instance, being May 7, 1868, William E. Gladstone, while in opposition — the operative point is while being on the opposition benches, not in government because an opposition member has no access to Her Majesty, whereas government ministers do. Mr. Gladstone, while in opposition, moved an address to the House to Her Majesty the Queen for the Royal Consent. In England, they call it "Queen's Consent." Here, we call it the "Royal Consent." Mr Gladstone said:

> ...in this instance, the case is different. The interest of the Crown is in this case not merely a proprietary interest, but one of wide and far-reaching import; and also this is a Bill which, although it is not proposed by the Government, would be, I may say, proposed on behalf of a very large proportion of the Members of this House, acting together —

The Hon. the Speaker *pro tempore***:** Honourable Senator Cools, your time has expired. Do you wish to ask for leave? You have already spoken on this bill, so you had nine minutes.

Hon. Terry Stratton: I should like to move adjournment of the debate in the name of Senator Tkachuk.

The Hon. the Speaker *pro tempore***:** It is moved by the Honourable Senator Stratton, seconded by the Honourable Senator Kinsella, that the debate be adjourned in the name of Senator Tkachuk.

POINTS OF ORDER

Hon. Nicholas W. Taylor: Honourable senators, I rise on a point of order. The honourable senator has proposed a motion to adjourn the debate prior to the Speaker asking the house for permission for Senator Cools to speak longer.

The Hon. the Speaker *pro tempore***:** I did not hear Senator Cools ask for leave to continue, so I took the motion to adjourn.

Hon. Anne C. Cools: Yes, I had asked for leave. I happily ask for leave.

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

Some Hon. Senators: No.

The Hon. the Speaker *pro tempore*: Leave is not granted.

Senator Taylor: You are a good sport, aren't you.

The Hon. the Speaker *pro tempore*: There is a motion to adjourn.

Senator Cools: I rise on a point of order. My point of order revolves around the proceeding before us, being Bill S-20. Bill S-20 tells us that it is a bill intended to alter, reform and to change the manner and the mode in which major appointments are made. In fact, honourable senators, the summary of the bill reads, in part, as follows:

> It establishes a committee of the Queen's Privy Council for Canada to develop public criteria and procedures, provides a process to identify and assess candidates and provides for parliamentary review of appointments.
>
> Appointments to the positions of Governor General, Chief Justice of Canada, Speaker of the Senate, Lieutenant Governor of a province, Commissioner of a territory and to the Supreme Court of Canada and the Senate must be reviewed.

We have here a bill that proposes to alter or correct or reform or change the mode and the method of making appointments in this country.

As we will all know, honourable senators, the Speaker of the Senate has properly ruled in a previous ruling that Bill S-20 needs the Royal Consent; that is the very foundation on which I raise my point of order.

I should be happy to give a particular piece of parliamentary jurisprudence. The eminent Lord Lansdowne, who, as we know, was one of the pre-eminent experts on Parliament, spoke eloquently on March 30, 1911, about the question of obtaining the Royal Consent by an opposition member. What we have before us, honourable senators, is a bill that needs a Royal Consent; the member who is proposing the bill has no means of obtaining such Royal Consent. Therefore, this chamber procedurally has to deal with the question of how this bill will be moving ahead.

The question that I am asking His Honour to rule upon is precisely that. What is the proper parliamentary procedure under the law of Parliament for a member of the opposition to obtain the Royal Consent? It is not satisfactory for any member of the opposition to allow this chamber to believe that mysteriously, somehow or other, the Royal Consent is going to spring out of the air and land on his or her Bill S-20.

It is clear, it seems to me, that this bill has been around for about a year and that if the government had any intention of assuming the bill to itself it would have risen in this chamber and indicated that it intends to give such —

The Hon. the Speaker: Senator Cools, another matter of order has intervened.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I do not believe an honourable senator can raise a point of order when the point of order itself is out of order. The point of order that is being made presently contravenes what is found in Beauchesne, on page 96, of the sixth edition. Paragraph 317, subparagraph 4, reads, in part, as follows:

> Points of order or questions of privilege may not be raised when the House is debating a motion for the adjournment...

There is a motion on adjournment before us.

Senator Taylor: Adjournment of the house.

The Hon. the Speaker: If I could interrupt honourable senators, to try to see where we are in terms of the road ahead of us. Senator Cools did rise after the motion to adjourn was put. A point of order has been raised as to orderliness of raising a point of order when a certain matter is before the Senate, namely, the question of whether or not debate should be adjourned.

I would ask the Table for a copy of Beauchesne, to confirm Senator Kinsella's reference.

Senator Taylor, we are on that point of order now. Did you wish to comment on that point of order, Senator Taylor?

Senator Taylor: Prior to that, I did not see how someone who had made a motion could adjourn the debate to stifle debate or stop a question being asked.

Senator Kinsella: That was Senator Tkachuk.

Senator Taylor: This is Senator Stratton's motion; therefore, he should not have his hands on it as far as adjourning the debate. Admittedly, he is assisting the house leader, but I do not think the power has gone to his head. Beauchesne-wise, he should not have the right to close off debate by adjourning his own motion when he is getting the worst of it.

• (1550)

The Hon. the Speaker: On the point of order that Senator Kinsella has raised, I am not sure that Senator Taylor addressed it, but we will be generous. On that point of order, Senator Cools may speak.

I should also set a time frame within which I would hope to hear the three matters raised before us. Perhaps they can be dealt with expeditiously. I will hear from the senators who have raised the matters. I will hear other senators once and then go back to the other senators to hear them again. I will then either take the matter under consideration or deal with it today.

I have heard Senator Kinsella on the point of order. I have heard Senator Taylor. I will now hear Senator Cools.

Senator Cools: I will be interested in learning the manner and method of determining whose point of order takes precedence over whose. If we are looking at points of order, I had the floor with a point of order. If we have many emerging points of order, perhaps we should set them up and deal with them consecutively, beginning with the one first raised. Under that scenario, we would move to the next point of order after the Speaker has ruled.

It seems to me that we simply cannot have two points of order proceeding at the same time.

My point of order preceded the others. As a matter of fact, the question that is being raised, as far as I am concerned, is an attempt to interrupt, to stifle and to end debate. It is not a question of a point of order. It is a well-established principle in this place that points of order are not supposed to be used to end debates. They may be used to prolong debates. They may be used to filibuster. They may be used to do many things, but they should not be used to end debates.

In addition, we also have this very important point: I had asked for leave to speak longer, to have my time extended, when Senator Stratton rose. He did not answer the question being put to the chamber, which was whether or not I should have leave to complete my remarks. He was attempting, quite frankly, to supersede that question being put to the chamber by immediately attempting to adjourn the debate.

If we are talking about order, we should sort it out. The fact is that the point of order that I raise is the important question that is before us, that is, that a bill is proceeding before us improperly, in violation of the law of Parliament and the centuries-old rules of this place. That is my point of order.

It is improper for Your Honour, Senator Kinsella or anyone else to attempt to use a point of order to displace a first point of order. It is simply not in order.

Senator Taylor: She has a point there.

Senator Cools: It is not in order. I am curious why it is that Senator Stratton is not willing to hear these arguments.

The Hon. the Speaker: Senator Cools, I will try to deal with some of the issues before us so that we can get down to a specific issue.

Senator Cools, I will not be long. You will be able to speak again.

Senator Lynch-Staunton: Take your time. We need a soothing voice.

The Hon. the Speaker: I will dispose of several of these matters. One is the right of a senator to rise to adjourn a debate in someone's name. Senator Taylor has raised an objection to that practice. I will say that Senator Taylor's objection is not valid.

I will ask Senator Taylor to listen to me. Perhaps it will help us if he does.

That is not a valid objection because the motion to adjourn is not a debatable motion. We have that rule to prevent a senator from participating in a debate more than once. Senator Stratton, although he has spoken to the bill, was not in a position to do that. Accordingly, I do not believe there is anything wrong — and I so rule — with his moving adjournment of the debate.

The other matter I should like to dispose of is Senator Kinsella's issue of whether it is in order to raise a point of order when we have a matter before the house. The matter is the motion to adjourn of Senator Stratton.

I have not had a chance to spend much time on it, but it is getting late on a Thursday afternoon, and I will dispose of it by allowing Senator Cools to proceed with the point of order she has raised. However, I would point out to Senator Cools that we have had a ruling on this — although I have not read it recently — and if memory serves me the last few lines of the ruling indicate that it is in order to proceed with debate on this, even though the matter is one that would require Royal Consent before becoming law. However, I should be cautious in commenting on the ruling.

In any event, for you to have a point of order — and I will listen to you for a while — we need something new. Otherwise, the matter has been ruled on.

Therefore, I will hear Senator Cools finish her remarks. I will go to other senators wishing to comment, and then I will either take it under advisement or rule.

Senator Cools: Thank you, Your Honour.

The point on which I am raising my point of order has not been addressed in the particular ruling. In support of that, I should like to offer Lord Lansdowne and his great contribution on parliamentary jurisprudence on the questions of opposition members and how they obtain the Royal Consent. On March 30, 1911, Lord Lansdowne in opposition in the House of Lords said:

> ...it is certainly a breach of the law of Parliament to pass through either House a bill affecting the Prerogative of the Crown without the assent of the Crown. I do not think any one will dispute that. We also conclude from these precedents that, although this assent may be signified at any stage, it is the proper course to obtain it before the introduction of the Bill. But we draw this further conclusion in reference to cases where the Bill is introduced...not by the Government, but by the Opposition. The case of the introduction of such a Bill by the Opposition is clearly a different case from the introduction of a similar Bill by the Government, because it is perfectly fair to assume that if the Government makes itself responsible for the Bill it can at any moment count upon the assent of the Crown. That, of course, is not true when the Bill is moved from the Opposition side of the House....

Lord Lansdowne continued:

> We therefore draw the conclusion that if a Bill affecting the Royal Prerogative is brought forward by the Opposition it is indispensable that the Royal Assent should be signified before the Bill has been actually introduced, and, my Lords, that is the course which we propose, with the permission of the House, to adopt this evening.

The Hon. the Speaker: Senator Cools, the matter of when the Speaker has heard enough to make a determination on a point of order is in the discretion of the Speaker. We have no 15-minute rule or whatever.

I will exercise discretion here. I request that you sum up your arguments in the next five minutes.

Senator Cools: I am planning to finish in the next minute.

What I was trying to say, honourable senators, is clear and well established by the parliamentary jurisprudence, that very clearly a Royal Consent is needed and that the government has the ability to bring forth a consent, but the opposition has no such ability.

I am attempting to say that, in the name of the law of Parliament and in the name of the law of the prerogative, it is the duty of Senator Stratton to inform and to indicate to this house how he intends to obtain the Royal Consent as a member of the opposition. All the jurisprudence shows very clearly that the Royal Consent should be introduced earlier than later, and when it is to be introduced later it is only done so because it is being introduced by the government.

My five minutes are not up, Your Honour.

Therefore, I am trying to say that there are two systems of the law. Furthermore, I should like to say on this particular matter that what I am outlining is nothing that has been created. This is not a piece of fiction. I am talking about the law of Parliament, which is the law that governs how we proceed and how we conduct ourselves here. These two systems of law buttress and protect each other. I am saying that it is a violation of the law of Parliament to have a bill proceed in this way, knowing that it needs the Royal Consent. His Honour has already ruled that it needs the Royal Consent. The sponsor of the bill continues to be disinclined to inform senators as to how he intends to proceed to obtain that Royal Consent. He is asking for our support on the bill. First, he must tell us how he will get that Royal Consent. That is the proper and the parliamentary thing to do.

• (1600)

Hon. Marcel Prud'homme: Your Honour just said that you can exercise your prerogative. I am inclined to believe that. Maybe at this time Your Honour would like to take everything that has been said into consideration and render a decision next week. I am sure that will meet with the approval of all senators. We can then proceed with today's Order Paper.

Senator Kinsella: Honourable senators, I simply want to place on the record that we disagree that there is a point of order here. We disagree with the arguments that have been proffered by Senator Cools. It is our view that Bill S-20 does not require Royal Consent. In the alternative, even if it did, former Speaker Molgat has ruled on this type of matter.

Further to that, it seems to me that an honourable senator has forfeited a claim to speak to the form of the bill when they spoke at great length to the substance of the bill and have held the matter adjourned in their name for some 27 days. For all of those reasons, I would urge His Honour to rule that there is no point of order.

Senator Taylor: The honourable senator obviously has a point in that 27 days have gone by. Maybe we felt that he would not be so brash as to try to push it again.

Nevertheless, in support of my colleagues, I would ask honourable senators to look at page 173 of Beauchesne's, paragraph 559, which states that:

> *Dilatory* motions are designed to dispose of the original question either for the time being or permanently.

We all know if one takes the adjournment in this house, one can sit on it until the cows come home.

Later, that same paragraph states:

> Adjournment motions are in this class because they may sometimes be used to stop a debate which will never be resumed.

I know my honourable friend across the floor. I think that is exactly the egg he was trying to hatch.

The Hon. the Speaker: Honourable senators, I have not had a chance to reread the ruling I gave on this matter. I will take a look at it. A couple of new issues have been added. I will look at those as well and come back to the house as soon as I can with a ruling on the questions that have been put before us.

Debate adjourned to await Speaker's ruling.

[*Translation*]

SURVEY OF MAJOR SECURITY AND DEFENCE ISSUES

REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE — DEBATE CONTINUED

On the Order:

> Resuming debate on the consideration of the Fifth Report (Final) of the Standing Senate Committee on National Security and Defence entitled: *Canadian Security and Military Preparedness*, deposited with the Clerk of the Senate on February 28, 2002.—(*Honourable Senator Atkins*).

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, Senator Lapointe wished to comment when debate on the Report of the Standing Senate Committee on National Security and Defence resumed. The debate will then be adjourned in the name of Senator Atkins.

Hon. Jean Lapointe: Honourable senators, I do not understand much of what has just happened: when it comes to crossing the T's and dotting the I's in regulations and such, I find that it takes up far too much time. My remarks will be brief. I would probably need to study for another 25 or 30 years to understand half of what Senator Cools does.

I am annoyed that we waste so much time on crossing T's and dotting I's on regulations. This comes back to my aversion to wasting time. People should meet and discuss this in private instead of wasting everyone's time. Those who are present and who have things to say end up speaking at the end of the day when there is nobody left to hear them. Senator Cools will tell me that I do not have much experience! I know, but at least I have not wasted much of the Senate's time until now, or at least, I hope not.

Honourable senators, despite the many speeches, some of which were very judicious and interesting speeches, and some of which were quite long and boring, and despite my reticence against this government investing billions of dollars in the armed forces, I believe that it is necessary for me to speak to this.

However, it seems to me that if billions of dollars were to be used to do justice to our doctors, nurses and health care workers, the public might be much better off.

For myself and for a large number of Canadians, Canada's role on the international scene has for decades been that of a pacifist, and I hope that it will remain so. I personally do not know any enemies to our country.

Why should Canada invest enormous amounts of money to please our neighbours south of the border who, over the years, have made countless enemies? Must we always follow the one-sided policy of domination of the U.S. imperialist? We live in a country that is ours and I deplore the fact that, unfortunately, we are all too often at the mercy of the decisions made in Washington.

As former Minister of Foreign Affairs Lloyd Axworthy recently said:

> The worst thing that we can do is go along hand in hand with the United States...This would definitely put us in a position of subordination.

Honourable senators, I have a question in my mind. Are we not a nation? Are we not big enough to conduct our own affairs as we deem fit? I am simply asking the question.

Sure, the United States is a powerful nation and is our ally, but must we always yield to the President of the United States, to the U.S. strategists or to the governors of the various states? Heaven knows that some of them are very narrow-minded and cannot see beyond their limited intelligence.

In conclusion, I agree that the current context is difficult, but for heaven's sake, let us show some backbone!

On motion of Senator Atkins, debate adjourned.

• (1610)

ADJOURNMENT

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

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

> That when the Senate adjourns today, it do stand adjourned until Tuesday, May 7, 2002, at 2 p.m.

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

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, May 7, 2002, at 2 p.m.

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