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(HANSARD)

Wednesday, March 28, 2001

THE HONOURABLE DAN HAYS
SPEAKER

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THE SENATE

Wednesday, March 28, 2001

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

Prayers.

SENATORS' STATEMENTS

NORTH AMERICAN FREE TRADE AGREEMENT

SOFTWOOD LUMBER AGREEMENT—
MARITIME LUMBER ACCORD

Hon. Noël A. Kinsella (Deputy Leader of the Government): Honourable senators, at the end of this month, a very important trade agreement between Canada and the United States will expire. This agreement deals with softwood lumber and particularly the export of softwood lumber from Canada to the United States. The region that I and many of my colleagues represent, Atlantic Canada, is particularly concerned because the American purchasers of softwood lumber coming from Atlantic Canada operate under the Maritime accord, and we have no difficulty. It is urgent that the Government of Canada, through ambassadorial exchanges, reach a memorandum of understanding within the next few days so that the Maritime accord will continue.

THE HONOURABLE NICK G. SIBBESTON

CONGRATULATIONS ON RECEIVING
A NATIONAL ABORIGINAL ACHIEVEMENT AWARD
FOR CONTRIBUTIONS TO ABORIGINAL COMMUNITY

Hon. Tommy Banks: Honourable senators, I wish to call the attention of the Senate to a spectacular event that occurred in Edmonton the weekend before last: the National Aboriginal Achievement Awards. I use the word "spectacular" in all of its meanings and to the fullest extent. It was produced by Dr. John Kim Bell, who is among Canada's most distinguished artists and among Canada's most distinguished members of the Aboriginal community. I commend all senators' attention to the program, which will air on the CBC network on April 10. It is a wonderful show, and it will make you proud to be Canadian. I particularly commend your attention to the segment of the program that was set aside to honour one of our own. On that occasion, Senator Sibbeston was honoured by his peers for his contributions to his culture, to his community, and to Canada. By being so honoured, he brings lustre to this place. I hope all senators will join in congratulating him.

Hon. Senators: Hear, hear!

[*Translation*]

SUMMIT OF THE AMERICAS

INVOLVEMENT OF PROVINCIAL
AND TERRITORIAL GOVERNMENTS

Hon. Jean-Claude Rivest: Honourable senators, I should like to draw your attention to the Summit of the Americas, which is to be held in Quebec City and will bring together all of the countries on the American continent, except one. I should like to focus in particular on the involvement of provincial and territorial governments in the Summit.

• (1340)

The leader of the Quebec Liberal Party, Jean Charest, made a specific request yesterday of the Canadian government that all Canadian provinces be allowed to take part in the discussions at the sectorial tables. We know that regional interests of extreme importance may be discussed. Mr. Charest reminded the National Assembly that, at the time the Free Trade Agreement was being negotiated, all provinces and territories of Canada had been able to be associated with this great undertaking by the then Prime Minister of Canada, the Right Honourable Brian Mulroney. The agreement has since gained the support of our federal Liberal friends.

[*English*]

LAWSUIT AGAINST CANADIAN ALLIANCE PARTY

Hon. Edward M. Lawson: Honourable senators, I know it was reported some weeks ago in the press, but I thought I should enlarge on the matter involving the settlement I received from the Reform Party on the libel action resulting from the Web site attack on 10 senators in this chamber, including myself.

We filed a lawsuit. The source of their material, they indicated in their defence, was *BC Business Magazine*. They said, "You did not sue that magazine; why are you suing us?" So we sued *BC Business Magazine*, which promptly published an apology, acknowledging that the statements were false.

In the face of that event, you would think an intelligent defendant wishing to end a lawsuit would say they had better quickly resolve this. No, they then filed a further statement of defence, making further scurrilous attacks on me.

We then proceeded to court. I must tell you that we were able to resolve the dispute through the intervention of a fellow senator. When Senator St. Germain went to the Alliance Party, he said to them, "When you talk about a policy of respect for Parliament, it means respect for both Houses, the House of Commons and the Senate."

Hon. Senators: Hear, hear!

Senator Lawson: Senator St. Germain said that they cannot be sincere in advocating respect for Parliament while making character assassinations on members of the Senate. They involved not only myself but Senators Buchanan and Tkachuk, senators who would have had a "slam dunk" win in court, although neither of them pursued a lawsuit. I can understand that. It is costly and expensive, and they decided against it.

What particularly troubles me is that the Reform Party asked their insurance company to fund their defence. The insurance company said, "We insured you for policy issues, not for character assassination," and it refused. The Reform Party sued them in court. The court confirmed that the insurance company should not pay its defence. Now the matter is under appeal.

What troubles me more than anything is that if it loses the appeal, the Reform Party — Preston Manning, if he is still there — will go to the Board of Internal Economy of the House of Commons. This committee will pay legal fees and damages, as it has done repeatedly.

Some Hon. Senators: Shame!

Senator Lawson: I am concerned that one House of Parliament will pay perpetrators of character assassinations against members of this chamber, yet when I raised the issue of the costs with our Internal Economy Committee, it was missing in action. The Internal Economy Committee said that it would create a precedent.

Honourable senators, what is wrong with creating a precedent? Hundreds and thousands of precedents are created by courts, Parliament and legislatures on those occasions when they see a wrong and decide to right it. There is something wrong with the picture where the perpetrators of character assassinations against individual senators, which is an attack on this entire chamber —

The Hon. the Speaker: Senator Lawson, it is with genuine regret that I tell you your time is up.

Some Hon. Senators: More!

[*Translation*]

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, before moving to the next item, I draw to your attention the presence of three pages who will be here with us this week from the other place on an exchange.

May I introduce Marc-André Beaudoin. He is studying in the Faculty of Administration at the University of Ottawa and is originally from Fredericton, New Brunswick.

Mélodie Simard is originally from Kapuskasing, Ontario. She is studying in the Faculty of Social Sciences at the University of Ottawa. Her major is political science.

Finally, we have Gabrielle White, from Cornwall, Ontario, who is studying in the Faculty of Social Sciences at the University of Ottawa. Her major is political science.

On behalf of all honourable senators, I welcome you to the Senate. I hope that you will find your week with us interesting and informative.

[*English*]

ROUTINE PROCEEDINGS

STATE OF HEALTH CARE SYSTEM

INTERIM REPORT VOLUME I OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE PRESENTED

Hon. Michael Kirby, Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Wednesday, March 28, 2001

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

SECOND REPORT

Your Committee, which was authorized by the Senate on Thursday, March 1, 2001 to examine and report upon the state of the health care system in Canada, now tables an interim report entitled *Volume One — The Story So Far.*

Respectfully submitted,

MICHAEL KIRBY
Chair

Senator Kirby: Honourable senators, pursuant to rule 97(3), I move that the report be placed on the Orders of the Day for consideration at the next sitting of the Senate.

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

Hon. Senators: Agreed.

Motion agreed to and report placed on the Orders of the Day for consideration at the next sitting of the Senate.

PUBLIC SERVICE WHISTLE-BLOWING BILL

REPORT OF COMMITTEE

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

Wednesday, March 28, 2001

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

FOURTH REPORT

Your Committee, to which was referred Bill S-6, to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers, has, in obedience to the Order of Reference of Wednesday, January 31, 2001, examined the said Bill and now reports the same with the following amendments:

1. *Page 5, Clause 9*: Add after line 25, the following:

"(5) An employee who has made a request under paragraph (1)(*b*) may waive the request or any resulting right to confidentiality, in writing, at any time.

(6) Where the Commissioner is not prepared to give an assurance of confidentiality in response to a request made under paragraph (1)(*b*), the Commissioner may reject and take no further action on the notice.".

2. *Page 7, clause 14:* Replace line 34 with the following:

"(4) Information related to an investigation is confidential and shall not be disclosed, except in accordance with this Act.

(5) The Commissioner shall provide the".

3. *Page 8, clause 17:* Replace lines 30 and 31 with the following:

"(*c*) the number of notices rejected pursuant to sections 9 and 12;".

4. *Page 10, clause 20*: Replace lines 25 to 30, with the following:

"**20.** (1) Except as authorized by this Act or any other law in force in Canada, no person shall disclose to any other person the name of the employee who has given a notice under subsection 9(1) and has requested confidentiality under that section, or any other information the disclosure of which reveals the employee's identity, including the existence or nature of a notice, without the employee's consent.".

5. *Page 11, new clauses 23 and 24:* Add after line 19, the following:

"**REVIEW**

23. (1) On the expiration of three years after the coming into force of this Act, it stands referred to such committee of the Senate, of the House of Commons or of both Houses of Parliament as may be designated or established to review its administration and operation.

(2) Within one year after beginning a review under subsection (1) or within such further time as the Senate, the House of Commons or both Houses of Parliament, as the case may be, may authorize, the committee shall submit a report on the review.

CONSEQUENTIAL AMENDMENT

Access to Information Act

24. Schedule II of the *Access to Information Act* is amended by adding the following in alphabetical order:

Public Service Whistleblowing Act *Loi sur la dénonciation dans la fonction publique*	section 10, subsection 14(4) and section 20".

Respectfully submitted,

LOWELL MURRAY
Chairman

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

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

[*Translation*]

ADJOURNMENT

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

That when the Senate adjourns today, it do stand adjourned until tomorrow, Thursday, March 29, 2001, at 1:30 p.m.

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

Hon. Senators: Agreed.

Motion agreed to.

[*English*]

• (1350)

AGRICULTURE AND FORESTRY

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Leonard J. Gustafson: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(*a*), I move, seconded by Senator Fairbairn:

> That the Standing Senate Committee on Agriculture and Forestry have the power to sit on Thursday, March 29, 2001, at 2 p.m., for the purpose of hearing from the Chief Canadian Negotiator of the Free Trade Area of the Americas, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

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

Some Hon. Senators: No.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, it was my understanding that this committee was going to ask for leave. We were prepared to grant it, but I understood they wanted to sit at 3:30 p.m. Perhaps we could have an explanation as to why the committee now wants to sit at 2 p.m.

Senator Gustafson: It was my understanding that as the Senate is to sit at 1:30 p.m. tomorrow, members of the committee could come and be counted at 1:30 and then proceed to the committee at 2 p.m. That was the information I received.

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

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

Motion agreed to.

CONFERENCE OF MENNONITES IN CANADA

PRIVATE BILL TO AMEND ACT OF INCORPORATION— PRESENTATION OF PETITION

Hon. Richard H. Kroft: Honourable senators, I have the honour to present a petition from the Conference of Mennonites of Canada, of the City of Winnipeg in the Province of Manitoba, praying for the passage of an act to amend the Act of Incorporation of the Conference of Mennonites in Canada.

QUESTION PERIOD

VETERANS AFFAIRS

MERCHANT NAVY—EXCLUSION OF BRITISH WEST INDIAN SEAMEN FROM COMPENSATION PROGRAM

Hon. Donald H. Oliver: Honourable senators, my question is directed to the Leader of the Government in the Senate. It arises from a story in the *Ottawa Citizen* of Monday, March 26, of this year. The headline read: "Canada excludes black seamen from merchant navy compensation." The news story, by Muriel MacDonald, stated that Canadian Black West Indian seamen are being excluded from compensation for lost post-war benefits granted wartime merchant seamen, a program that was announced on February 1, 2000. The story indicated that they are disqualified for not being residents of Canada during their war service and immediately after the war.

As the news story said, and as honourable senators will know, these British West Indian seamen lived in Canada for more than half a century, but they could not obtain citizenship because of Canada's unofficial wartime immigration policy against "Negroid, coloured or mixed race."

Surely these antiquated policies of bias are not being extended to compensation schemes in the 21st century. These seamen crewed Canadian National Steamship "lady boats" and Canadian merchant marine ships. Some were injured in action. The names of those killed in action are listed in the Merchant Navy Book of Remembrance in the Peace Tower on Parliament Hill.

Will the honourable leader undertake to determine whether the Canadian government will continue to maintain biased policies against these West Indian seamen? Will she take the steps necessary to ensure that they will receive their rightful compensation for post-war benefits?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I thank the senator for his question. Clearly, this is a very serious issue. The bill that was passed was based on residency. I would hope that "residency" would be given the broadest possible definition.

I will make inquiries on behalf of the honourable senator to learn whether there is any means by which these individuals can be duly recognized.

PRIME MINISTER'S OFFICE

DUTIES OF MR. DAVID MILLER AS SENIOR ADVISER— POSSIBLE CONFLICT OF INTEREST

Hon. J. Michael Forrestall: Honourable senators, my question is directed to the Leader of the Government in the Senate. A Mr. David Miller was employed as a registered lobbyist for Eurocopter Canada Limited from July 18, 1997, until March 22, 2001 — six days ago. On March 23, 2001, he became a senior adviser to the Prime Minister of Canada.

Will the minister please attempt to find out what the duties of Mr. Miller are and will she share that information with us? Will she tell us whether he provides service and advice to the Prime Minister on the issue of the maritime helicopter program?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, David Miller had a long and distinguished career as an adviser to my party. Following that, he went into the consultancy business for a short time.

I am delighted that Mr. Miller has become a senior adviser to the Prime Minister of Canada because he is from Western Canada and has a very good understanding of issues, particularly those in the province of Saskatchewan. I will enquire specifically as to whether he will be giving advice on the maritime helicopter program.

Senator Forrestall: Honourable senators, I trust that the Leader of the Government in the Senate will respond to my question, and I will proceed to ask a series of questions to which I will request responses in a day or so.

Is there not a potential conflict of interest in that one day Mr. Miller, who I have no doubt is a great Western Canadian, is a lobbyist for Eurocopter and the next day he is a senior adviser to the Prime Minister?

Senator Carstairs: Honourable senators, I thank the honourable senator for that question. Clearly, if Mr. Miller was hired in a capacity to serve the Prime Minister of Canada, it would have been done on the basis of his very strong qualifications for that position. As to whether there is a conflict of interest, I will investigate.

• (1400)

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTERS—
BALLARD POWER SYSTEMS—INVOLVEMENT OF
MR. PIERRE LAGUEUX AND MR. RAYMOND STURGEON

Hon. J. Michael Forrestall: Honourable senators, I will try again. Mr. Pierre Lagueux, former Assistant Deputy Minister, Materiel, with the Department of National Defence, is now a lobbyist for Ballard Power Systems. Ballard makes power systems for buses. By coincidence, Raymond Sturgeon, his predecessor, is also a lobbyist for Ballard, as is a former Vice-Chief of the Defence Staff. That is a lot of high powered help for bus fuel cells. Can the minister tell us if they have any connection with Eurocopter and the maritime helicopter contract?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I must tell the Honourable Senator Forrestall that I have absolutely no knowledge of a connection, but I will endeavour to find out if there is any connection, one with the other.

Senator Forrestall: Mr. Lagueux was an attendee at the senior Privy Council staff meetings on the maritime helicopter project held on January 28, 1999. Ballard Power Systems is 25 per cent owned by DaimlerChrysler. DaimlerChrysler owns 30 per cent of Eurocopter.

Will the minister tell us if these gentlemen are lobbying or are involved in supporting Eurocopter's agenda with the government? Do they have anything to do, directly or otherwise, with the $1.5 billion to be put into the Deputy Prime Minister's riding as part of the industrial spinoff with respect to that contract?

Senator Carstairs: Honourable senators, I will try, again, to make any connection, if one exists, one with the other. However, I would say to the honourable senator that it has been my experience that people move between government and business. The majority of them — perhaps not every single one, but certainly the greater number of them — no matter whether they serve this government or have served previous governments, are men and women of the highest integrity.

TREASURY BOARD

GRACE PERIOD FOR EMPLOYEES MOVING
FROM PUBLIC SERVICE TO PRIVATE SECTOR

Hon. A. Raynell Andreychuk: Honourable senators, my question is a follow-up to Senator Forrestall's question. I understood that a grace period had to be observed before one could move from a high position in the bureaucracy to the role of government adviser. I am surprised to see that this grace period no longer exists. Is that correct?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I am of the same understanding that the grace period exists. However, I believe it applies when one moves from government to business. I am not sure if it also applies when one moves from business to government.

Senator Forrestall: What are these lobbyist firms? Is that not business?

FOREIGN AFFAIRS

CIVIL WAR IN SUDAN—
INVOLVEMENT OF TALISMAN ENERGY INC.

Hon. A. Raynell Andreychuk: Honourable senators, I would appreciate receiving answers to the questions that I posed yesterday on Sudan, as many people are asking what the Canadian foreign policy is towards Sudan presently. As senators can appreciate, the Human Rights Commission is sitting, but we cannot seem to get the position of the Canadian government with respect to Sudan and the proposals in the resolutions that Canada either supports or does not support. I would appreciate receiving that information.

Honourable senators, I should like to know whether the Canadian government advised Talisman Energy Inc. that it should not go into Sudan. If that is the case, could we find out when that advice was given to Talisman and by whom?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, let me begin with the first part of the question. I attempt to get answers back to honourable senators as rapidly as I possibly can, but there is a process. The debates in this chamber are monitored not only by my staff but also by PCO staff, if the debates impact on them. The questions are immediately sent to the various departments. We then follow up in the hopes that we can get them sooner rather than later. All I can do is my very best in attempting to get answers back to senators.

Honourable senators, I will give you further information with respect to Senator Wilson, who provided me with some documentation yesterday. I made sure that the documentation also went over to the Ministry of Foreign Affairs as soon as possible so that we could get as much information as it was possible to get.

I ask the Honourable Senator Andreychuk to bear with me. I will get the answers as fast as I possibly can. As soon as I receive answers, I table them through my deputy leader as quickly as possible.

As to the honourable senator's second question about whether anyone gave advice to Talisman to remain out of Sudan, I do not know if it was ever given that advice. Quite frankly, it is a frequent situation that when a corporation decides to go into a foreign country, it does so without contacting the government to ask whether the government looks favourably upon the corporation's engagement in that particular country. A private company does not ask the Canadian government to provide a list of things that it can or cannot do in the operation of its business — in this case, a publicly listed company.

As to the steps that the Canadian government is taking with respect to Sudan, the government does try to ensure that its involvement in Sudan does not place Canadians at risk. The Canadian government has urged Talisman Energy to actively engage in and implement initiatives that have a positive impact on human rights and labour standards. The government expects Talisman Energy to take every precaution to ensure that it will not be directly or indirectly involved in actions that could increase the suffering of the civilian population in Sudan.

Senator Andreychuk: The Minister of Foreign Affairs, the department and Talisman officials at that time stated that there were discussions between the government and Talisman. My question is pointed in particular to those discussions, as there appears to be some difference of opinion.

Did the Canadian government advise Talisman not to go into Sudan? If so, on what date and by whom? What is the Canadian position today with respect to businesses that wish to enter Sudan and with respect to those that continue to work there?

Senator Carstairs: Honourable senators, I will try to get a date, if a date exists. I will try to get the name of an individual, if such an individual exists. I will try to learn what specific advice, if requested, is given to companies that wish to do business in the Sudan.

INTERNATIONAL TRADE

UNITED STATES—RENEWAL OF SOFTWOOD LUMBER AGREEMENT—MARITIME LUMBER ACCORD

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, my question is to the Leader of the Government in the Senate. There is a looming softwood lumber crisis in that the current Canada-U.S. agreement expires at midnight on March 31. Should the government be unable to reach an agreement before the expiration of the present softwood lumber agreement, is it prepared to secure an agreement through ambassadorial memoranda or some such vehicle in order to keep the Maritime accord intact, which is not a problem for U.S. purchasers of softwood lumber?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the softwood lumber issue, as the honourable senator well knows, is not an easy one. It greatly impacts on the province of British Columbia, but impacts are also felt in Ontario, Quebec, the Atlantic provinces and, to some degree, even in Alberta. There is consensus among the industry and all of the provinces covered by the agreement not to renew or extend this quota-based agreement with the United States.

As honourable senators know, the United States has taken Canada to international tribunals on a number of occasions. Each time the Canadian government has won. Each time the Americans have accepted that on a temporary basis and have gone right back to the tribunal with yet another issue.

• (1410)

The Maritimes is a particularly interesting issue because in Atlantic Canada, as I understand, the woodlots are privately owned as opposed to the woodlots in Western Canada, which are almost exclusively owned by the province, and therefore the dispute about stumpage comes into effect. The negotiations are ongoing, and I do not think it would be to anyone's advantage to talk about hypothetical situations at this time.

Senator Kinsella: Honourable senators, let me be specific. Within the context of Canada-U.S. agreements on softwood lumber, for the past 20 years there has been a particular sub-agreement regarding softwood coming from the provinces of New Brunswick, Prince Edward Island, Nova Scotia and Newfoundland. It is known as the Maritime accord. As the honourable senator indicated, that is basically because private woodlot owners are the growers, and it is from the private woodlots that the softwood is harvested, milled and then exported.

In each of the agreements, because of the nature of our softwood industry, the Maritime provinces have been exempted from the regime as it occurs in other parts of Canada. This is not unusual given the great diversity of our country. The concern in the Maritimes is that between now and Saturday night , at least at the level of an ambassadorial exchange, we would like to see agreement on a continuance of the Maritime accord, with which the Americans have no difficulty. Could the ministry not at least do that in order to mitigate against damages that would be forthcoming should an overall agreement not be reached between now and Saturday night?

Senator Carstairs: I can assure the honourable senator that the government is doing everything to ensure fairness and equity, no matter where the problem exists in the country. The Maritime lumber accord has been well respected, but there have been charges from south of the border that we are trying to sneak lumber in through that accord. The Maritime Lumber Accord specifically requires a certificate of origin so that there is no question that the lumber shipped from the Atlantic region comes from the Atlantic region. There is no question about that whatsoever. However, we are playing with people who, quite frankly, in some cases, are using each and every opportunity to put specious arguments on the table with respect to the whole issue of softwood lumber.

I can assure honourable senators that the minister is on top of this file. He is working carefully with all of the players involved, including the Maritime lumber operators. Hopefully, some resolution can be found.

FINANCE

EFFECT OF CURRENT DEVALUATION OF DOLLAR—PROPER VALUATION LEVEL

Hon. Gerry St. Germain: Honourable senators, my question is to the government leader as well. It goes back to the question I asked the other day about the value of the Canadian dollar. At the time some senators were asking questions about the policy of the government and the fact that it basically advocates a low-valued Canadian dollar in relation to the American dollar. Has the minister been able to determine how low the dollar should really go? Does the leader not think that the low dollar is also having an impact on the ability to reach a free trade agreement with the United States in softwood lumber?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, let me refute Senator St. Germain's opening statement completely. This government is not an advocate of a low dollar. The economy of the world determines the value of currencies. To suggest that this government advocates a low dollar is simply not correct.

In terms of whether the low dollar prevents free trade, I would suggest that south of the border they quite like the benefits of free trade on some occasions when better prices suit their interests. On other occasions, they do not. When they do not, they take us before trade tribunals, and they consistently lose.

[Senator Kinsella]

Senator St. Germain: Honourable senators, the Leader of the Government has still not answered the question. The honourable leader says the government is not an advocate of a low dollar. However, when the Prime Minister met with the governors of the northeastern states, he advocated that they come to Canada to develop their industries because of the value of the dollar and the lower cost of labour. If that is not advocating a low dollar, I do not know what is. It sounds to me like the government is supportive of a reduced dollar as compared to that of the United States.

In the minister's comments the other day, she made mention of the fact that if the party with which I am associated were to implement their flat tax, the dollar would go to absolutely nothing. I do not know why the minister would say that when Alberta has adopted a flat tax. I can tell honourable senators one thing: The economy in Alberta is one to get excited about. Perhaps the Leader of the Government in the Senate could comment on that as well.

Senator Carstairs: Honourable senators, we are all excited about the economy of Alberta. One of the exciting aspects of the economy of Alberta is that the Americans are now importing more oil from Canada than they are from Saudi Arabia, which puts us in a most beneficial position.

Yes, they are. I see the Honourable Senator Carney nodding her head.

It is now a difference of 1.7 billion to 1.6 billion. The Americans are, in fact, taking more oil from the province of Alberta than they are from Saudi Arabia.

Honourable senators, the reality is that it is the marketplace that determines the value of the dollar. If the honourable senator from British Columbia wants the Prime Minister's advocacy, he need look no further than his meeting with the President of the United States, during which he talked about dealing with us fairly on the softwood lumber deal.

INTERNATIONAL TRADE

UNITED STATES—RENEWAL OF SOFTWOOD LUMBER AGREEMENT—EXPORT TAX—COUNTERVAILING DUTY

Hon. Pat Carney: Honourable senators, my question is for the Leader of the Government in the Senate. First, I should like to tell my honourable colleague that when I was Minister of International Trade I was assured by the Americans that we would be treated fairly on the softwood lumber file, but their idea of fair is not one that meets Canadian values.

I should like to ask the honourable leader what her government's reaction is to the imposition of an export tax on Canadian exports of softwood lumber, considering the fact that the Americans are talking about a 40 per cent countervail? Under the countervail, the money collected, which would be $4 billion, would remain in the United States or would be returned to the American producers, whereas an export tax would keep the money in Canada and it would, if it follows tradition, be returned to the provinces.

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for her question. The export tax, which has been talked about by some of the lumber owners in the province of British Columbia, is not greeted with great enthusiasm by the lumber owners of Atlantic Canada or, indeed, Ontario, whose exports also must be treated in a fair and equitable manner. Thus, I do not, at this point, anticipate that an export tax will be used as a vehicle by which to solve this dispute.

Senator Carney: I wish to thank the minister for her answer. I should like to know what action the Canadian government is prepared to take against those American companies operating in Canada who sign a countervail against Canadian producers?

Senator Carstairs: The honourable senator is asking a hypothetical question and I am not prepared to give a hypothetical answer.

Senator Carney: Honourable senators, I have a supplementary question. When the Americans do impose a countervail, will the honourable leader provide the answer in this house?

Senator Carstairs: The honourable senator is presuming that they will, and I am hoping that fairness will rule the day.

• (1420)

Senator Carney: Is that a refusal? I have asked a serious question. I have the names of those American forest companies that own controlling interests in Canadian companies and that are expected to sign a countervail against our lumber exports. In the meantime, these companies are exporting our logs and, with them, our jobs, to American mills.

Honourable senators, my question is serious. If the leader cannot answer at this time, which I understand, I ask that she give the answer in this house at the next opportunity.

Senator Carstairs: We must realize that there is a countervailing duty timetable.

Senator Carney: It starts Monday.

Senator Carstairs: It could go into effect as early as April 2, 2001, because the current agreement concludes at the end of March. However, it would likely be October 2001 before the countervail could be dealt with effectively.

Thus, the hypothetical question of how the government would react to something that might happen is being asked. It has not happened yet, and it is our hope that it will not happen. If it does not happen, then the government presumably need not have a reaction. If it does happen and the government takes an action, I will be the first one to bring that information to the chamber.

ORDERS OF THE DAY

APPROPRIATION BILL NO. 3, 2000-01

THIRD READING

Hon. Isobel Finnerty moved the third reading of Bill C-20, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2001.

Motion agreed to and bill read third time and passed.

APPROPRIATION BILL NO. 1, 2001-02

THIRD READING

Hon. Isobel Finnerty moved the third reading of Bill C-21, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002.

Motion agreed to and bill read third time and passed.

PROCEEDS OF CRIME (MONEY LAUNDERING) ACT

BILL TO AMEND—REPORT OF COMMITTEE—SPEAKER'S RULING

On the Order:

> Third reading of Bill S-16, to amend the Proceeds of Crime (Money Laundering) Act.

The Hon. the Speaker: Honourable senators, on Thursday, March 22, 2001, Senator Wiebe, on behalf of Senator Kolber, presented the second report of the Standing Senate Committee on Banking, Trade and Commerce dealing with Bill S-16, to amend the Proceeds of Crime (Money Laundering) Act.

[*Translation*]

Since the bill was reported without amendment, the report stood adopted without motion under rule 97(4). When I, as Speaker, asked when the bill would be read the third time, the Deputy Leader of the Government in the Senate, Senator Robichaud, moved that it be placed on the Orders of the Day for consideration at the next sitting.

[*English*]

At the appropriate time, Senator Kinsella raised a point of order based on two principles. First, he questioned whether the bill was properly reported. Second, he sought clarification as to whether Senator Robichaud had acted correctly in moving the motion to set the date for third reading.

On the first point, Senator Kinsella expressed the view that the practice has been that when a chair is not available to perform his or her functions, it falls upon the deputy chair to do so. He asked whether the Banking Committee had authorized Senator Wiebe to present the report. Senator Knisella's fundamental concern was whether any member of a committee may present a committee report.

[*Translation*]

Senator Kinsella's second concern was whether Senator Robichaud acted properly in moving the motion to set the date for third reading. He noted that rule 97(4) provides that it is the senator in charge of the bill who should move such a motion, and suggested that, since Senator Robichaud was not the sponsor, he should not have moved that motion.

[*English*]

A number of senators then spoke to the issue. Senator Robichaud quoted rule 97(1), which deals with the presentation of committee reports. That rule states:

> A report from a select committee shall be presented by the chairman of the committee or by a Senator designated by the chairman.

Senator Robichaud felt that Senator Wiebe had acted properly, since Senator Kolber had asked him to act on his behalf. As to the second matter raised by Senator Kinsella, Senator Robichaud noted that the bill in question was government legislation. He suggested that, as Deputy Leader of the Government, he could move the motion to set the date for third reading.

Senator Wiebe then intervened to confirm that Senator Kolber had asked him to present the report. Subsequently, Senators Tkachuk, Carstairs, Lynch-Staunton and Taylor also participated in the debate, which can be found on pages 422 to 424 of the *Debates of the Senate*. I wish to thank all honourable senators for their contribution to the consideration of this issue.

Senator Kinsella's point of order touches directly on section 1 of rule 97, as quoted above, and section 4 of the same rule, which states:

[*Translation*]

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

[*English*]

With regard to the first element of the point of order, which relates to the propriety of Senator Wiebe presenting the report, similar issues have been raised in the past.

On February 24, 1998, Senator Callbeck presented reports of the Banking Committee on behalf of Senator Kirby, the committee's chair. Senator Kinsella asked why the chair or deputy chair had not presented the report. Senator Callbeck replied that she had been asked by Senator Kirby to present the report. Senator Kinsella accepted this response, although he indicated that he did not view it as a precedent.

On December 8, 1999, Speaker Molgat dealt with a point of order raised the previous day by Senator Kinsella. In his point of order, Senator Kinsella questioned, among other things, whether the Banking Committee had adopted a motion to report Bill S-3, an income tax convention bill, and whether the committee had authorized Senator Hervieux-Payette to report the bill.

At that time, Senator Kolber, the chair of the committee, noted that he had authorized Senator Hervieux-Payette to act on his behalf. Speaker Molgat made a point of noting that, as Speaker, he had no authority to question whether the senator presenting the report had been designated and that he must depend upon the committee chair to have done so. In light of rule 97(1), Speaker Molgat did not find that Senator Kinsella's point of order had been established.

As noted previously, in the present case, Senator Wiebe also confirmed to the house that Senator Kolber had asked him to present the report as rule 97(1) allows. I should like to confirm my support for Speaker Molgat's position. In my opinion, the statement by Senator Wiebe was not strictly necessary. If an honourable senator declares that he or she is doing something on behalf of another, this declaration should be taken in good faith and should only become an issue if the designator were to indicate that there had been a misunderstanding.

• (1430)

Pursuant to rule 97(1), I therefore find that the report to the Senate was properly presented.

I will now turn to the second element of the point of order, as to whether Senator Robichaud acted properly by moving the motion to set the date for third reading of Bill S-16. In relation to rule 97(4), I would note that our rules do not provide a clear definition of "the Senator in charge of the bill." In the case of a government bill such as S-16, the Leader of the Government in the Senate is ultimately responsible for it — indeed, that position appears on the cover of the bill. In keeping with rule 4(*d*), the deputy leaders on both sides often act on behalf of their respective leaders in this chamber.

[*Translation*]

In addition, the senator serving as sponsor of a bill — who begins debate at second reading — has a high degree of involvement throughout the process, often including moving the motion to set the date for third reading. Finally, in matters resulting directly from a committee's work, as in this case, the committee chair may also be involved.

[*English*]

Senate practice with respect to moving the motion to set the date for third reading reflects the variety of senators who may be involved in the process. For government bills, there have been many cases in which a senator other than the Leader of the Government has moved this motion. The Deputy Leader of the Government has often moved this motion.

To take a few examples, during the Second Session of the Thirty-sixth Parliament, the Deputy Leader of the Government moved this motion for Bills C-10, C-22 and C-26. During that same session, chairs of committees reporting government bills sometimes moved the motion in question. This was the case, for example, with Bills S-18, C-2 and C-7.

Therefore, while the rules do not define the phrase "Senator in charge of the bill," Senate practice would suggest that, at least for legislation, the Leader of the Government, the Deputy Leader of the Government, the sponsor of the bill or the designate can move the motion to set the date for third reading.

Honourable senators, in light of the *Rules of the Senate* and Senate practice, I find that the second element of this point of order has also not been established. Bill S-16 was properly reported and the motion to set the date for consideration at third reading was properly moved.

We will now proceed to the order.

[*Translation*]

BILL TO AMEND—THIRD READING—DEBATE ADJOURNED

Hon. George J. Furey moved the third reading of Bill S-16, to amend the Proceeds of Crime (Money Laundering) Act.

He said: Honourable senators, I am delighted to have the opportunity to speak today at third reading of Bill S-16, to amend the Proceeds of Crime (Money Laundering) Act.

[*English*]

Honourable senators, the predecessor to Bill S-16 was Bill C-22, which became law last June. The enactment of that bill was an important milestone in Canada's legislative framework for fighting organized crime and money laundering. It strengthened the previous statute by adding measures to improve the detection, prevention and deterrence of money laundering in Canada.

As a member of both the G7 and the Financial Action Task Force, FATF, Canada had committed to improving its anti-money laundering regime. It was important, then, that we be seen by our international partners to be making progress on this front, particularly since the FATF was publicly listing countries with deficient anti-money laundering controls right around the time that our legislation was being passed.

The timely passage of Bill C-22 brought our anti-money laundering legislation into line with international standards. At the same time, our domestic law enforcement agencies were in need of better enforcement tools here at home, and Bill C-22 also responded to their needs. As a result, Canada now has a system that provides for the mandatory reporting of suspicious transactions and the reporting of large cross-border movements of cash or monetary instruments, such as travellers' cheques, to the Canada Customs and Revenue Agency.

Bill C-22 also established the new Financial Transactions and Reports Analysis Centre of Canada, FinTRAC, which officially came into being on July 5, 2000. FinTRAC will analyze reports and provide information to police to assist them in the investigation and prosecution of money laundering offences.

FinTRAC is subject to the many privacy safeguards contained in the act. These safeguards are supported by criminal penalties for any unauthorized use or disclosure of personal information under FinTRAC's control. In addition, FinTRAC is subject to the federal Privacy Act and the protections therein.

In summary, honourable senators, the new act responded to the domestic law enforcement community's need for additional means of fighting organized crime by more effectively targeting the proceeds of crime. It responded to Canada's need to meet its international responsibilities in the fight against money laundering, and it did so while providing safeguards to protect individuals' privacy.

When the Standing Senate Committee on Banking, Trade and Commerce considered Bill C-22, committee members believed that the act would be further strengthened and they suggested amendments to certain provisions. The Secretary of State for International Financial Institutions made a commitment to the committee to introduce legislation to address a number of these concerns. Bill S-30 was subsequently introduced, but it died on the Order Paper when the election was called last fall.

This is the same bill that we considered last fall, and because of this, I urge honourable senators to pass it quickly so that we may proceed to other business.

The amendments contained in Bill S-16 relate to four specific issues. The first deals with the process for claiming solicitor-client privilege during a FinTRAC audit. I should mention that FinTRAC is authorized to conduct audits to ensure compliance with the act. At present, when conducting a compliance audit of a law office, FinTRAC must provide legal counsel with reasonable opportunity to claim solicitor-client privilege on any document it possesses at the time of the audit.

The amendment in this bill pertains to documents in the possession of someone other than a lawyer, and it requires that this person be given a reasonable opportunity to consult a lawyer in order to make a claim of solicitor-client privilege.

The second amendment ensures that nothing in the act will prevent the Federal Court of Canada from ordering the Director of FinTRAC from disclosing certain information as required under the Access to Information Act or the Privacy Act. It was the intent of the original Bill C-22 that the recourse of individuals to the Federal Court of Canada be fully respected. This amendment ensures that this will be done.

The third amendment more precisely defines the kinds of information that may be disclosed to the police and other authorities specified in the act. It clarifies that the regulations setting out this information may only cover similar identifying information regarding the client, the institution and the transactions involved.

[*Translation*]

Finally, the last amendment guarantees that all reports and information in the possession of the Financial Transactions and Reports Analysis Centres of Canada will be destroyed after a prescribed period.

[*English*]

Information that has not been disclosed to the police or other authorities must be destroyed by FinTRAC after five years. Information that has been disclosed to the police or other authorities must be destroyed after eight years.

• (1440)

In conclusion, honourable senators, these four amendments complement the existing legislation and, indeed, improve it. Bill C-22 addresses this need for more effective tools to combat money laundering and organized crime. Together with these four amendments it does so in a manner that protects individual privacy. The legislation will go a long way to help deter and detect money laundering and allow Canada to more effectively cooperate internationally in combating this global problem.

Honourable senators, I encourage you to give your support to this bill.

On motion of Senator Kelleher, debate adjourned.

QUESTION OF PRIVILEGE

UNEQUAL TREATMENT OF SENATORS—SPEAKER'S RULING

The Hon. the Speaker: Honourable senators, I should like now to give a ruling arising out of a question of privilege which was raised yesterday by the Honourable Senator Carney.

At the conclusion of the Orders of the Day, Senator Carney rose on a question of privilege raised in accordance with the provisions of rule 43. The essence of Senator Carney's argument was that her privileges were breached when leave was denied when she appealed to the Senate to allow her to extend her remarks past the 15 minutes allowed by the *Rules of the Senate*. This incident came to pass on Thursday, March 15, 2001, while Senator Carney was speaking on an inquiry of which she had previously given notice. Senator Carney explained that the denial of leave was inequitably applied to her in that other speakers had been allowed to extend their remarks, while her request for leave to continue speaking had been denied.

[*Translation*]

Senator Carstairs responded to Senator Carney's remarks by referring to the tests laid out in the *Rules of the Senate* in rule 43(1), which aid us in determining the validity of a claim that privileges have been breached. Specifically, Senator Carstairs argued that, in her opinion, Senator Carney had not met the test of raising this question at the earliest opportunity, as specified in rule 43(1)(*a*), since three sitting days had passed since March 15 before Senator Carney raised this matter under rule 43. Second, Senator Carstairs argued that privilege cannot be breached by the observation of, and strict adherence to, the *Rules of the Senate*. Senator Carstairs and Senator Robichaud both pointed out in their remarks that Senator Carney had already been extended the courtesy of leave earlier to allow her to get to her item of business ahead of other senators who held positions of priority on the Order Paper.

[*English*]

Finally, Senator Kinsella and Senator Grafstein had an exchange on the principle of freedom of speech and the individual rights and immunities of senators.

Honourable senators, as I indicated at the conclusion of debate on this matter, I am obliged by rule 43(12) to explain my ruling, using references to any rule or written authority relevant to the case. I am also obliged by rule 43 to ensure that the question of privilege being raised meets certain tests. Having considered the remarks made by those senators who intervened, to whom I extend my thanks for their assistance, and having consulted the authorities and precedents, I am prepared to give my ruling.

Senator Carney has used the provisions of rule 43 to bring her question of privilege to the Senate. I should like to remind honourable senators that rule 43 exists to give precedence in the business of the Senate to this type of question, underlining the importance all Westminster-style parliaments give to matters of privilege. As a result, any matter raised using these provisions must meet certain conditions precedent to being afforded that priority.

In my judgment, this matter was not raised at the earliest possible opportunity, according to rule 43(1)(*a*). While I am sympathetic to the medical limitations cited by Senator Carney, three sitting days did, indeed, pass before the matter was raised. The rules do not reveal an exemption from this imperative for any reason, medical or otherwise.

Further, I am not convinced that, according to rule 43(1)(*b*), this matter directly concerns the privileges of Senator Carney. It is true that, as Senator Kinsella argued, freedom of speech is an unquestioned privilege of any member of Parliament. However, in the same authority to which Senator Kinsella referred, just a little farther down the same page, on page 51 of Marleau and Montpetit's, *House of Commons: Procedure and Practice*, another privilege is listed, that of the privilege of a House of Parliament to regulate its own internal affairs. In fact, in Beauchesne's, sixth edition, paragraph 33 states:

> The most fundamental privilege of the House as a whole is to establish rules of procedure for itself and to enforce them. A few rules are laid down in the *Constitution Act*, but the vast majority are resolutions of the House which may be added to, amended, or repealed at the discretion of the House.

In Marleau and Montpetit, pages 71 to 79, the freedom of speech is further explained. If I may paraphrase, freedom of speech is not necessarily the freedom to speak. The principle behind the freedom of speech is that a member of Parliament, while speaking within what is defined as a proceeding of Parliament, cannot be prosecuted through either civil or criminal means for what has been said. This principle allows members of Parliament to express themselves freely on any matter being debated, without fear of legal consequences. Since Senator Carney is not arguing that she is being punished legally for what she was saying, I do not believe her freedom of speech privileges have been breached.

As for equity of treatment by colleagues as a privilege, I cannot find anything in the authorities that suggests that one must be treated by one's colleagues exactly the same as one perceives others are treated in the application of such devices as leave. While Senator Carney may have a grievance over how she perceives she has been treated by her colleagues, there does not appear to be a related privilege she may claim.

Accordingly, I do not find that Senator Carney has met the particular tests of raising the matter at the earliest opportunity or that denial of leave directly affects her privileges. Therefore, I do not find that a prima facie case of privilege has been established.

In closing, if I may, rule 43(1)(*c*) also asks if a question raised as a matter of privilege could possibly be remedied by another parliamentary process. In the hope that it is of use to Senator Carney and other senators, I would suggest to her that the question of time limits on speeches and of leave to extend remarks are both elements of our rules of procedure. We do have a committee that concerns itself with these questions. Senator Carney might consider at some time in the future moving a motion to have the Standing Committee on Privileges, Standing Rules and Orders study this question, as well as that of medical exemptions to raising questions of privilege. I should also note that the Speaker's Advisory Committee has considered in the past, and most likely will consider in the future, considered the issue of the adequacy of 15-minute speeches and the question of granting leave.

I see that Senator Carney is rising. Is the honourable senator challenging the ruling?

Hon. Pat Carney: No, of course not, but I am asking for clarification.

The Hon. the Speaker: Honourable senators, I wish I could accommodate the Honourable Senator Carney. I certainly would be pleased to receive her question and answer it privately. However, our rules are very strict on this matter. The honourable senator is entitled, as is any senator, to challenge the ruling, in which case I put it to the chamber and the chamber will have a division. However, it is not debatable. I cannot hear any senator on the ruling.

Senator Carney: Honourable senators, I rise on a point of order. I should like to ask: Can that include a point of clarification?

The Hon. the Speaker: On that point of order, Senator Carney, by our tradition and by our rules, the rulings must stand by themselves. In this place — and I need not remind honourable senators of this — a ruling of a Speaker of the Senate can be challenged and can be overturned on a vote. However, I gather you are not challenging the ruling and, accordingly, I must proceed with Orders of the Day.

FEDERAL NOMINATIONS BILL

SECOND READING—DEBATE CONTINUED

On the Order:

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

Hon. Tommy Banks: Honourable senators, I rise to speak in opposition to Bill S-20, which was introduced by Senator Stratton. Taking my cue from yesterday's speech of Senator Murray in respect of Bill S-12, I must tell you that I am speaking entirely for myself. I have not been asked to speak to this bill, and I have not sought the advice of others.

My concerns are about the effect of the bill and consist mainly of the fact that it bumps up against and seems to come dangerously close to infringing on questions of the Constitution and of prerogatives that are set out clearly in the Constitution.

I am very much in favour of more transparency in the appointment process. However, I feel it must be achieved in ways that are different from those that are set out in Senator Stratton's bill. We must not make appointments, particularly of Supreme Court judges, into politicized processes.

Of the concerns that I have, one is the public lobbying that will almost certainly occur if the proposed process is put into place. This is conduct that, in the words of former Chief Justice Antonio Lamer would be "bound to tarnish the court's good image." We have been inundated with images and literature on the processes in the United States. These have engendered novels, exposés, and dramatic television series and scandals, and have provided endless fodder for comedians.

The appointment process in Canada is certainly not perfect. I applaud Senator Stratton for the hard work that he has clearly put into this bill. It can be argued that, prior to 1949, the process was subject to patronage and payoffs in the form of Supreme Court appointments. Before 1949, however, the Supreme Court was not our Supreme Court. We could go straight to the Privy Council in London then, sometimes without even referring cases to our Supreme Court. This was unacceptable to most Canadians, and, in 1949, that line of appeal was quite properly severed and our Supreme Court became our Supreme Court. Since that time, the appointment process has been much more careful, fair and effective, and more widely accepted.

Honourable senators, there seems to be pretty well universal satisfaction with the appointments — not necessarily with the process — with the quality of the persons who have been appointed in those intervening years under the existing system. Since the Constitution Act 1982, the Supreme Court has assumed a new role in our national life, in addition to the one that it enjoyed before 1982. Not only does it now interpret legislation, it must also measure it against the most rigorous charter of rights in the world. We cannot complain about its role in that respect. Canadians wanted a written constitution and a charter of their own. Having those things requires their interpretation and their measurement of application, which must be done and can only be done by the Supreme Court.

Our present system of appointments was not made up last Thursday afternoon in a vacuum. It is derived from the centuries old English tradition and model that is enshrined in our Constitution, in section 96. It has evolved over those centuries and lasted through those centuries because it is good. It works. It provides for the independence of judges from the vagaries of electoral politics.

The idea of judges being subjected to the kind of public spectacle that attended the nominations to the United States Supreme Court of Robert Bork and Clarence Thomas is anathema to me and, I believe, to most Canadians. The grafting onto our system of that American-style process, with all of its televised circuses, is, in fact, grafting the ears of a donkey and the tusks of an elephant onto a beaver. The result is unwieldy in the extreme. They just do not fit.

I believe it is widely accepted that Supreme Court appointments in our country are not subject to the biases and prejudices of party politics. I believe it can be argued that there is greater flexibility in the present appointment system than would obtain in a formalized committee process as proposed in the bill. I note parenthetically that, as Senator Stratton pointed out the other day, clause 11 of this bill provides a loophole — an exception that permits the government to bypass the whole procedure if they think it would take too long to satisfy the public interest. That seems to me to be a shortcoming. If I were in favour of Bill S-20 I would want that clause removed because it is a loophole through which any successive government could drive a Mack truck.

The government is responsible to Parliament, and through Parliament it is responsible to the people for its appointments, as it is for all its other actions. This is a centuries old system, a concept that has stood us in good stead, which we have used to good effect. It gives our Supreme Court judges a genuine and irrefutable independence.

The fact that other systems appear to be working well in other countries, with other constitutions and other charters of rights and in circumstances that are "other" in every respect, is not a good argument that it should be imported into Canada. I am disturbed, honourable senators, by the prospect and the thought of the public compiling of dossiers on all the candidates upon their solicitation, which would turn, as we all know, into an application process. I am also disturbed by the public sideshows in which the various candidates would be involved and from which they would emerge as either winners or losers. It is like the game show where we vote people off the island and the last person standing wins.

I would not want any Canadian to appear before an appeal court in St. John's or Victoria and know that they were appearing before a failed applicant to the Supreme Court. I admit that this would provide a degree of transparency, but at what cost? I can envision in the proposed procedure that we would have people who interpret our laws as being from those who lobby the best, those who campaign the best, or those who make the best deals. That is not a description of the people who I would want to be applying our laws and defending our Charter. It would end up putting politicians into the Supreme Court, and we have quite enough politicians already.

Honourable senators, I have carefully constrained my remarks to the question of Supreme Court appointments as contemplated in this bill. However, I note that the schedule of the bill proposes the nomination and review by committee of appointments to the offices of Governor General, lieutenant governors of the provinces, commissioners of the territories, the selection of the Chief Justice of the Supreme Court and senators. I will leave it to others to comment, if they will, on the question of the holders of those various offices being chosen by means of the process as set out in this bill. For myself, I must vote against the bill solely on the matter of its reference to appointments to the Supreme Court.

Hon. Terry Stratton: Would the honourable senator take a question?

Senator Banks: Yes.

Senator Stratton: While I respect the honourable senator's opinion regarding the Supreme Court, the misconception is that this bill would repeat or create a Senate committee such as exists in the United States that would have veto power over appointments. That is not the intent of the bill. The intent of this bill, as I stated in my speech, is that apart from having a resumé on an individual, we want to be able to put a human face and a personality to that resumé.

• (1500)

I can appreciate and understand the position taken on judges, but I firmly believe that there should be a point at which they are not ghost-like to the Canadian people, as they are now. Judges are real human beings, and we want to see some of their personality.

The honourable senator objects to the review process of appointments to the Supreme Court, but he did not give an opinion on the appointment of the Governor General, lieutenant governors, senators and so on.

The intent of this bill is to start a process similar to that of Meech Lake. In that process, the provinces had the opportunity to develop lists of nominees to be selected by the Prime Minister for appointment to the Senate. That was the start of a process to bring sunshine and light on the appointment process. Is the honourable senator fundamentally opposed to that principle?

Senator Banks: No, I am not against the principle of bringing sunshine and light to the process.

I recognize that my honourable friend is not proposing that a Senate committee would have a veto over appointments to the Supreme Court or anywhere else. It is the process of review that will take on that character. It will be newsworthy, which will place what I regard as an improper glare and scrutiny on that process. I do not think that is the right way to proceed.

I think the senator's idea of having the screening process approved by committee is a good one. I also agree that making the persons who are appointed to the Supreme Court better known to Canadians is a good idea. That would be a public relations, marketing process. I think we should know the judges of the Supreme Court, as well as other courts and the Governor General, better than we do.

However, the theatricality that would attach to the process causes me the greatest misgivings. I am not opposed to shining light, as the senator says, on appointees to those positions. I am opposed to shining light on the candidates for appointment to those positions, as it would give the aura of a contest. That process bothers me.

Incidentally, I advisedly did not comment on appointments outside of those to the Supreme Court.

Senator Stratton: If I may, the purpose of this bill is not to create a circus. That is not the intent. The real purpose of this bill is that a committee of the Privy Council develop the criteria for selection. Those criteria would be put into place. That same committee would then receive applications and aid applicants to a position. The process, therefore, would not become a circus.

Honourable senators, lawyers apply for positions as judges through a lay committee in each province. That is what takes place now. If that vetting process is successful for lawyers wanting to be judges, why could it not be used for the Supreme Court? If the vetting process brought in by Brian Mulroney's government is an acceptable process, public yet not public, why could not the same thing happen with appointments at the senior levels?

Senator Banks: Honourable senators, I will revert to my show business analogy. If we were to ask a member of the United States Senate or the framers of the process by which Supreme Court justices are approved by the U.S. Senate, they would also argue that the process is not designed to be a circus or to be theatrical. That is certainly not its intent, but it has become a circus.

A review process, however nicely we put it, undertaken by a committee of the Senate as suggested in this bill would, in my view, take on a theatrical characteristic. I agree that the process may not be one that my honourable friend intended in the bill, but I am concerned that, notwithstanding those good intentions, it would take on those characteristics. I know that if I were still a member of the media, it would take on those characteristics.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, would Senator Banks agree that if a screening process had been in place at the time, it would have allowed senators to quiz the former President of the Business Development Bank on certain criteria that he used to make loans? That might have avoided some of the problems that his party is currently facing.

The Hon. the Speaker *pro tempore***:** Senator Banks, I am sorry to interrupt, but before you answer, you must ask leave. Your time has expired. Are you requesting leave?

Senator Banks: Honourable senators, I would request leave to continue.

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

Hon. Pat Carney: No.

On motion of Senator Cohen, debate adjourned.

[*Translation*]

THE AUDITOR GENERAL

MR. DENIS DESAUTELS—MOTION TO SEND MESSAGE TO HOUSE OF COMMONS ADOPTED

Hon. Jean-Robert Gauthier, pursuant to notice of March 27, 2001, moved:

> That, in the opinion of the Senate, Mr. Denis Desautels has been an excellent Auditor General of Canada.
>
> Scrupulously honest, professional, fair-minded and a determined investigator, Mr. Desautels carried out his duties as Auditor General efficiently and effectively. During his ten-year term, he not only verified the government's accounts but also was able, thanks to his leadership, to lead a team as professional and dedicated as himself.
>
> The Parliament of Canada thanks Mr. Desautels for his services and recognizes the valuable work he has done for his country.

He said: Honourable senators, I gave notice of that motion yesterday. This motion is a normal follow-up to a motion agreed to by the Senate on March 22.

I would simply like this message to be sent to the House of Commons, so that it will join us in recognizing the great services rendered to the country by Mr. Denis Desautels, the Auditor General of Canada, who will retire on March 31.

[*English*]

• (1510)

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): On behalf of honourable senators sitting on this side of the house, we are happy and pleased to lend enthusiastic support to this resolution. We recognize that the Auditor General, who is soon to retire, has served Parliament in a manner that speaks loudly and clearly to the importance of the office and the excellent level and quality of achievement that the current incumbent was able to achieve during his tenure. Also, it affords us the opportunity to underscore the importance that officers of Parliament, such as the Auditor General, play in assisting members of this house and of the other place in holding government to account. I simply wish to place on the record that honourable senators on this side of the Senate enthusiastically embrace this resolution.

[*Translation*]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, we on this side wish to support the motion proposed last week asking that a message be sent to the House of Commons to recognize the work of the Auditor General, Mr. Denis Desautels, who will soon retire.

Motion agreed to.

The Senate adjourned until Thursday, March 29, 2001, at 1:30 p.m.

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