



CANADA

# Debates of the Senate

---

1st SESSION

•

37th PARLIAMENT

•

VOLUME 139

•

NUMBER 114

---

OFFICIAL REPORT  
(HANSARD)

**Wednesday, May 8, 2002**



THE HONOURABLE DAN HAYS  
SPEAKER

## CONTENTS

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

---

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

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



## THE SENATE

Wednesday, May 8, 2002

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

Prayers.

[Translation]

### SENATORS' STATEMENTS

#### SITUATION IN THE MIDDLE EAST

**Hon. Lucie Pépin:** Honourable senators, in connection with the crisis in the Middle East, I recently received an intensely emotional e-mail and would like to share some excerpts from it with you. The writer, Magda Nicola, is a Canadian of Middle Eastern descent who lives in Ontario. The message she has sent to her friends is an appeal to step up the efforts to restore peace in the region. I will read a few passages from it:

[English]

Ultimately, for many of you to whom I am sending this e-mail, peace in the Middle East will not affect you personally. You may have to pay more petrol, or you may have to cancel your long awaited trek through Egypt, but for me, it's different. It is my father's birthplace and...I still have a great deal of family residing there.

I live with a constant nagging of fear that my cousin, or my aunt, or other close family members will be injured, or killed simply because they happen to be in the wrong place at the wrong time. I live with a constant nagging fear that I will never have the chance to see my cousins, my aunts, uncles, or other close family again. Every morning I wake up and I realize only when I don't hear it, that I've been holding my breath for bad news coming from cities and towns where my family lives....

Do you remember how you felt on 9/11 when you heard about the atrocious attacks in the U.S.? Do you remember the absolute panic you felt when you started to think about the people you knew who could have been affected? Do you recall how helpless you felt, and how you felt when you realized that everything you knew to be safe suddenly wasn't.

It's a terrible feeling. Please remember that when I hear of a suicide bomb in a city or town where my family lives that is how I feel. Every single time. Please remember that every single person who has family residing in Israel or Palestine feels that way. Every single time a bomb goes off, a shot is fired, a house is bulldozed, or people are rounded up. Please remember that every single person who lives in Israel or Palestine feels that way every single day. It's a terrible way to live.

[Translation]

I agree with Mrs. Nicola that this is a terrible way to live. The heavy atmosphere of terror that has spread after September 11, 2001 is there to remind us of this. There is nothing worse for a

human being than to feel threatened, particularly by people toward whom one feels no animosity in the least. It is hard to feel obliged to pay with one's life for actions for which one is not accountable, or for a political decision one does not, in any way, support.

We may have a tendency to forget this, but this conflict affects millions of people who live in constant fear for their loved ones. It is for their sake, as much as for those who are living through this crisis every day, that this conflict must come to an end.

#### PRESIDENTIAL ELECTION IN FRANCE

**Hon. Gérald-A. Beaudoin:** Honourable senators, yesterday Honourable Senator Lise Bacon delivered a statement on the visit to France of a group of parliamentarians under the auspices of the Canada-France Association. I do not want to repeat what our chair said so aptly about the purpose of that exchange. Now, after the second round of the presidential election, I would just like to add a few words about the electoral system.

The first ballot of the presidential election, held on April 21, shook up France. The left was rejected. The French reacted on the second ballot, and the extreme right lost, perhaps in an unprecedented defeat, in that second ballot.

As honourable senators will know, France has "married" a parliamentary and a presidential regime.

After last Sunday's vote, some raised the concept of "reforming the Republic." A special issue of *Le Monde* was devoted to this. We had the opportunity, moreover, to attend two round table discussions, involving both political figures and intellectuals.

Now, however, they need to wait for June and the legislative election. I do not doubt that a degree of balance between left and right will be restored, but the question still remains unanswered: Which will win out, right or left? Only then will France be able to address the matter of cohabitation.

In conclusion, I will just say that we had an opportunity to learn first hand how the electoral system operates. Our visit was, therefore, extremely educational.

• (1340)

#### NATIONAL NURSING WEEK

**Hon. Yves Morin:** Honourable senators, National Nursing Week provides us with an opportunity to draw attention to the essential contribution made by nurses to our health care system. With this year's theme being "Always There for You: Caring for Families," we also want to stress the vital role played by nurses in the promotion of health for Canadian families.

[English]

Nurses are the single largest occupational group within the Canadian health care system. More than 225,000 registered nurses provide quality, cost-effective health care. Nurses are team players who recognize the value of collaborative partnerships among health care providers. They play an integral part in maintaining our strong national health care system.

Health research is providing us with the evidence we need to ensure that their role can be maintained and strengthened. For instance, research carried out by Dr. Ann Tourangeau and supported by the Canadian Institutes of Health Research has provided us with evidence that the knowledge and skills of registered nurses make a difference in patient survival rates. Dr. Tourangeau looked at the outcomes of 47,000 Ontario patients. Results showed that patients with the best outcomes were attended to by more experienced nurses with higher levels of education.

Through CIHR's Institute of Health Services and Policy Research, under the able leadership of the scientific director Dr. Morris Barer, we are learning more about how to ensure that nurses continue to be in a position to contribute to the health and well-being of Canadians.

[Translation]

The knowledge gained through this type of research allows us to improve health care services and the quality of life of Canadians. National Nursing Week is an opportunity for us to express our support for nurses and to stress their professionalism and dedication.

[English]

#### ANTI-DOPING EFFORTS IN SPORT

**Hon. Francis William Mahovlich:** Honourable senators, on April 25 and 26, 2002, in Kuala Lumpur, Malaysia, Canada co-chaired the fourth meeting of the International Inter-governmental Consultative Group on Anti-Doping in Sport, a group that provides direction and guidance to government representatives of the World Anti-Doping Agency. The meeting was the largest ever, with 130 delegates participating from 44 countries.

At the last meeting in Cape Town, South Africa, Canada proposed the creation of an international instrument against doping in sport. Last week, governments agreed to the development of a memorandum of understanding to strengthen collective efforts in eradicating this most serious problem.

In addition, the World Anti-Doping Agency is also developing a World Anti-Doping Code. Both the memorandum of understanding and the code are expected to be implemented in

time for the 2004 Olympic and Paralympic Games in Athens, Greece.

Performance enhancing drugs in elite sport represents a global challenge to the continuing values and integrity of sport. Canada is recognized around the world for our efforts to eliminate doping in sport, exemplified by our significant efforts in developing international agreements on anti-doping.

We must ensure that sport is a clean and healthy pursuit, that sport is an activity that we want our young people to become involved with and excel in. The route to the winner's podium should always be through honest endeavour, commitment and hard work. I applaud the government for its determined efforts to resolve this serious problem.

#### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I have the pleasure of drawing to your attention the presence in the gallery of our former Senate colleague the Honourable James Ross, and Mr. Alexander.

On behalf of all honourable senators, I welcome you.

[Translation]

Honourable senators, I wish to draw to your attention the presence in the gallery of a group of guests of Senators Prud'homme, Biron, Nolin, Pénin and Cools. These guests are members of the Bois-de-Boulogne self-help group, Middle-East Immigrant Aid Society in Canada. They are accompanied by their president, Mrs. Claude Ayas.

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

---

#### ROUTINE PROCEEDINGS

##### ILLEGAL DRUGS

##### NOTICE OF MOTION TO AUTHORIZE SPECIAL COMMITTEE TO EXTEND DATE OF FINAL REPORT

**Hon. Pierre Claude Nolin:** Honourable senators, I give notice that on Thursday, May 9, 2002, I will move:

That the date of presentation by the Special Senate Committee on Illegal Drugs of the final report on its study into reassessing Canada's anti-drug legislation and policies, which was authorized by the Senate on March 15, 2001, be extended from August 31, 2002 to Thursday, September 13, 2002.

[English]

## SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTINGS OF THE SENATE

**Hon. Marjory LeBreton:** Honourable senators, I give notice that on Thursday next, May 9, 2002, I shall move:

That the Standing Senate Committee on Social Affairs, Science and Technology have the power to sit on Wednesday, May 22; Wednesday, May 29; Wednesday, June 5; and Wednesday, June 12, 2002, at 3:30 p.m., even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

## QUESTION PERIOD

### PUBLIC WORKS AND GOVERNMENT SERVICES

#### INTERNAL AUDIT OF VISIBILITY AND SPONSORSHIP PROGRAMS

**Hon. Pierre Claude Nolin:** Honourable senators, my question relates to the revelation in Monday's *Globe and Mail* about problems and questionable practices with the government's \$40-million-a-year visibility in sponsorship programs. The article is based on 3,000 pages of internal audit documents from Public Works that detail, among other things, instances of political interference with the program, double-billing, over-billing and other questionable practices by advertising agencies, including scant controls on payouts, unexplained spending and suggestions that bureaucrats were intimidated when they raised questions about how the program was being administered. Would the Leader of the Government in the Senate please provide honourable senators with her government's response to these revelations?

**Hon. Sharon Carstairs (Leader of the Government):** As the honourable senator is aware, the government had concerns about the sponsorship program and conducted an internal audit two years ago that led to a number of administrative changes within the department.

• (1350)

At approximately 3 p.m. this afternoon, following Question Period, the Minister of Public Works, the Honourable Don Boudria, will table the Auditor General's report. It is my understanding that anything that the Auditor General recommends will be put in place.

[Translation]

**Senator Nolin:** Honourable senators, we have also learned that the RCMP gave out contracts under this program in order to increase its visibility. Does it not look like a conflict of interest

when, on the one hand, the RCMP is looking into the operation of the program and, on the other, it is using the program to increase its visibility?

[English]

**Senator Carstairs:** Honourable senators, we do not know at this point whether the RCMP is looking into it, nor even if that is one of the recommendations of the Auditor General. It may be the case, however. I have not seen a copy of the Auditor General's report. I will get my copy, like all other parliamentarians, after three o'clock this afternoon.

However, while there may have been administrative problems with the sponsorship program, those problems were first identified internally. We must remember that. It is also important to remember that many excellent groups received sponsorship dollars — not only in the province of Quebec but also throughout the country. Those sponsorships were an important component of the visibility of the federal government. The RCMP received one of those contracts for its musical ride, which, despite the comment made by the Honourable Leader of the Opposition, has nothing to do with the Liberal party and has everything to do with the promotion of what I still believe, and what most Canadians believe, is one of the finest police services in the nation and in the world.

**Senator Kinsella:** Cover up!

#### INTERNAL AUDIT OF VISIBILITY AND SPONSORSHIP PROGRAMS—INVOLVEMENT OF LOCAL MEMBERS OF PARLIAMENT IN FUNDING OF OTTAWA TULIP FESTIVAL

**Hon. Marjory LeBreton:** Honourable senators, on this topic, my question pertains to the problems with the Department of Public Works' visibility and sponsorship programs raised by the recent internal audit. One case in the audit deals with political interference by four Ottawa area members of Parliament who successfully overturned a department decision not to use the program to fund Ottawa's Tulip Festival. These members of Parliament, including the Honourable John Manley, acted despite the fact that three other departments were already involved in funding the Tulip Festival.

Would the Leader of the Government in the Senate provide her reaction to this specific example of political interference?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, believe it or not, members of the House of Commons and members of the Senate are politicians. One of the jobs that we are given as politicians is to respond to inquiries, questions and, yes, in some cases, specific requests for funding by our constituents. That is what the members of Parliament in this case did. They went to the department and they said, "You have cut off this funding, which had every indication of being granted, six weeks before this festival was to occur. You decided unilaterally not to give sufficient advance warning so that planning could have been done in an organized way." The Tulip Festival in this city is a national festival. It is not only a festival for Ottawa but also a festival for the nation, and an extremely valuable one. In this case, I think the politicians were doing their jobs.

**Senator Lynch-Staunton:** Tulip bulbs keep the country together!

**Senator LeBreton:** Honourable senators, the minister did not listen to my question. Three other departments had already contributed to the festival. The issue, according to the Prime Minister, is federal visibility. On the issue of visibility, could the Leader of the Government in the Senate try to rationalize why the federal government would need more visibility in a festival where three other federal departments are involved, namely, in the National Capital Region, and also where the federal government's presence is felt at every street corner in the city. Three other departments had already contributed to this festival, so why would the government have to put more money into the Tulip Festival for federal visibility?

**Senator Carstairs:** Honourable senators, the issue here was the little time available once these volunteers were informed that their money was to be cut. That is the issue here. As good representatives of their constituents, the very same volunteers, these members argued, and argued well, that the money, which had been given in previous years — this is the not the first time — should again be granted.

**Senator LeBreton:** There is no one who is prouder of the National Capital Region or the City of Ottawa than I am. I was born and raised here. However, the fact is that the federal government was using taxpayers' dollars to sell the federal government to the citizens of Ottawa and to the country — especially when they realize Ottawa is their capital — and then would bring in the question of volunteers in reaching for an answer. By her answer, it is clear that the minister has no explanation for this situation.

**Senator Carstairs:** I should like to ask the honourable senator why, then, is it that the embassies sponsor this particular festival? The Chinese embassy has a giant tulip in front of its building, advertising the Tulip Festival. Similarly, the American embassy has a large sign in front of its building celebrating the Tulip Festival. Is the honourable senator saying that we should get all the rest of the countries in the world to sponsor the Tulip Festival but that we should not be asking the Canadian government to contribute?

## INTERNATIONAL TRADE

### UNITED STATES—RENEWAL OF SOFTWOOD LUMBER AGREEMENT

**Hon. Pat Carney:** Honourable senators, my question is to the Leader of the Government. Why would the government give so much priority to tulips in Ottawa and so little priority to the softwood lumber issue, which is a national issue? They have committed a piddling \$20 million to an advocacy program in the United States and \$30 million to develop new markets in other places in the world. Why cannot the government spend some political will on raising this issue and giving it priority in its relations with the U.S. rather than spending the money to raise tulips — a real fading flower in British Columbia at this moment — in Ottawa?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, with the greatest respect, I think the Honourable Senator Carney got carried away with her rhetoric. She is comparing a sponsorship program for a festival with the months of activity that the government has been engaged in trying to settle the softwood lumber issue and the work of a number of cabinet ministers toward trying to put programs together that will help those most affected in the softwood lumber dispute. I do not think we should be comparing those two matters.

**Senator Carney:** Honourable senators, the government is not comparing them. They care more about tulips in Ottawa than they do about the 50,000 people who will be out of work in British Columbia, Quebec and other provinces. I am asking the minister again: If I am carried away by rhetoric, what is her answer to the people in Canada and British Columbia that all the government can spare is \$50 million to advertise in the United States and develop other markets for softwood lumber in other countries?

**Senator Carstairs:** Honourable senators, the softwood lumber file, as the honourable senator knows very well, has been going on for some time in this country. It has engaged ministers in a major way, through months and months of activities. Those activities are ongoing. Ministers are working together to come up with a plan. The honourable senator has indicated one that she has read about in the newspaper, which I cannot confirm today. However, I can confirm that the planning is ongoing and the planning will be far more substantial than the \$150,000 sponsorship program of the Tulip Festival.

### UNITED STATES—RENEWAL OF SOFTWOOD LUMBER AGREEMENT—COMMENTS BY MINISTER

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, can the disinterest that the government has shown in the softwood lumber issue be illustrated by the fact that the Minister of International Trade said that no unemployment had been created by the softwood lumber controversy?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, there has been absolutely no disinterest in the issue of softwood lumber. It has been a significant and major issue before the Government of Canada for months.

**Senator Lynch-Staunton:** To be more precise, does the Leader of the Government agree with the Minister of International Trade, who said only last week that no unemployment had been caused by the forthcoming levy that the United States will introduce and, as a result, no mills will be closed? Does she agree with that statement?

• (1400)

**Senator Carstairs:** Quite frankly, since I did not hear that statement directly, I will neither confirm nor deny it.

## PUBLIC WORKS AND GOVERNMENT SERVICES

### INTERNAL AUDIT OF VISIBILITY AND SPONSORSHIP PROGRAMS

**Hon. David Tkachuk:** Honourable senators, I will follow up with a question on Liberal volunteers, and it relates to the audit that was done on the Public Works sponsorship program. The audit revealed a number of cases of double-billing and over-billing. For example, one agency demonstrated proof that it had put up three Canadian flags at a university football game by submitting four pictures of the same flag. That was another Liberal volunteer. In another instance, an advertising agency presented two different pictures of the same ad to demonstrate that the federal government had received prime advertising space at car races in Vancouver and Toronto. Another example under the sponsorship program is that the government agreed to pay \$500,000 to an organization in Montreal. However, the final amount came to \$625,000, and there was nothing on file to account for or to explain the increase. Auditors also observed instances of claims for work that might not have been done, as well as instances of highly suspect invoices.

Who does the Leader of the Government in the Senate hold responsible for the mismanagement of the sponsorship program?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I deeply resent the fact that volunteers in this country would be given a political label of any stripe. Volunteers, whether they are volunteers for palliative care or volunteers for the Tulip Festival, are not asked about their political stripe.

Billions of dollars worth of volunteer aid is given in this country every single year. I firmly believe that many of those volunteers — tragically and perhaps from a lack of foresight — vote Tory, but that is as it should be. Volunteers should be volunteers when they seek activities other than when they are volunteering specifically for a political party, at which point they do put on a label. The volunteers funded through these sponsorship programs are not labelled politically, nor should they be labelled politically.

With respect to the honourable senator's question on the internal audit, it was performed by and for the Department of Public Works and, on the recommendations of that audit, many changes were made. It is clear that the government was not pleased with some of the activities, particularly from Groupaction, when they seemed to be paying out for contracts that seemed to have very little variation among them. It was the government that called in the Auditor General and asked the Auditor General to examine this matter. That is the report we will receive later this afternoon, and that is the report the government will act upon.

**Senator Tkachuk:** I thank the honourable senator for her protection of Liberal volunteers. However, I would like to ask that question again. These revelations about Groupaction have been around for some time. However, it is only now, this afternoon, when the government hears that the cops will be called in, that all of a sudden they will do what is necessary. It is not that we have not known about this, yet no action has taken place. The government gives us the same old answer to the question of who is

responsible: "Well, it is not us; we are just the government." If it is the bureaucrats, why has someone not been fired? Why has the minister not been called on the carpet? The simple question that the Leader of the Government in the Senate, as a cabinet minister, has the responsibility to answer in this place is this: Who is responsible?

**Senator Carstairs:** Honourable senators, the most important word Senator Tkachuk uttered in his last statement was the word "allegation."

**Senator Tkachuk:** No, I did not.

**Senator Carstairs:** Yes, you did. You read Hansard. They are, in fact, allegations. That is exactly what the Auditor General is examining and that is what the government will act upon.

[Translation]

**Hon. Pierre Claude Nolin:** Honourable senators, I have a supplementary on the visibility program.

In order to ensure that all honourable senators have the full picture, \$40 million dollars was spent to increase Canada's visibility, primarily in Quebec.

**Senator Kinsella:** How much?

**Senator Nolin:** Forty million dollars. This stems from the result of the 1995 referendum. Let us be plain. I am not making this up; the Prime Minister has said so on many occasions.

The problem lies in the program's effectiveness. On the one hand, the Prime Minister tells us that the program has made it possible to increase Canada's visibility and that we must stop being critical of the amounts spent. According to the Prime Minister of Canada, the public now realizes that Canada is a very good thing.

On the other hand, the Minister of Intergovernmental Affairs, Stéphane Dion, a Quebecer to boot, has said that he has not met a single Quebecer who has changed his or her mind because of the visibility program. Which of them is right?

[English]

**Senator Carstairs:** Honourable senators, the sponsorship program was designed to increase the visibility of the federal government not only in the province of Quebec but also outside the province of Quebec. We know from the figures given that the majority of the monies were spent in the province of Quebec. That is clear.

Did Canada need a greater visibility in the province of Quebec? I would say resoundingly "yes." The Government of Quebec spends millions promoting its particular agenda for the province of Quebec. It was very important that the federal government fight back. One way to do this was through the sponsorship program; another way to do it was through the clarity bill, which regrettably was not wholeheartedly supported on the other side.



We are putting our finances in order because, in times of economic stress, people often look at other forms of governing. There is no question about that. It was not just one issue; it was a group of issues, and the sponsorship program was a part of that. I think most of what Mr. Dion was reflecting in his question was that it was part of an overall strategy and not a one-shot deal.

**The Hon. the Speaker:** I am interrupting to ask honourable senators if they could be a little more respectful of the senator speaking at any given time. I am having difficulty hearing the questions and the answers. I also remind honourable senators that we have less than 10 minutes left in Question Period.

[Translation]

**Hon. Roch Bolduc:** Honourable senators, the Leader of the Government reminds me of a former Quebec premier, Jean Lesage. When he raised his voice and thumped the table during cabinet meetings, it was because he did not have a good file. On leaving the meeting, he would ask me if what he was saying made sense. The Government Leader spoke of allegations and I am going to lay out the facts. The facts are much more eloquent than allegations.

What is the government's policy on procurement? Last year, the Government of Canada spent \$121,000 on golf balls! I am a golfer. I like golf. But let me tell you that I have never asked the government to pay for my balls.

That is not all. The government was billed \$15,886 for tees. Where I live, 12 tees cost a dollar.

There is more. The Liberals must be poor because, on top of not paying for their tees, they play when it is raining and fork out \$54,852 for golf umbrellas. It is simply shocking!

And get this: In addition to buying \$43,900 worth of microwaves, they bought television sets.

• (1410)

Mr. Martin and Mr. Rock are competing on this. The first spent \$30,000 on television sets; the second, \$90,000. There was even \$1,700 spent on perfume. Is this Minister Gagliano's policy on procurement and government priorities?

[English]

**Senator Carstairs:** Honourable senators, the first thing the honourable senator did was to compare me with former Premier Lesage, who is not a bad person with whom to be compared. I can now be compared to the honourable senator because he started to thump on his desk. I do not mind being compared to the honourable senator as well in terms of competency in this chamber.

We all know that those individual items were used for promotional events throughout the country. One can argue whether those were worthwhile expenditures or not. However, they were given out to Canadians attending Canadian events across the country. They had on them logos representing the country.

Frankly, I am not a golf player, so I did not get one. Perhaps I can find one for Senator Bolduc.

[Translation]

**Senator Bolduc:** However, I am sure that Tiger Woods paid for his own tees when he played golf with the Prime Minister.

There are contradictions in the government's policies.

## NATIONAL DEFENCE

### UNITED STATES—PROPOSAL TO CREATE NORTHERN COMMAND

**Hon. Roch Bolduc:** Honourable senators, those who follow what is going on realize that the Minister of National Defence recently said that the U.S. proposal to create a Northern Command did not bother him. Yet, the former Minister of Foreign Affairs, Mr. Axworthy, who is a friend of the Americans, said that Canadians should be careful.

Mr. Godfrey, an eminent representative from Toronto, is against Quebec sovereignty, but supports Canadian sovereignty. He says that the proposal on Norcom is dangerous. There is some contradiction here. I simply want to understand what is the government's policy.

Mr. Martin — I do not know if he is campaigning — spoke about the need to revitalize cities, to ensure that urban development in Canada was on par with that of other major countries.

The Prime Minister, however, said that it was not a priority. What are the government's priorities?

[English]

**Hon. Sharon Carstairs:** Honourable senators, I will begin with the honourable senator's offside comments. Honourable senators cannot make those kinds of comments and not expect me to respond to them. They are part of an honourable senator's statement when he or she stands.

I assume the reason Tiger Woods had to pay was because these items were for Canadians. They were to promote Canada to Canadians. As much as we might love to have Mr. Woods as a Canadian, he is still an American citizen.

With respect to the much more serious question the honourable senator has asked this afternoon, NORCOM is not a Canadian program; it is an American program. Does that mean we should not have an interest in it? We should, absolutely, because it may impact on our own defence policy, and I think that is the exact reason Minister Eggleton has announced that we must conduct a defence policy review.

## PUBLIC WORKS AND GOVERNMENT SERVICES

### INTERNAL AUDIT OF VISIBILITY AND SPONSORSHIP PROGRAMS

**Hon. Laurier L. LaPierre:** Honourable senators, I am confused. Could the Leader of the Government make a synthesis between the 40 million tulips, Senator Carney's lumber, the volunteers and Senator Bolduc's golfballs? Could the minister put all of that together for us, please?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I think the best way to put it together is to say that it makes for a lively Question Period.

[Translation]

**Hon. Jean Lapointe:** Honourable senators, my comments will be brief. This is the most animated debate that I have witnessed since arriving in the Senate. I wonder if, perhaps, the scent of the tulips has awakened our Conservative friends. I think that, next time, we should try to discuss the cannabis flower. This would make the debate more lively.

I am very happy to see that the Honourable Senator Carstairs has regained her vigour and health.

My question is quite simple. Which flower should we choose to wake up our friends for the Senate's next sitting?

[English]

**Senator Carstairs:** Honourable senators, I must reply to that question by saying that part of the reason I have not been feeling very well is because none of the flowers agree with me. They cause me to have severe asthma attacks.

## FINANCE

### EFFECT OF LOW VALUATION OF DOLLAR

**Hon. Gerry St. Germain:** Honourable senators, my question to the Leader of the Government in the Senate relates to a different subject. It concerns Deputy Prime Minister Manley and the Minister of Finance. They are now saying that the value of the Canadian dollar, as low as it is, is of great concern to the government. Week after week I have asked questions in regard to this matter. The concern is that we are losing head offices and companies are being acquired by our American neighbours at a huge discount as a result of the value of our dollar.

The Prime Minister has always used the phrase, "a low dollar," — and most Canadians do not understand what he is talking about, even at the best of times. However, Minister Martin is a former businessman from a recognized business. I am not sure what Mr. Manley did before he entered politics. These people state clearly that the value of the dollar is too low. What has happened to change the government's mind now that we have lost MacMillan Bloedel, along with many energy companies in Alberta, as well as many resource companies in British Columbia? All of a sudden the lights are going on signalling that this is a problem. What has caused this?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, obviously, I can only say that the honourable senator has not been listening for some months. A number of cabinet ministers, including the Prime Minister, have questioned the decline of the Canadian dollar, which now appears to be on the rise. A headline in one of today's papers stated that it could quickly climb to 70 cents. We have heard that before. It is obviously a hope.

We are subject to the international marketplace, which is what has kept our dollar low. The government, through the Bank of Canada, which makes decisions about these things, has allowed the bank to set interest rates because that is the way in which our Canadian democracy works. The impact has not raised the value of the dollar to any significant degree.

The Canadian economy is doing well. In fact, it is doing far better than the economy of the United States. Our productivity is increasing faster than it has for the past two decades. The economic forecasts are good.

Yes, the senator is correct. When the dollar is low we become attractive to companies south of the border as far as takeovers are concerned. However, there have been some Canadian takeovers. Some Canadian companies have merged. As well, some Canadian companies are investing abroad.

**The Hon. the Speaker:** Honourable senators, I am sorry to interrupt, but I must advise that the time for Question Period has expired.

**Senator St. Germain:** May I ask a short question?

**The Hon. the Speaker:** Is leave granted for the Honourable Senator St. Germain to ask a short question, honourable senators?

**Some Hon. Senators:** No.

**The Hon. the Speaker:** I hear "no." Leave is not granted.

**Senator Carstairs:** Honourable senators, Senator St. Germain indicated that he has a short supplementary question. If it is agreeable to honourable senators, I would be prepared to answer that short supplementary question.

**The Hon. the Speaker:** For leave to be granted, it must be done with a unanimous voice. I do not hear a unanimous voice for leave.

[Translation]

## DELAYED ANSWER TO ORAL QUESTION

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I have the honour to table a delayed answer to an oral question raised by the Honourable Senator Oliver on March 7, 2002 concerning airport security and the efficacy of proposed bomb detection equipment.

## TRANSPORT

### AIRPORT SECURITY—EFFICACY OF PROPOSED BOMB DETECTION EQUIPMENT

*(Response to question raised by Hon. Donald H. Oliver on March 7, 2002)*

The Explosives Detection Systems (EDS) equipment currently being deployed is the most up-to-date available, and has proven its ability to effectively detect a wide range of explosive substances. This equipment has been certified by the U.S. Federal Aviation Administration and is being used successfully in other countries.

Once the full complement of EDS equipment has been deployed, all carry-on and checked baggage will be screened for explosives at the targeted airports, representing 99 per cent of total air passenger traffic in Canada.

Explosives detection equipment is one component of the enhanced security regime that the government has put in place. The new Canadian Air Transport Security Authority will be responsible for managing security screening of passengers and baggage at Canadian airports. Its responsibilities include establishing a stable, well-qualified and well-trained security staff to provide effective and consistent screening services across the country. As well, the Authority will be responsible for ensuring the proper use, operation and maintenance of EDS equipment, ensuring compliance with Transport Canada's EDS regulations and standards, and acquiring new EDS equipment and associated technologies.

[English]

## VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, before proceeding to Orders of the Day, I should like to draw your attention to the presence in our gallery of Ambassador Eidur Gudnason and his wife, Eyglo Helga Haraldsdottir of Iceland. Ambassador Gudnason is the Consul General of Iceland in Winnipeg. They are the guests of Senator Johnson.

Welcome to the Senate of Canada.

**Hon. Senators:** Hear, hear!

• (1420)

**The Hon. the Speaker:** I also wish to draw the attention of honourable senators to guests in the gallery who are attending the Spring 2002 Parliamentary Cooperation Seminar. We have with us, from Hong Kong, Mr. Arthur Cheung and Ms Sharon Tong; from the Parliament of India, Mr. Navin Kumar Kalingan and Mr. T.K. Mukherjee; from the Parliament of Jamaica, Ms Heather Cooke and Ms Rosemarie Douglas; and from the Parliament of Scotland, Ms Carol Devon.

Welcome to the Senate of Canada.

**Hon. Senators:** Hear, hear!

## PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

**The Hon. the Speaker:** Finally, honourable senators, I should like to welcome a page, a guest from the House of Commons, Ted Aubut from Halifax, Nova Scotia. He is enrolled in the Faculty of Arts at the University of Ottawa and is studying history and international politics.

Welcome.

**Hon. Senators:** Hear, hear!

## ORDERS OF THE DAY

### COMPETITION ACT COMPETITION TRIBUNAL ACT

#### BILL TO AMEND—REPORT OF COMMITTEE ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Kolber, seconded by the Honourable Senator Maheu, for the adoption of the sixteenth report of the Standing Senate Committee on Banking, Trade and Commerce (Bill C-23, to amend the Competition Act and the Competition Tribunal Act with one amendment and observations), presented in the Senate on May 2, 2002.

**Hon. David Tkachuk:** Honourable senators, I have a few remarks to make regarding the Banking Committee report on Bill C-23, a bill that seeks to amend the Competition Act and the Competition Tribunal Act.

I believe that Bill C-23 has received detailed study by our committee. We were not pressed for time. We took a number of weeks in committee to study the bill, and I believe that we should proceed on more legislation in this fashion. Committee members spent many hours in hearings. No witnesses were turned away. There were also many opportunities to meet with the stakeholders, who were able to explain the controversial aspects of the bill.

As our study of Bill C-23 proceeded, a number of factors came to the attention of the committee. While there never was full agreement for specific amendments, it was clear that the disagreement over certain clauses crossed party lines. Further to this, one controversial subject was the airline-specific provisions that exist in the Competition Act itself and how these airline-specific provisions were strengthened by the new clauses to the Competition Act provided by Bill C-23.

To address the committee's concern, committee members decided unanimously to write a letter to the minister responsible, Allan Rock, asking for his guarantee that he or his successor would appear before the Senate Banking Committee in two-years' time to discuss the impact of the amendments on the Competition Act and to discuss further whether other amendments should be made at that time. Although Minister Rock agreed to appear, he would not guarantee that his successor or other members of the government would appear.

The committee decided to not proceed to clause-by-clause consideration of the bill until it received a response from Minister Rock. His letter is appended to the report, along with the committee's letter and a Progressive Conservative observation report. The Liberal members of the committee were fully satisfied with his response. The PC members of the committee decided that his response did not fully address their concerns, so we have written an observation report that is only supported by the Progressive Conservative members of the committee.

In this report, we cover three major points. The first, and what I believe is the most important point, is that the PC senators believe the Competition Act is intended to be a framework law, as it states in its opening clauses. Therefore, it is most important that the government refrain from amending this law of general application by adding industry-specific clauses. Currently, there are airline-specific clauses that are obviously more appropriate to a transportation policy than competition law.

The second major point of the observation report is the necessity to provide parliamentarians with an opportunity to conduct a regular review of the Competition Act laws. To date, amendments are made on an ad hoc basis, and the PC senators believe that Canada's competition policies would benefit from periodic reviews, perhaps every three to five years.

The third major point made in the observation report has to do with the new provisions of private access for small- and medium-size businesses. The PC senators applaud these provisions but believe they do not go far enough. For this reason, in our observation report, we recommend that two further changes be made: one, that complainants should be entitled to the award of damages; and, two, that the burden to obtain leave should be amended. Senator Oliver, in his speech, will expand on each of these issues.

On a point of interest, while the committee was finishing its study of Bill C-23, the House of Commons Industry Committee issued a report on competition. One of the recommendations in that report was that the government should repeal all airline-specific provisions in the Competition Act.

At clause-by-clause study, one amendment was moved by the Liberals, an amendment purely technical in nature, that brings the French and English versions of the bill into parity. We changed the English version of the bill. PC members of the committee thought it was unusual to amend the bill with such a technical amendment, particularly when the Commissioner of Competition recommended that the bill be passed as soon as possible and that the clause in question merely be not proclaimed until it can be corrected in an omnibus bill. Normally, when we make these

amendments, it would be for something that would have significant legal consequences. The PC senators did not see it in this bill and thought it would be very appropriate to be dealt with by an omnibus piece of legislation. The Liberal members disagreed, moved an amendment and changed the bill, causing it to be sent back to the House of Commons.

I will end my comments by saying that, overall, we support the philosophical reason for the bill; that is, the need to prevent a monopoly situation in the country in regard to the airlines. We fully support other provisions. We think this is perhaps not the appropriate place to do it and hope that the government will take action in the future to correct this situation.

**Hon. Nicholas W. Taylor:** Honourable senators, if there is some time, may I ask the honourable senator a question?

**The Hon. the Speaker:** Will you take a question, Senator Tkachuk?

**Senator Tkachuk:** Yes.

**Senator Taylor:** Honourable senators, my question is with regard to competition from foreign airlines within Canada. Is that issue within the ambit of the bill? Did the committee have a chance to look at it?

**Senator Tkachuk:** Honourable senators, that was not a great concern of ours in the bill. We talked about that a little bit. Minister Collenette was there. He was very clear that, until the Americans decide to allow Canadian domestic carriers to operate freely in the United States, there seems to be no reason to allow American carriers to fly in Canada.

**Senator Taylor:** The honourable senator's answer is interesting. That is what I hear all the time. Has anyone asked the Americans whether they wish to have competition, or have we presumed that they do not?

**Senator Tkachuk:** Honourable senators, Minister Collenette made it clear in committee that the government asked the Americans, but it is not on the table for the Americans. They do not want to discuss it.

**Hon. Donald H. Oliver:** Honourable senators, I should like to add my concurrence to the remarks made by Honourable Senator Tkachuk. I do not think that the Senate should ever be afraid of doing its job and, where necessary, taking the legislative steps to improve legislation. As Senator Tkachuk has said, the Competition Act, per se, is framework legislation. Regretfully, this framework legislation has now had clauses added to it that deal specifically with Air Canada and with the airline industries. It has clauses that do not cover all companies in the same class. This taints the framework competition legislation and, as a body of sober second thought, it behooves us to carefully look at such a conundrum and, where possible, to correct and change it.

The Standing Senate Committee on Banking, Trade and Commerce reviewed Bill C-23 carefully. It heard a number of witnesses, and some of them more than once. It has had extensive research done on a number of important proposed sections in that bill.

One thing that is apparent to any casual observer is that the position of the government with respect to framework legislation such as the competition bill is not clear and coherent. As one example, the Industry Committee in the other place has been studying this framework legislation for more than two years and, not surprisingly, observed that the legislation has been encroached upon by the inclusion of industry-specific clauses. This is contained in proposed section 104.1 of the Competition Act, which I will deal with later.

As honourable senators know, members of the Industry Committee appeared before the Standing Senate Committee on Banking, Trade and Commerce to discuss a report that they released at the same time that the Senate Banking Committee was reviewing the controversial clause. After two years of intensive study, the House of Commons committee recommended — and I quote:

That the Government of Canada repeal all provisions in the *Competition Act* that deal specifically with the airline industry (subsections 79(3.1) through section 79(3.3) and sections 79.1 and 104.1).

• (1430)

The recommendation of the House of Commons Standing Committee on Industry, Science and Technology to the Government of Canada is that it repeal all those provisions in this framework legislation.

The Liberal-dominated Industry Committee feels that the framework legislation in its present form is inadequate and inappropriate. One must ask, if the Liberal-dominated Standing Senate Committee on Banking, Trade and Commerce is moving amendments to send the bill back to the House of Commons, why it does not also add an amendment to include this important aspect of the bill's legislative history that has received much attention from the Liberal-dominated Industry Committee in the House of Commons. One cannot help but wonder who is calling the shots and why defective legislation is not being corrected as recommended.

We had evidence from Professor Wong to the effect that if section 104 were deleted and section 103 remained, it would give the Commissioner of Competition virtually all the powers he would ever require to deal with the activities of a dominant carrier on issues such as predatory pricing.

With your leave, honourable senators, I should like to say a few more things about the controversial section 104, so the position of the PC party can be clearly understood by Canadians.

For the most part, the Competition Act has been a generic economic framework law. The same competition rules apply to all business sectors.

Some two years ago, this changed for one particular sector — the airline industry. When Air Canada acquired Canadian Airlines, the government responded with a series of initiatives, including amendments to the Competition Act. Changes were made to the abuse of dominance provisions of the act and the

Commissioner of Competition was given the power to use a temporary order or injunction against an airline alleged to be abusing its dominant market position. This temporary order power is found in section 104.1 of the Competition Act.

The merits and implications of section 104.1 were debated when first proposed in the year 2000. Evidence presented at recent Senate Banking Committee hearings on Bill C-23 has rekindled the debate and highlighted what many believe are inherent inequities in the provision. Furthermore, the perpetuation of provisions such as section 104.1 of the Competition Act that apply to one specific industry, and indeed one particular company — Air Canada — raises a more fundamental concern about the role of general framework laws in our economy.

Honourable senators, let me be more specific about why section 104.1 is particularly odious and should be removed from the Competition Act.

Under section 104.1, the Commissioner of Competition can issue a temporary order prohibiting an airline from engaging in conduct that could, in the opinion of the commissioner, constitute an anti-competitive act under the abuse of dominance provisions of the Competition Act. The following conditions must be met:

(a) the Commissioner has commenced an inquiry...

(b) the Commissioner considers that in the absence of a temporary order

(i) injury to competition that cannot be adequately remedied by the Tribunal is likely to occur, or

(ii) a person is likely to be eliminated...suffer a significant loss of market share, suffer a significant loss of revenue or suffer other harm that cannot be adequately remedied by the Tribunal.

The commissioner is not required to notify anyone or receive any representations before making a temporary order under section 104.1. A temporary order can last up to 80 days, but the airline against which the order is made can apply to the Competition Tribunal to have the order varied or set aside.

Clause 13.1 of Bill C-23 would amend section 104.1 by giving the Competition Tribunal authority to extend the commissioner's temporary order until the Competition Bureau has had enough time to receive and to review information relating to the case.

It is my view that section 104.1 vests too much power in the commissioner. There is no judicial oversight at the time the temporary order is issued. The commissioner is not required to justify his position to an impartial arbiter. As far as the Canadian airline industry is concerned, the commissioner is the investigator, the judge and the jury when it comes to the issuing of a temporary order. Consequently, section 104.1 sacrifices respected tenets of our judicial system, most notably accountability and impartial review, for expediency.

Honourable senators, some may argue that section 104.1 is necessary because it allows the commissioner to act quickly to stop alleged anti-competitive conduct. This may be so, but Bill C-23 will provide the commissioner with an equally effective alternative for dealing with abuse of conduct. Under proposed section 103.3 of the Competition Act, the commissioner will be able to apply to the Competition Tribunal for an interim order on an *ex parte* basis, without notice.

The proposed section 103.3 process, which is of general application to all business sectors and not specific to any one industry, will be expeditious. Witnesses appearing before the Standing Senate Committee on Banking, Trade and Commerce estimated that it would take only two or three days to obtain an interim order from the tribunal.

Proposed section 103.3 will allow the commissioner to achieve the same objectives as section 104.1 by proceeding before the tribunal. However, there will be two notable advantages to the proposed section 103.3 process. First, it will serve as an important check on the commissioner's power because the commissioner will have to demonstrate to the tribunal why an interim order should be issued. Second, it will enhance the accountability of the commissioner.

It is important to mention that Air Canada unsuccessfully challenged section 104 in the courts. In deciding to hear Air Canada's appeal to a decision of the Competition Tribunal, even though the temporary order in question had expired, the Federal Court of Appeal stated the following, among other things, and I quote:

The appeal raises important questions about the role played by the Tribunal in reviewing the exercise of the Commissioner's powers that should be settled sooner rather than later. The power to issue temporary orders is important both to the Commissioner's ability effectively to protect the public interest in competition among domestic air carriers, and to the interest of Air Canada in carrying on its business without undue hindrance and uncertainty about the ground rules within which it must operate. Moreover, the economic health of air transportation in Canada is a matter of considerable concern to millions of Canadians.

I agree with the premise underlying these statements, that is, that a temporary order power is important to effectively protect competition. My concern, however, arises from who issues the order — the commissioner or the tribunal.

The Competition Act must provide authority for an expeditious process for issuing interim orders. It is my view that this authority should rest with the tribunal rather than with the commissioner. At the time the commissioner issued a temporary order that was the subject matter of this court case, he did not have proposed section 103.3 at his disposal. Perhaps the court might have been less sanguine about section 104.1 if proposed section 103.3 had been available to him at that time.

I have already mentioned that section 103 will allow the commissioner to apply to the Competition Tribunal for an interim order on an *ex parte* basis, without notice, to prevent the

continuation of a broad range of anti-competitive conduct on all business sectors, not just the airline sector. In essence, proposed section 103.3 extends airline industry-specific power found in section 104.1 to all economic sectors but requires the commissioner to go to the tribunal for an order rather than issue the order himself.

It is my position, and the position of a number of witnesses who appeared before the Standing Senate Committee on Banking, Trade and Commerce, including the Canadian Chamber of Commerce and noted competition law expert Mr. Stanley Wong, that proposed section 103.3 makes section 104.1 redundant in the legislation. One witness noted, and I quote:

Bill C-23, with the addition of clause 103.3, which provides the Commissioner with the power at the outset of his investigation to obtain an emergency interim injunction, provides him with the tools of general application that could be used to address and prevent anti-competitive behaviour in any industry.

• (1440)

It is evident that proposed section 103.3 will give the commissioner the necessary tools to protect the public interest in competition in the airline industry and to act quickly to prevent anti-competitive conduct by a dominant air carrier.

Some witnesses have expressed concerns about the wording of proposed section 103.3. Mr. Stanley Wong, for example, argued that the wording of both section 103.3 and section 104.1 is flawed and recommended that existing section 100 of the Competition Act should be transformed into a general injunctive power. While I share these concerns, it is my view that proposed section 103.3 is preferable to section 104.1 because it allows the commissioner to act quickly when the need arises, and he has the added benefit of judicial oversight.

Clearly then, with the introduction of proposed section 103.3, there is no need for the temporary order power to continue to reside with the commissioner alone. Section 104.1 could be removed from the Competition Act without compromising the commissioner's ability to prevent the continuation of anti-competitive conduct, and that, honourable senators, is precisely what the Industry, Science and Technology Committee in the other place concluded as well.

It is also worth noting that retaining section 104.1 of the Competition Act along side proposed section 103.3 may raise concerns that go to the very independence of the office of the commissioner. Retaining section 104.1 could give rise to allegations that the commissioner may be biased against a particular airline if the commissioner chose to proceed against the airline under section 104.1 when the same type of remedy was available through the tribunal where he would have to give notice, not *ex-parte*, under the general interim order power of section 103.3. If the commissioner were to act under section 104.1, he could be placed in the difficult position of having to defend his actions against allegations of bias and abuse of power himself.

Parliament intended, honourable senators, that the Competition Act would be an economic framework law of general application, much like such framework laws as the Bankruptcy and Insolvency Act and the Canada Business Corporations Act. These laws establish a uniform and consistent approach for all industries in Canada.

In 2000, this changed with the passage of airline industry amendments. Today, Bill C-23 is further eroding the Competition Act's position as a general framework law. Amendments to section 104.1 and a proposed new \$15 million administrative monetary penalty applying only to a dominant air carrier are making the act more industry specific.

Witnesses questioned the appropriateness of an administrative monetary penalty directed at one company, Air Canada. One noted that administrative monetary penalties may indeed be appropriate remedies for reviewable matters under Part VIII of the Competition Act, but such penalties should be studied before they are proposed in legislation and not implemented to penalize one particular company.

A number of witnesses who appeared before our committee argued that industry-specific provisions have no place in a law of general application, and I agree with that proposition.

**The Hon. the Speaker:** Honourable Senator Oliver, I regret to advise that your 15 minutes have expired.

**Senator Oliver:** I have only one paragraph left.

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

**Senator Robichaud:** Honourable senators, I propose that Senator Oliver be allowed to finish his remarks.

**Hon. Senators:** Agreed.

**Senator Oliver:** Thank you. Honourable senators, I was attempting to explain to you that a number of witnesses appeared before the Standing Senate Committee on Banking, Trade and Commerce on this important piece of framework legislation. The witnesses raised a number of troubling and difficult aspects and concerns about this legislation. The difficulty we have is that the Liberal majority on the Banking Committee proposed one amendment, and that one amendment was a clerical amendment. Before the committee, there had appeared the Chairman of the House of Commons Industry, Science and Technology Committee that studied this particular legislation and these problems for two years. As a result of their study, they made recommendations for improvement and enhancement of this framework legislation that we feel should also go back to the House of Commons at the same time as the other Liberal amendments so that this bill can receive the kind of amendments it deserves and needs in order to be good framework legislation.

I wanted to bring those remarks to honourable senators' attention as this bill is reported from committee.

**Hon. Lowell Murray:** Honourable senators, I could make a speech, or, with leave, I could put a brief question to the honourable senator.

**Senator Oliver:** Please, although I would also like to hear a speech first.

**Senator Murray:** Honourable senators, my friend quoted with approval the recommendation of the Commons Industry, Science and Technology Committee to the effect that those clauses of the Competition Act that are industry specific ought to be repealed. Therefore, I will put a brief question to him comprising two parts: First, are the problems that those clauses seek to address real problems requiring a legislative solution? Second, if the legislative solution ought not to be in the Competition Act, where ought it to be?

**Senator Oliver:** Honourable senators, they are real problems because there is no accountability in the excessive powers that have been given to the commissioner, and they too can perhaps become the subject of abuse and misuse.

**Senator Murray:** I was referring to the industry problem, the dominant carrier problem identified, and whether that is a real problem that needs a legislative solution. If so, in what statute ought that legislative solution be found?

**Senator Oliver:** I am glad the honourable senator asked the question, because that is a question that I asked the Honourable David Collenette, Minister of Transport, when he appeared before our committee. My question to him was: Do you really think that in framework legislation we should have industry- and company-specific clauses that deal specifically with Air Canada, which is the dominant carrier, with either 68 or 80 per cent market share, depending on whose evidence you believe? I asked whether such sections should not be in transportation legislation, and whether there should not be a new vision for the airline industry in Canada that would contain and deal with the problems we have with competition in the airline industry today. The minister indicated that there was a need for a vision and that, at present, there was not a Canadian airline policy sufficient to deal with these problems. When Air Canada bought Canadian Airlines, it was felt that the significant place to put such a section was in the Competition Act because there was not a place in the Transportation Act to deal with it specifically.

The answer to your question, Senator Murray, is that we need a new vision and a new airline policy, and these sections should be put in that new policy, hopefully in a transportation act.

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

Motion agreed to and report adopted.

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

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

## 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 St. Germain, P.C.*).

**Hon. Gerry St. Germain:** Honourable senators, I am pleased to rise to speak on Bill S-18 and give a condensed form of my remarks. I thank Senator Robichaud for adjourning the debate in my name.

Honourable senators, it is not my intent to burden you with a bevy of statistics about how the volume and the quality of our water has been in decline over the last few decades but to express to you one or two simple yet important points that I believe surround this subject.

I have read what other honourable senators have had to say, and I have been following the general public debate about the safety and quality of our water resource. While I will not get into the debate as to whether water should be labeled as a food, I will say there should be a definitive policy to categorize how water is to be treated within our legislative system. We must qualify what legal authority water, as an essential element of life, is to come under.

• (1450)

We do regulate water to a certain degree under the Department of the Environment. That authority exists to protect our water and its sources from further detrimental actions, namely, polluting forces. Recognizing, as Senator Grafstein did, that more and more Canadian communities are developing water problems, such as we saw in Walkerton, Ontario and in Saskatchewan, perhaps the time has come to put in place some kind of mechanism so that communities can again feel safe about the quality of their drinking water.

As a general rule, I do not believe in creating unnecessary legislation or excessive regulations when ordinary common sense will do. There are far too many regulations in place today, and we never seem to rescind or eliminate those regulations that have no true bearing in today's world.

Clean water legislation has been the subject of debate for quite a while in Canada, probably since the Americans introduced their clean air and water legislation back in the early 1970s. I understand that Health Canada has been drafting legislation for about 20 years. The real reason the federal government never came forward with that legislation was because they feared they would be responsible for providing clean water for everyone. I do not believe that would be the case, but they should ensure that our Aboriginal Canadian communities have clean, safe drinking water. Who really knows how much the tab for that responsibility might be, if they were responsible for that?

Honourable senators, should that fear distract Parliament from putting in place some procedures that would force everyone to stop and think about our treatment of water so that a clean and plentiful supply is in place for future generations? Water is a natural resource and, therefore, requires the involvement of the various levels of government if there are to be any regulations and statutory authorities created.

Bill S-18 proposes that water come under the protective authority of the Food and Drugs Act to determine the regulatory regime that will apply. As I mentioned earlier, I see no harm in including water in this bill, but I would be hesitant to endorse the construction of an onerous regulatory regime for the collection, distribution and use of water. I believe that the various levels of government can reach an agreement on basic standards that would be applicable across the country, and that existing guidelines can be strengthened and enforced without creating and imposing a new layer of regulation and bureaucracy.

This would be the preferable course of action, if at all possible. However, the unfortunate incidents in Ontario and Saskatchewan tell us that governments have not sat down to fix this problem. If enacting Bill S-18, as laid out so well by Senator Grafstein, results in responsibility and common sense being put into the equation, then I think all honourable senators should support this bill and send it to the other place for their reasoned assessment.

Honourable senators, I live in the Fraser Valley where there is no city water supply. The aquifer that services the wells that are located where I reside comes off the glacier on Mount Baker. The aquifer passes through the Fraser Valley, a highly concentrated area of dairy and hog farms. As a result, there has been considerable concern, from an environmental aspect, about the water supply and how various institutions dispose of their waste.

The concentration of our population is along the 49th Parallel, and because of continued urban growth in this area, tremendous concern has developed for the safety and the quality of the water.

Again, I compliment Senator Grafstein and those senators who support Bill S-18 because the issue of water must be dealt with. We should put more thought into how it should be dealt with, and I look forward to further debate and participation regarding this particular issue.

**Hon. Jeremiah S. Grafstein:** Would the Honourable Senator St. Germain take one question?

**Senator St. Germain:** Yes.

**Senator Grafstein:** Honourable senator, in the course of my investigation, which was anecdotal and less precise than I would have liked, I came across a story about bad water in the Fraser Valley. A colleague advised me, some years ago, about an outbreak of bad water that resulted in a boil water advisory in the Fraser Valley. Some 10,000 to 12,000 people became ill because of that incident. Does the honourable senator recall that event? Could the honourable senator tell us whether the cost of that health problem was ever calculated? An answer to that would give us an indication of the cost to the health system in British Columbia of that incident.



**Senator St. Germain:** Honourable senators, I vaguely recall an incident that occurred not long ago. I am not certain whether the most recent problem was related to the disposal of waste from these highly concentrated agricultural operations, which are becoming much more efficient in production and are therefore producing more and more waste. There is no question that the geographical layout of the Fraser Valley is such that everything flows from the Hope area down the valley to the ocean, and there is great concern about that.

Honourable senators, I am unable to answer Senator Grafstein's question with any definitiveness. A boil water advisory was in effect at some point, but I cannot recall the exact details of that.

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

## OFFICIAL LANGUAGES

### PRIVY COUNCIL VOTE 35—NINTH REPORT OF JOINT COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the ninth report of the Standing Joint Committee on Official Languages (Vote 35 under Privy Council), tabled in the Senate on April 25, 2002.—(*Honourable Senator Maheu*).

**Hon. Shirley Maheu:** Honourable senators, I rise today to speak to the ninth report of the Standing Joint Committee on Official Languages, which deals with the committee's examination of the estimates of the Office of the Commissioner of Official Languages for the fiscal year ending March 31, 2003. I wish to point out that the tenth and eleventh reports of the committee address issues that arose directly from the committee's examination of the estimates of the office of the commissioner. Therefore, since the three reports are inter-related, my remarks on the ninth report will also apply to the tenth and eleventh reports of the committee.

• (1500)

The tenth report expresses the wish that government consider the advisability of increasing funding for the Office of the Commissioner of Official Languages. The eleventh report proposes that the Office of the Commissioner of Official Languages should undertake a campaign to make Canadians more familiar with the Official Languages Act.

[*Translation*]

The Commissioner of Official Languages, Dr. Dyane Adam, appeared before the Standing Joint Committee on Official Languages on April 23 to present the Commission's activity report in order to undertake an examination of the estimates for projected activities.

[*English*]

As the commissioner said, and I quote:

Preserving language rights is urgent, and to do it we need the right tools. In a structured and consistent manner, my Office must assess the repercussions of draft legislation, programs and policies in all fields, such as the administration of justice in both official languages, Government On-line, immigration, modernization of human resources management, air transportation, health and education, to name just a few examples. To this end, we must expand our research capacity. We need to create a section of auditors responsible for conducting horizontal investigations and providing special studies.

To achieve its mission, the Commissioner of Official Languages carries out investigations and provides policy advice and information regarding the application of the Official Languages Act.

[*Translation*]

The Office of the Commissioner of Official Languages has had to get involved in a number of contentious cases, including the municipal mergers on the Island of Montreal, the Montfort Hospital and Charlevoix in the east.

The Office of the Commissioner does not merely react and wait until a complaint is made and investigated. It is proactive and it wants to continue to be. For this reason, the committee is proposing, in its eleventh report, that the Office of the Commissioner launch a national awareness campaign to inform Canadians of their linguistic rights, which, unfortunately, are all too often ignored.

The Office of the Commissioner also advises federal authorities on their responsibilities under the Official Languages Act. The Standing Joint Committee on Official Languages is currently reviewing Part VII of the act. I can assure you that the development of minority communities is far from guaranteed. There are many shortcomings in this regard. This is why I am asking all honourable senators to read the eighth report on the consultation of French-speaking and English-speaking minorities in Canada.

The Government of Canada must demonstrate a firm commitment to minority linguistic communities. The fact that it reiterated its commitment to Canada's linguistic duality in the Speech from the Throne is no coincidence.

Our government has appointed an Official Languages Coordinator, Stéphane Dion. The committee's hope that the Office of the Commissioner will conduct a national awareness campaign to inform Canadians reflects the government's will. However, all these initiatives cannot be implemented without financial support from our government.

[English]

In conclusion, last year the Standing Joint Committee on Official Languages asked the government to increase funding for the Office of the Commissioner of Official Languages to meet additional needs amounting to \$6 million. The commissioner informed the committee that the budget for her office last year was increased by \$2.4 million and was granted a temporary amount to renew its technological platform. In the view of the Standing Joint Committee on Official Languages, the heavy workload and the expectations placed on the Office of the Commissioner of Official Languages justify the committee's suggestion in the tenth report that the funding of the office be increased by \$4 million.

[Translation]

**Hon. Jean-Robert Gauthier:** Honourable senators, I ask that the debate on consideration of the ninth report of the Standing Joint Committee on Official Languages concerning vote 35, the annual budget for the Office of the Commissioner of Official Languages, be adjourned in my name.

The committee is proposing an increase in the votes for consideration of the bill, but it is doing so in a very special context. Everyone knows that votes requested cannot be increased, but that it is possible to recommend certain essential work.

The committee believes that improved advertising would help publicize the work of the Office of the Commissioner of Official Languages. This advertising would help make Canadians aware of linguistic duality, language rights and the obligation of federal authorities to serve Canadians in the official language of their choice. Institutional bilingualism and linguistic duality are not about forcing all Canadians to speak both official languages.

In Canada, 19 million anglophones do not speak French and should be entitled to services from federal institutions in their own language.

The same principle applies to the four million francophones in Quebec who do not speak English. They, too, should have access to the services provided by federal institutions in the language of their choice, when and as they wish.

I therefore move that the debate be adjourned, because I would like to speak to this issue at greater length.

**Hon. Lowell Murray:** May I ask Senator Maheu a question?

[English]

**The Hon. the Speaker:** Would the honourable senator take a question?

**Senator Maheu:** Yes, I would.

[Translation]

**Senator Murray:** Honourable senators, I noticed that the last time the deputy ministers were shuffled, the government was careful in its press releases to identify one of the deputy ministers who was promoted as a francophone. This act of public relations led me to believe that very few francophone deputy ministers were promoted during the shuffle.

[ Senator Maheu ]

Has the Official Languages Commissioner reported on the situation of anglophone and francophone deputy ministers?

**Senator Maheu:** I am not aware of such a study, however the committee has taken note of what Senator Murray has said.

Francophone deputy ministers are rarely promoted. It is our intention to ask the minister responsible, Stéphane Dion, about this the next time he appears before the committee.

[English]

**The Hon. the Speaker:** Honourable senators, it is moved by the Honourable Senator Gauthier, seconded by the Honourable Senator Fraser, that further debate on the motion be adjourned until the next sitting of the Senate, for the balance of Senator Gauthier's time.

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

**Some Hon. Senators:** Agreed.

**An Hon. Senator:** No.

Motion agreed to, on division.

## BUSINESS OF THE SENATE

**Hon. E. Leo Kolber:** Honourable senators, I request leave to revert to item No. 5 under Reports of Committees.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** It should be at the end of the Orders of the Day.

**The Hon. the Speaker:** It is indicated that it would be appropriate to ask for leave at the end of Orders of the Day.

• (1510)

## STUDY ON ROLE OF GOVERNMENT IN FINANCING DEFERRED MAINTENANCE COSTS IN POST-SECONDARY INSTITUTIONS

### REPORT OF NATIONAL FINANCE COMMITTEE ADOPTED

On the Order:

Resuming debate on consideration of the ninth report of the Standing Senate Committee on National Finance (study on the role of the government in the financing of deferred maintenance costs in Canada's post-secondary institutions), tabled in the Senate on October 30, 2001.—(*Honourable Senator Kinsella*).

**Hon. Lowell Murray:** Honourable senators, this item is in consideration of the ninth report of the Standing Senate Committee on National Finance, the study on the role of the government in the financing of deferred maintenance costs in Canada's post-secondary institutions.

Now is not the time for me to enter into a lengthy discussion of the many problems and challenges facing post-secondary education in this country. In any case, I would be far from the best qualified person here to do that. Suffice to say that Canadians expect that their post-secondary educational institutions will be places of academic excellence and places where academic excellence will be rewarded. At the same time, they want university education to be available to everyone regardless of economic circumstances. They want their post-secondary education institutions to contribute to some understanding of the economic and social problems facing the country and to our cultural life. They want their universities to impart the knowledge and skills that young Canadians need to make a life and make a living in today's economy.

These considerations and many more make up what one might call the great expectations that Canadians have of higher education. The challenges are truly formidable for the governors of universities, the administrators, the professors and the students, especially facing a situation in which there will be an anticipated 20 per cent increase in enrolment during this decade. These people at our universities have to fight and argue for a share of attention and resources, public and private, to enable them to confront the challenge successfully.

When I say "public and private," it is useful to note, 55 per cent of post-secondary institution revenues come from the various levels of government, 19.3 per cent from student fees, and the rest from various private contracts and private sources.

The Senate addressed one part of this challenge — that is, the problem of deferred maintenance costs in Canada's post-secondary institutions and the role of the government in financing these costs. I think we can take some satisfaction and the post-secondary education community can derive some hope and confidence in the thoroughness of the study and the debate that took place here, and in the realistic and practical recommendations that the committee chose to highlight.

Honourable senators know that maintenance of the existing plant and equipment is not a very sexy subject for politicians. It is not a very attractive cause for governments or for private sector donors, who, as Senator Bolduc pointed out during the debate, would far rather be associated with ribbon cuttings of new institutions or with endowing chairs in one or another of the academic disciplines.

Nevertheless, keeping the plant in decent repair is a vital issue. As Senator Moore told us on March 20, 2001:

If we are to enjoy the benefits of a first-class education system, we must be prepared to support that system, and support entails investment in everything from high-speed data links to roofs that do not leak.

Roofs that do not leak: We heard a lot about that during our committee deliberations. During the 1990s, governments reduced funding levels of post-secondary educational institutions. Rather than cut back substantially on courses, on professors or on

students, many universities deferred spending on maintenance. The wisdom of that may well be questioned and we did question it. However, dubious as the practice may be, it is a fact that it happened, with the results that we know about. The Canadian Association of University Business Officers has estimated that the accumulated cost of deferred maintenance in our institutions is as high as \$3.6 billion — this at a time when the universities already have to invest in expensive new learning technologies and at a time when they are confronted with this projected 20 per cent increase in enrolment and the consequent need for expansion of physical facilities.

This is a very serious problem. I think that honourable senators in this chamber, the post-secondary education community and the country owe a debt to Senator Moore, who has been the prime mover of this undertaking by the Senate. Those who are interested in how the Senate works might find it instructive to trace the evolution of this debate over a period of time. Senator Moore started with a Notice of Inquiry that he would call the attention of the Senate to the emerging issue of deferred maintenance costs in Canada's post-secondary education institutions. He spoke on March 20, 2001, outlining and defining the problem clearly. He was followed in that debate by our former colleague Senator DeWare, and by Senators Callbeck, Meighen, Andreychuk, Joyal, Gauthier, Kinsella and Atkins, the latter of whom had chaired a round table on post-secondary education for the Conservative Party last June.

The list of senators who participated in the original debate — the list I have just read — is a list of people who have quite direct knowledge and experience of the problem. They are university professors and administrators, university governors, former federal and provincial ministers, all of whom spoke with a background, not just of obvious concern, but of some knowledge and experience in these matters.

In June, Senator Moore obtained support for a motion to instruct the Standing Senate Committee on National Finance to examine and report on the role of government in the financing of deferred maintenance costs in Canada's post-secondary institutions. When we returned last September, the committee devoted four meetings and heard 15 witnesses on this reference. I tabled the report on October 31 last.

Let me say a word about the recommendations. In a general way, I should tell honourable senators that we chose to highlight what I think were the most practical and doable ideas presented to us in the course of our hearings. We were at some pains to acknowledge the fiscal situation facing all governments. While that situation has improved in recent years, the fact of the matter is that, at the federal level, the debt is still at a level where I do not think any of us can say that we are completely out of the woods.

• (1520)

Second, it bears repeating that this is not a problem in respect of which the federal government should take total ownership. I quite agree that the federal cutbacks in the 1990s were greatly responsible for the financial stringencies that some of the provinces and all of the universities had to face. Nevertheless, it is an area that demands the cooperation and collaboration of both levels of government.

Of the seven recommendations that we put forward, the two that I regard as the most promising are those that adopt the approach of the federal Infrastructure Program. One recommendation was a plan put forward by the Association of Universities and Colleges of Canada and by the Canadian Association of University Business Officers, calling for a new infrastructure program targeted to the elimination of the accumulated deferred maintenance problem at post-secondary institutions. Their plan would involve a total of \$3 billion to be shared 40 per cent each by the federal and provincial governments and 20 per cent by the universities.

A somewhat different version of the same idea was to make universities eligible under the present Infrastructure Program. The total amount available might be increased and universities would be made eligible to take part in that program on the same basis that municipalities currently do. This would probably require the consent of the provinces. It is a very simple idea and doable.

Another model to be considered is that provided by the Medical Equipment Trust Fund. In 2000, the federal government announced that \$1 billion would be made available to enable provinces and hospitals to purchase medical equipment. The provinces determine the priorities, and the money is distributed by the federal government, on a per capita basis, across the country.

There were other recommendations involving the tax system and the use of the Canada Mortgage and Housing Corporation as a mechanism to re-mortgage some of the institutions and provide the funds for attacking this deferred maintenance problem.

The recommendations were practical and realistic. The debate on the report involved Senator Moore, Senator Bolduc, Senator Banks, Senator Callbeck and Senator Morin.

I conclude by saying that the Senate and its committee have canvassed this issue thoroughly. It is an urgent problem. We have identified practical solutions based on existing programs, the parameters of which are well known to the government. We have identified solutions that do not require extensive analysis or study. We have identified solutions that will not break the bank and are well within the fiscal capacity of the federal government. These solutions do require political will.

Honourable senators, we have done our part on this quite serious issue. At the behest of our colleague Senator Moore, with whom I am happy to be associated in this undertaking and this motion, I move, seconded by Senator Moore, that this report be adopted.

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

**Hon Senators:** Agreed.

Motion agreed to and report adopted.

[ Senator Murray ]

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I would yield to Senator Moore, but when we conclude this particular item I will move the adjournment of debate, having held the adjournment of the debate on the main motion.

**Hon. Fernand Robichaud (Deputy Leader of the Government):** I am at a loss as to where we are in relation to this item. I thought the debate was concluded because the question was put and the motion was adopted. Are we agreeing now that Senator Moore and Senator Kinsella should speak to the topic? I am seeking direction from the Chair.

**The Hon. the Speaker:** The honourable senator is quite right. I put the motion, Senator Moore seconded it, and it was passed. We would require unanimous consent to return to the motion to debate it further.

Is it your wish, honourable senators, to do that? Is it agreed that we withdraw the approval of the report on which we just voted?

Senator Kinsella, Senator Murray moved a motion, and I put the motion and paused, but obviously not long enough. The matter was voted, and the motion was adopted.

**Hon. John Lynch-Staunton (Leader of the Opposition):** That is the end of that, then.

**The Hon. the Speaker:** I have asked if there were a willingness to return to the motion with unanimous consent. I have a "no" from the senator on my right. Accordingly, there is no unanimous approval to return. Therefore, we will now go on with the Order Paper.

## NATIONAL CAPITAL COMMISSION

### PROPOSAL TO SELL MOFFATT FARM— INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Cools, calling the attention of the Senate to:

- a) to the public's need for the Senate and the Parliament of Canada to take into their cognizance the current conflict between Ottawa residents with their Ottawa City Council and the National Capital Commission regarding the National Capital Commission's proposal to re-zone a riverfront parkland to build a 244 dwelling housing development on that riverfront parkland, a matter well reported in the media;
- b) to the national capital parkland known as the Moffatt Farm, a riverfront parkland on the heritage waterway, the Rideau River, at Mooney's Bay, near the entrance to the Hog's Back Locks, all of which form a part of the ancient and historic Rideau Canal and the Rideau Canal Waterway System, a parkland which for decades has been held by the National Capital Commission as a commissioned public trust for its protection for the public good and for the public use;

- c) to the meaning in law of a commission, being that a commission is a public body with a public purpose, authorized by letters patent, an act of parliament, or other lawful warrant to execute and perform a public office, and further, that the National Capital Commission is no ordinary entity, or no simple arms length crown corporation but is a commission a peculiar constitutional entity, intended to perform a public duty;
- d) to the current land use designation zoning of Moffatt Farm which is zoned as parkland, as are other Ottawa national capital parks such as Vincent Massey Park and Hog's Back Park, parklands whose maintenance and sustenance are of great importance and concern to Ottawans;
- e) to the National Capital Commission contracted agreements with private developers, including that one with DCR Phoenix, regarding the sale for development of the parkland, Moffatt Farm, to the same DCR Phoenix, a private developer currently acting as the National Capital Commission agent before Ottawa City Council and the Ontario Municipal Board in proceedings about the National Capital Commission proposed re-zoning of Moffatt Farm from parkland zoning to residential zoning so as to permit the National Capital Commission's sale of this parkland to private developers;
- f) to Ottawa City Council's unanimous decision, on March 27, 2002 rejecting and soundly defeating the National Capital Commission/DCR Phoenix's proposal for re-zoning and development of the Moffatt Farm parkland, to the city government's strong objection to the proposed development, being the building of 244 expensive, luxurious high end houses on the Moffatt Farm parkland, a parkland also known for its environmentally sensitive lands;
- g) the responsible ministry's and the National Capital Commission's own protocol that holds that the National Capital Commission should defer to municipal government on planning issues and land use;
- h) to another motion overwhelmingly adopted by Ottawa City Council, on April 10, 2002, expressing the City's wish to purchase the Moffatt Farm parkland, also asking the National Capital Commission to honour City Council's decision and also to withdraw its own appeal to the Ontario Municipal Board asking the Ontario Municipal Board to overturn City Council and force the re-zoning of Moffatt Farm from parkland zoning to residential zoning;
- i) to that same City Council motion of April 10, 2002, which said:

"WHEREAS the Moffatt Farm has been in public ownership for the past 50 years, since its expropriation, and has, until 1999, been designated a Capital Park by the National Capital Commission;

AND WHEREAS the NCC has determined that this property is surplus to national needs and intends to sell it;

AND WHEREAS the Moffatt Farm is outside the General Urban Area, and designated as Waterfront Open Space in the Regional Official Plan, which is land in, or intended to be in, public ownership and intended for public recreation and environmental conservation uses;

AND WHEREAS the Moffatt Farm has no 'right of development' at this time, being designated Major Open Space, Waterway Corridor and Environmentally Sensitive Area, zoning that offers the highest possible protection;

AND WHEREAS, in the Ottawa Official Plan, the Moffatt Farm is designated as a District/Community Park, a use identified in the 1973 Carleton Heights Secondary Plan as a means to address inadequate parkland for this area of the City;

AND WHEREAS, since 1973, the population of this community has doubled and available parkland has already decreased;

AND WHEREAS the City of Ottawa has a policy to acquire, where possible, waterfront properties that form the Greenway System and preserve these lands for public open space use;

THEREFORE BE IT RESOLVED that the City of Ottawa offer to purchase the entire Moffatt Farm property from the NCC, at a price which will be based on its current and future use as a District Park; and

BE IT FURTHER RESOLVED that the City request the local Members of Parliament (National Capital Caucus) to urge the NCC to respect Council's unanimous decision and withdraw its appeal to the OMB."

- j) to the growing public disenchantment and disappointment of Ottawans who perceive the National Capital Commission's corporate culture as running roughshod over Ottawans with wanton disregard for local communities of which the Moffatt Farm community is only one of several which include Lac Leamy, Sparks Street redevelopment and others, all of which have resulted in diminishing public respect for the National Capital Commission and its land use proposals in the national capital area;
- k) to the burgeoning public unease about the destiny of Ottawa's precious public lands as many Ottawans are anxious that the National Capital Commission is conducting its affairs in land use matters, more as a private development company and less as a public commission entrusted with Her Majesty's and the public's interest in the proper land use of unique, historical, heritage parklands and properties; and

l) to the public need for Parliament's study and review of the National Capital Commission in its entirety, including its role, structure, organization, operations, authorizing statute, its parliamentary appropriations, finances, and its relations with Canadian citizens, especially Canadian citizens living in the Ottawa area, its land dealings, its land developments, and its agreements with private developers selected by the National Capital Commission as recipients, buyers, of treasured historic lands. —(Honourable Senator Kinsella).

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I would like to make a few remarks with reference to this matter now before the Senate.

I wish to make six points. I do this not having completed all of the research that I wish to do on the matter.

The matter relates, honourable senators, to the National Capital Act, which created the National Capital Commission. Prime Minister Diefenbaker introduced that legislation in 1958. There have been some amendments along the way. However, basically the model is 44 years old. By any estimation, a piece of legislation that creates a type of machinery to deal with an item, in this case the National Capital Region, needs to be reviewed. When one goes to the source legislation a number of issues present themselves.

One of the first issues is the principle that all Canadians have a direct interest in the open lands and assets that are looked after by the National Capital Commission.

• (1530)

In other words, the National Capital Commission holds these properties in trust, or on a fiduciary basis, on behalf of Canadians from every part of Canada. They are not managing land and assets and conducting programs for the enrichment of the National Capital Region or for people who are resident in this part of Canada, but rather their mandate, in principle, is to represent and manage on behalf of all Canadians, Canadians from every part of the country.

Therefore, when questions as to decisions that the commission would make are analyzed, if there is a controversy around those decisions, particularly when it comes to the disposition of open lands, it seems that those decisions of the National Capital Commission must be assessed through the lens of whether they are good for all Canadians.

Questions are being raised as to whether or not the original purpose of the National Capital Act has been changed. When we consider that the act was brought in in 1958, perhaps the time has come for Parliament to review the adequacy of this model of legislation.

Furthermore, honourable senators, it seems to me that all of us recognize the socio-economic and, in particular, the mobility dynamics of Canada in the year 2002, where today more Canadians from coast to coast come to the national capital than ever before because of the infrastructure of transportation and the general increased mobility of Canadians. That is a significant change, and it means that, in a real and practical way,

Canadian families from coast to coast are stakeholders in the use of all public lands in the national capital in far greater numbers and in ways not thought of 50 years ago.

Therefore, a decision of the National Capital Commission relating to the disposition of these public lands affects, in a very real, hands-on way, individual Canadian families from across the country who come to the national capital area more frequently and more often. The section in the National Capital Act dealing with the sale of public lands held in trust for all Canadians needs to be looked at it relates to its adequacy to deal with this changed Canada of ours.

It seems to me, we require a provision for a recall mechanism. Section 10(2) of the act, which gives the power to the National Capital Commission to sell lands held in trust, could be amended by Parliament to provide for a review mechanism by Parliament or a parliamentary committee upon the receipt, for example, of 1,000 signatures of citizens from any part of Canada.

As well, the section of the act that gives the authority to the cabinet to overturn any decision by the NCC to not sell land should also apply to any decision to sell land. There is a provision in the act which provides that cabinet can override a decision of the NCC to not sell land, and I would suggest that the same provision should apply to the sale of land.

The National Capital Commission, in my view, honourable senators, should not be selling assets to private developers if the purpose of doing that is for the NCC to offset ongoing costs of the commission. If the NCC needs money for its operations, it, like any other agency or ministry, should bring its case to Parliament. It should not be out selling assets to generate funds to do that.

In a publication called *A Place for Canadians: The Story of the National Capital Commission*, by Greg Gytton, I found, at page 114, an interesting line which reads as follows:

Driven by the need to make ends meet, the NCC negotiated some bold deals...

Should the NCC, indeed should any agency of the Crown, in order to make ends meet, be out negotiating away assets — in this instance, assets that are held in trust for all Canadians?

The matter that drew my attention to this need for a review by Parliament is the proposition regarding a piece of property, public, open lands known as the Moffatt Farm, which is on the bank of Mooney's Bay along the Rideau waterway. I went out of my way to walk that land recently so I would have a sense of the lay of that land and have some personal experience of the beauty of the piece of property in question.

The proposition, as I understand it, and I have not completed the study, is that the NCC will transfer that property, or part of it, and that it will be used for a housing development. That kind of decision does nothing for Canadians from New Brunswick who come to the National Capital Region and who would want to sit along the banks of the Rideau waterway. It seems this is a classical example of something wrong with the NCC being placed in the situation that they are forced to sell assets in order to make ends meet. There is something wrong there that needs to be examined.

Honourable senators, the NCC has appealed the decision of the City of Ottawa not to rezone the Moffatt Farm land to make it available for uses other than park use. The NCC has made an application to the Ontario Municipal Board appealing that decision of the City of Ottawa. I would urge honourable senators to support the view that the NCC should withdraw that application before the Ontario Municipal Board, and to do so forthwith.

Honourable senators, as I indicated, I have not completed my work on this, but I thought it of some urgency to say what I had to say this afternoon.

I move the adjournment of the debate.

**The Hon. the Speaker:** Will Senator Kinsella take a question?

**Senator Kinsella:** Yes.

**Hon. Herbert O. Sparrow:** Can the honourable senator tell us how and when the land was obtained by the National Capital Commission? Was it purchased by the federal government through monies advanced to the National Capital Commission, or was the property donated to the Government of Canada by the Canadian people?

**Senator Kinsella:** I am afraid I cannot answer the question.

**Senator LeBreton:** It was expropriated.

**Senator Kinsella:** It might have been expropriated. The land base of the National Capital Commission has been acquired in a variety of ways. I will get back to the honourable senator with a verifiable answer.

**Hon. Nicholas W. Taylor:** I particularly liked the point made by the honourable senator that what is in Ottawa belongs to all Canadians, whether from New Brunswick or Alberta. That is important. I do think we should be able to throttle this proposal somehow or another. How can the Senate shut it down?

• (1540)

**Senator Kinsella:** Honourable senators, the Standing Senate Committee on National Finance will have an opportunity to meet with and hear from the Chairperson of the National Capital Commission, who is scheduled to appear before the committee on June 11. I would encourage all honourable senators to read a copy of the act and reflect upon whether a bill that was legislated in 1958 can deal with the changed world and involve Canadians travelling the way that we do.

Honourable senators, we know from experience in our own communities that zoning and other related issues could become complex. In this instance, I am trying to speak to the larger framework issue. If properties are being disposed of as a source of revenue for an agency, there is something wrong in principle. Once the open lands are gone, if they are used for commercial or other purposes, then they will not be available for Canadians from the other provinces and territories who come to Ottawa.

**Senator Taylor:** Coming from a province that will sell anything that is not nailed down, I am interested in knowing how to go about it.

The Senate is not supposed to be able to pass a money bill. Someone might argue that because they are not receiving money, this is not a money bill. Has action been initiated in the other place to stop this, or is this matter strictly before the Senate?

**Senator Kinsella:** We have to thank the Honourable Senator Cools for having allowed the Senate to apprehend the issue. I have just begun my examination of it. The fact that we are looking at the kinds of issues raised in our debate may be helpful in and by itself. At some point, Parliament will have to look at the legislation because it is probably outdated, whether initiated by a member of the Senate or of the other place.

On motion of Senator Kinsella, debate adjourned.

## REDISTRIBUTION OF SEATS IN HOUSE OF COMMONS

### INFLUENCE OF 2001 CENSUS—INQUIRY— DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Murray, P.C., calling the attention of the Senate to certain issues related to the redistribution of seats in the House of Commons subsequent to the decennial census of the year 2001.—(*Honourable Senator Stratton*).

**Hon. Terry Stratton:** Honourable senators, I rise today to speak to Bill C-441 which, if passed, would change the names of 14 electoral districts in Canada. This process would be done pursuant to the 1985 Electoral Boundaries Adjustment Act.

I am concerned about a bill of this nature coming to us at a time when Canada's electoral boundaries will undergo significant readjustment pursuant to the last census. It seems decidedly inappropriate, especially in Ontario where provincial and federal electoral boundaries coincide —

**The Hon. the Speaker:** I see Senator Robichaud rising.

[*Translation*]

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, we are now at Item No. 43 of the Orders of the Day. I thought I heard Senator Stratton speak to Bill C-441, which has already been stood.

[*English*]

**The Hon. the Speaker:** Honourable senators, I was not paying enough attention myself. Could I ask the Table to tell the house the order number for Bill C-441?

**Senator Stratton:** Senator Robichaud is correct.

**The Hon. the Speaker:** Honourable senators, has Bill C-441 passed?

**Senator Stratton:** Honourable senators, it is my error and it is not Bill C-441. However, I am speaking to Inquiry No. 43, which is at day 15. I request leave to rewind the clock to allow me to speak.

I should like to speak to this item because of my concern, especially in Ontario where provincial and federal electoral boundaries coincide, to proceed with changes to constituencies that may be significantly changed pursuant to redistribution. I wish to speak to this matter at some length after the sessional break. Therefore, I move that debate be adjourned.

On motion of Senator Stratton, debate adjourned.

## BANKING, TRADE AND COMMERCE

### BUDGET—STUDY ON DOMESTIC AND INTERNATIONAL FINANCIAL SYSTEM— REPORT OF COMMITTEE ADOPTED

Leave having been given to revert to Reports of Committees:

On the Order:

Resuming debate on the motion of the Honourable Senator Kolber, seconded by the Honourable Senator Callbeck, for the adoption of the fifteenth report of the Standing Senate Committee on Banking, Trade and Commerce (budget 2002-2003) presented in the Senate on April 30, 2002.—(*Honourable Senator Stratton*).

**Hon. E. Leo Kolber:** Honourable senators, the last time I rose to speak to this report, I was asked a few questions. I now have the answers that honourable senators were seeking.

The Banking Committee had requested \$383,000. The Internal Economy Committee is proposing \$122,000, or 32 per cent of the amount requested. I should point out that it is under the heading "Transportation and Communications" that the largest reduction occurred. The committee's request under that heading has been reduced by over 90 per cent, or \$258,000. This reduction is the result of the following:

The committee was planning to travel under its study of the WTO and financial services. However, because of the collapse of Enron in the United States and its impact on financial systems across the world, your committee has decided to postpone its study on the WTO in favour of a study on the Canadian perspective of the Enron collapse. The committee will look into Canadian accounting practices, securities regulations and governance systems to ensure that the circumstances that led to Enron's collapse do not occur in Canada.

The present allotment of funds would be sufficient to begin the committee's study into Enron. We would review our budget application with respect to travel by the committee. I expect that at some point during our study, most likely next fall, it will become necessary for the Banking Committee to travel to Washington and perhaps to New York so that it may fully explore the issues surrounding Enron. The budget as approved to this point will only allow for four senators and two staff to travel. I am not certain that it will be sufficient, so we may need to request additional funds in the future.

• (1550)

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, I have a question for the Chairman of the Standing Senate Committee on Banking, Trade and Commerce.

I am interested to hear that the committee will be undertaking a study of Enron from the Canadian perspective. However, I would have preferred to hear that the committee is planning a study on Nortel, which has suffered a similar disaster for its shareholders and employees and which, unfortunately, has not been subjected to the same kind of investigation Enron has. As soon as Enron collapsed, five or six congressional and senatorial committees were struck; as well, the auditors are now before the courts.

Here in this country, we had a major collapse. Nortel is probably the second most widely held stock in Canada, assuming that Bell is the most widely held. Many people received Nortel shares as the result of a dividend. Nevertheless, as far as I know, no public hearings are planned, although there may be a class-action suit.

I should think that the Banking Committee is ideally positioned to focus on Nortel in this study. It would be studying the same type of subject matter as it will be under the Enron rubric, but it would have more of a Canadian focus, if not an exclusive one.

**Senator Kolber:** I wish to thank the honourable senator for his question. What the committee will be studying is what I and some of my colleagues on the Banking Committee refer to as "Enronitis." Enronitis is a disease, and it may be that Nortel suffered from some aspects of that disease. One thing the committee will explore, which will sweep Nortel into the tent, is the use of options and when they can be exercised, a lot of which applies to Nortel. The governance of Enron and why the directors did not know it was going the collapse within months will also be studied. I do not know if our study will necessarily be company-specific; however, I do not know how to avoid it.

We will have to talk about Nortel at some point, so the honourable senator's question is well put, and I am sure we will address it.

**Hon. Roch Bolduc:** My question is to the Chairman of the Banking Committee.

Regarding the committee's mandate with respect to corporate governance, does the committee intend to look at the compensation of the chief executives?

In Canada, we have the same disease they have in the U.S. Corporate executives and chief executives are becoming greedy in Canada. I am a staunch defender, as honourable senators know, of the market economy and the capitalist system. It is the best and, by far, the most efficient system in the world.

Nevertheless, in the last couple of years people have gone mad. There are now experts on compensation, and these experts generally come from a consulting business. These experts come in and decide on the ideal formula to compensate chief executives.



In the beginning, we heard about executives being remunerated in the range of \$500,000, \$600,000, \$1million, maybe even \$2 million or \$3 million. I can accept that; it is fair. However, no longer are we talking about those amounts; we are now talking, in one case, about \$153 million, and in that case the shares and the profits went down considerably. That is one aspect. In other companies, executives are earning \$25 million or \$30 million.

In Canada, where our businesses are smaller, those amounts are excessive. I do not understand why the judgment of boards of directors is so bad as to accept things like that.

I should like the Banking Committee to look at that, if possible.

**Senator Kolber:** The committee will look at that issue; I agree that there have been obscene examples. However, the problem becomes how to legislate against it. The committee will need to hold hearings. At this time, I do not have a good answer for the honourable senator.

Remember, with respect to the numbers the honourable senator is putting forward, probably 90 per cent is related to exercising stock options, not just salaries. An individual who has held stock for 25 or 30 years is entitled to those earnings, if they have made the stock grow and the shareholders have made money.

I do not want to get into a huge debate, but there are many aspects of it. There is the question of short-term gains. You are right, and it is on our agenda to study.

**Senator Bolduc:** The committee should focus also on the responsibility of the board of directors. The chairman has that experience, I have it, as do many of us here.

I have sat on many boards. Sometimes the directors feel overwhelmed by the executives. Not only is the chairman in attendance, but the president is as well, along with all the vice-chairmen. Those people come with expertise. A director who is with an insurance company, or any other type of company, sometimes feels uncomfortable as a board member. A director knows that he or she is there to represent the shareholders.

I do not have any precise answer, but that is what the committee should study. The committee should pay particular attention to financial institutions, which, unlike other institutions, have a public interest mandate. If a financial institution were to collapse, many people in Canada would be hurt.

**Senator Kolber:** Corporate governance is high on our agenda. As the honourable senator knows, four major studies have been

done on corporate governance, the latest one being the Saucier study.

I have dedicated much time to sitting on boards. It is a many splendoured thing. There are no simple solutions. I suspect that, among other things, the committee will have to look at qualifications respecting board members and whether there should be such a thing as a professional board member. I am convinced that today's board members do not have the time to devote commensurate with their responsibilities.

**Hon. Herbert O. Sparrow:** Senator Lynch-Staunton made the suggestion that the study be on Nortel rather than Enron, and the Chairman of the Banking Committee responded that perhaps Nortel could be swept into the study. I would be on the side of Senator Lynch-Staunton, in that if the study were on Nortel we could sweep Enron into that. It is important.

My question is the following: Now that this proposal — namely, that the committee study Nortel — has been made, what do we do from here? Where do we go from here? Is the Chairman of the Banking Committee prepared to take this proposal to his committee, discuss the issue there, and bring it back to us here? How would that be handled?

**Senator Kolber:** Our committee has decided to do the study about the Enron effect, and we will certainly include things like Nortel. That will get swept into the tent.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Would the honourable senator not agree that, before anything can be done in the Banking Committee, there would have to be an order of reference from the Senate? Given that, we will be alert to the sentiment here in the Senate that we want to look at Nortel, and have whatever it is the honourable senator is proposing under the committee's study on Nortel brought in.

Will the Banking Committee be making a motion in the Senate before June for an order of reference?

**Senator Kolber:** That order of reference exists. It is a generalized one.

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

Motion agreed to and report adopted.

The Senate adjourned until Thursday, May 9, 2002, at 1:30 p.m.

## CONTENTS

Wednesday, May 8, 2002

PAGE	PAGE
<b>SENATORS' STATEMENTS</b>	
<b>Situation in the Middle East</b>	
Hon. Lucie Pépin . . . . .	2814
<b>Presidential Election in France</b>	
Hon. Gérard-A. Beaudoin . . . . .	2814
<b>National Nursing Week</b>	
Hon. Yves Morin . . . . .	2814
<b>Anti-Doping Efforts in Sport</b>	
Hon. Francis William Mahovlich . . . . .	2815
<b>Visitors in the Gallery</b>	
The Hon. the Speaker . . . . .	2815
<hr/>	
<b>ROUTINE PROCEEDINGS</b>	
<b>Illegal Drugs</b>	
Notice of Motion to Authorize Committee to Extend Date of Final Report.	
Hon. Pierre Claude Nolin . . . . .	2815
<b>Social Affairs, Science and Technology</b>	
Notice of Motion to Authorize Committee to Meet During Sittings of the Senate.	
Hon. Marjory LeBreton . . . . .	2816
<hr/>	
<b>QUESTION PERIOD</b>	
<b>Public Works and Government Services</b>	
Internal Audit of Visibility and Sponsorship Programs.	
Hon. Pierre Claude Nolin . . . . .	2816
Hon. Sharon Carstairs . . . . .	2816
Internal Audit of Visibility and Sponsorship Programs— Involvement of Local Members of Parliament in Funding of Ottawa Tulip Festival	2816
Hon. Marjory LeBreton . . . . .	2816
Hon. Sharon Carstairs . . . . .	2816
<b>International Trade</b>	
United States—Renewal of Softwood Lumber Agreement.	
Hon. Pat Carney . . . . .	2817
Hon. Sharon Carstairs . . . . .	2817
United States—Renewal of Softwood Lumber Agreement— Comments by Minister.	
Hon. John Lynch-Staunton . . . . .	2817
Hon. Sharon Carstairs . . . . .	2817
<b>Public Works and Government Services</b>	
Internal Audit of Visibility and Sponsorship Programs.	
Hon. David Tkachuk . . . . .	2818
Hon. Sharon Carstairs . . . . .	2818
Hon. Pierre Claude Nolin . . . . .	2818
Hon. Roch Bolduc . . . . .	2819
<b>National Defence</b>	
United States—Proposal to Create Northern Command.	
Hon. Roch Bolduc . . . . .	2819
Hon. Sharon Carstairs . . . . .	2819
<b>Public Works and Government Services</b>	
Internal Audit of Visibility and Sponsorship Programs.	
Hon. Laurier L. LaPierre . . . . .	2820
Hon. Sharon Carstairs . . . . .	2820
Hon. Jean Lapointe . . . . .	2820
<b>Finance</b>	
Effect of Low Valuation of Dollar.	
Hon. Gerry St. Germain . . . . .	2820
Hon. Sharon Carstairs . . . . .	2820
<b>Delayed Answer to Oral Question</b>	
Hon. Fernand Robichaud . . . . .	2820
<b>Transport</b>	
Airport Security—Efficacy of Proposed Bomb Detection Equipment.	
Question by Senator Oliver. . . . .	2821
Hon. Fernand Robichaud (Delayed Answer). . . . .	2821
<b>Visitors in the Gallery</b>	
The Hon. the Speaker . . . . .	2821
<b>Pages Exchange Program with House of Commons</b>	
The Hon. the Speaker . . . . .	2821
<hr/>	
<b>ORDERS OF THE DAY</b>	
<b>Competition Act</b>	
<b>Competition Tribunal Act (Bill C-23)</b>	
Bill to Amend—Report of Committee Adopted.	
Hon. David Tkachuk . . . . .	2821
Hon. Nicholas W. Taylor . . . . .	2822
Hon. Donald H. Oliver . . . . .	2822
Hon. Lowell Murray . . . . .	2825
<b>Food and Drugs Act (Bill S-18)</b>	
Bill to Amend—Third Reading—Debate Continued.	
Hon. Gerry St. Germain . . . . .	2826
Hon. Jeremiah S. Grafstein . . . . .	2826
<b>Official Languages</b>	
Privy Council Vote 35—Ninth Report of Joint Committee— Debate Adjourned.	
Hon. Shirley Maheu . . . . .	2827
Hon. Jean-Robert Gauthier . . . . .	2828
Hon. Lowell Murray . . . . .	2828
<b>Business of the Senate</b>	
Hon. E. Leo Kolber . . . . .	2828
Hon. Noël A. Kinsella . . . . .	2828
<b>Study on Role of Government in Financing</b>	
<b>Deferred Maintenance Costs in Post-Secondary Institutions</b>	
Report of National Finance Committee Adopted.	
Hon. Lowell Murray . . . . .	2828
Hon. Noël A. Kinsella . . . . .	2830
Hon. Fernand Robichaud . . . . .	2830
Hon. John Lynch-Staunton . . . . .	2830

	PAGE
<b>National Capital Commission</b>	
Proposal to Sell Moffatt Farm—Inquiry—Debate Continued.	
Hon. Noël A. Kinsella . . . . .	2832
Hon. Herbert O. Sparrow . . . . .	2833
Hon. Nicholas W. Taylor . . . . .	2833
<b>Redistribution of Seats in House of Commons</b>	
Influence of 2001 Census—Inquiry—Debate Continued.	
Hon. Terry Stratton . . . . .	2833
Hon. Fernand Robichaud . . . . .	2833

	PAGE
<b>Banking, Trade and Commerce</b>	
Budget—Study on Domestic and International Financial System—	
Report of Committee Adopted.	
Hon. E. Leo Kolber . . . . .	2834
Hon. John Lynch-Staunton . . . . .	2834
Hon. Roch Bolduc . . . . .	2834
Hon. Herbert O. Sparrow . . . . .	2835
Hon. Noël A. Kinsella . . . . .	2835



*If undelivered, return COVER ONLY to:*  
Public Works and Government Services Canada –  
Publishing  
45 Sacré-Cœur Boulevard,  
Hull, Québec, Canada K1A 0S9