



Debates of the Senate

1st SESSION

•

37th PARLIAMENT

•

VOLUME 139

•

NUMBER 31

OFFICIAL REPORT
(HANSARD)

Wednesday, May 2, 2001

—

THE HONOURABLE DAN HAYS
SPEAKER

CONTENTS

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

OFFICIAL REPORT

CORRECTION

The Hon. the Speaker: Before I recognize a senator, I have heard Senator Robichaud, but I point out to the chamber that Senator Beaudoin has a point of order that he wishes to raise today. Points of order are matters that should be given special consideration.

Accordingly, before returning to Senator Robichaud, I recognize Senator Beaudoin on his point of order.

Hon. Gérard-A. Beaudoin: Honourable senators, this will take only two or three minutes. I wanted to correct a sentence I spoke in the inquiry on the national anthem.

In the *Debates of the Senate* of April 26, 2001, at page 706, second column, third paragraph, the second last sentence reads:

In the present case, the words “of thine” would be substituted by the words “thy sons.”

I should like to make the following correction:

In the present case, the words “thy sons” would be replaced by the words “of thine”.

I should like to make the same correction to the French version of the *Debates of the Senate* of April 26, 2001, at page 706, second column, third paragraph, second last sentence.

THE SENATE

Wednesday, May 2, 2001

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

Prayers.

SENATORS' STATEMENTS

THE HONOURABLE RAYMOND C. SETLAKWE

CONGRATULATIONS ON BIRTH OF FIRST GREAT-GRANDSON

Hon Vivienne Poy: Honourable senators, it gives me great pleasure today to congratulate Senator Setlakwe on the birth of his first great-grandchild, Philippe Duguay, on April 18, 2001. Senator Setlakwe told me that he is the youngest great-grandfather in the Senate. I think we would all agree that he looks very young and vigorous for being a great-grandfather.

Philippe weighed 6.5 pounds at birth and was 21 inches in length. He is the first child of Senator Setlakwe's grandson, Jonathan, and his wife, Chantal. Philippe's mother says the boy is "very, very calm" and "very nice-looking," just like Senator Setlakwe.

Before Philippe was born, Senator Setlakwe told Chantal that he was sure the child would be a boy, and that he would be the first one to take him on a trip to the sea.

On behalf of all honourable senators in this chamber, I should like to wish Senator Setlakwe many trips to the sea with Philippe, and many more great-grandchildren in the future.

Hon. Senators: Hear, hear!

H.R.H. THE PRINCE OF WALES

VISIT TO YUKON

Hon. Ione Christensen: Honourable senators, I wish to report to you on the successful visit of His Royal Highness the Prince of Wales to the Yukon. His Royal Highness arrived on Saturday, April 28 at 7:00 p.m. to bright sunshine but very cold winds. It was a bracing experience, he having just left Saskatchewan where temperatures were in the high 20s.

I had the honour of accompanying His Royal Highness to all Yukon events. The first was the greeting by thousands of Yukoners at the SS *Klondike* on the banks of the Yukon River. Then on Sunday there was a visit to Whitehorse City Hall to

meet and greet seniors and present the Volunteer of the Year Awards.

There was then a one-hour flight to the community of Mayo, where it had been snowing all morning. It was the only community in the Yukon where snow fell during the Prince's visit. A total of four aircraft were involved. His Royal Highness was in an Armed Forces Otter, which was scheduled to land last of the four planes. However, due to the very soft runway conditions and the heavy snow, the media plane was required to circle for 20 minutes because it was much heavier and there was fear that it might get stuck, and that His Royal Highness' plane would have been unable to land.

Mayo was a delight. It is a small community of several hundred souls, but they had worked very hard to present the very best interpretive displays for their community. Under blue skies, the first stop was a new school just under construction, and a tree of knowledge was dedicated. There was a tea and displays at the community hall, which put the Prince an hour behind schedule, due to many questions. There was the opening of a new Canada Trail section and a brief hike on that trail, after which we headed back to Whitehorse, where a gala reception and dinner was held, and a display of the work of many Whitehorse artisans. His Royal Highness departed the dinner at 11:00 p.m.

The Armed Forces Airbus was on the tarmac waiting for him the next morning at 9:45. We were lined up for a farewell. I was to catch the Air Canada flight from Vancouver to Ottawa at ten o'clock. However, that flight was three hours late, and only five minutes before His Highness was to depart, I was asked if I would like to fly with him to Toronto. I said, "Yes."

Someone was dispatched to find my husband and retrieve my bags. My husband did not know where I had disappeared to. Five hours later, I was in Pearson airport

I was wondering whether the Internal Economy Committee could look into the availability of an Airbus, or perhaps a Challenger, for senators who have long distances to fly. It would cut six hours from my travel time and would be very much appreciated.

To say the royal visit was a success would be an understatement. His Royal Highness met, shook hands with and talked to hundreds of Yukoners, many of them excited children and young ladies wanting him to return with his two sons. The genuine warmth and relaxed atmosphere made this a memorable fifth royal visit to the Yukon.

ROUTINE PROCEEDINGS

[English]

OFFICIAL LANGUAGES

SECOND REPORT OF JOINT
COMMITTEE PRESENTED

Hon. Shirley Maheu, Joint Chair of the Standing Joint Committee on Official Languages, presented the following report:

Wednesday, May 2, 2001

The Standing Joint Committee on Official Languages has the honour to present its

SECOND REPORT

In accordance with its mandate under section 88 of the *Official Languages Act, Revised Statutes of Canada, 1985*, your Committee has undertaken a study and now presents its report on Broadcasting and Availability of the Debates and Proceedings of Parliament in both Official Languages.

Respectfully submitted,

SHIRLEY MAHEU
Joint Chair

The Hon. the Speaker: When shall this report be taken into consideration?

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

(For text of report, see today's Journals of the Senate, Appendix, p. 461.)

[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, May 3, 2001, at 1:30 p.m.

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

Hon. Senators: Agreed.

Motion agreed to.

CANADA ELECTIONS ACT
ELECTORAL BOUNDARIES READJUSTMENT ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-9, to amend the Canada Elections Act and the Electoral Boundaries Readjustment Act.

Bill read first time.

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

On motion of Senator Robichaud, bill placed on the Orders of the Day for second reading two days hence.

ELDORADO NUCLEAR LIMITED
REORGANIZATION AND DIVESTITURE ACT
PETRO-CANADA PUBLIC PARTICIPATION ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-3, to amend the Eldorado Nuclear Limited Reorganization and Divestiture Act and the Petro-Canada Public Participation Act, to which they desire the concurrence of the Senate.

Bill read first time.

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

On motion of Senator Robichaud, bill placed on the Orders of the Day for second reading two days hence.

PERSONAL WATERCRAFT BILL

FIRST READING

Hon. Mira Spivak: Honourable senators, I have the honour to present Bill S-26, concerning personal watercraft in navigable waters.

Bill read first time.

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

On motion of Senator Spivak, bill placed on the Orders of the Day for second reading on Wednesday, May 9, 2001.

QUESTION PERIOD

THE SENATE

POSSIBILITY OF COMMITTEE TO VET GOVERNMENT APPOINTMENTS

Hon. Terry Stratton: Honourable senators, my question is directed to the Leader of the Government in the Senate. I would only make one comment beforehand. It is too bad that Senator Banks was not here yesterday to find out how we ask questions in Committee of the Whole. He may have learned something.

On the issue of government appointments, I wonder if the Leader of the Government in the Senate would be amenable to the Senate forming a committee to approve or vet appointments. I think it would be appropriate to do that at this stage particularly. Would she care to respond to that question?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the honourable senator has asked if I would approve the formation of a committee. Committees are not formed by the Leader of the Government in the Senate. Committees are formed by the Senate itself, usually upon the recommendation of the Rules Committee.

Senator Stratton: Would the Leader of the Government in the Senate be amenable to the formation of such a committee? Would she support it? The proposed committee structure could be quite useful, particularly if the Senate developed criteria for the determination of appointments. In other words, if someone is to be considered for an appointment, we would develop criteria for that position. Appointments would be made based on those criteria. Would the leader support that proposition?

Senator Carstairs: I thank the honourable senator, but I will not give a hypothetical answer to that hypothetical question.

Senator Lynch-Staunton: We do not have to read your book to know where you were at the time.

Senator Stratton: Honourable senators, this is a new style of politics. This is the way things are going. Honourable senators, I have virtually quoted the words of Senator Carstairs from a *Winnipeg Free Press* article dated September 21, 1989 wherein she said that the Liberals would implement such a proposal if they formed the next government. Would she care to comment on that now?

Senator Carstairs: Honourable senators, I thank the honourable senator for doing his homework in this particular case but he will, of course, know that that was a reference to a provincial matter in a provincial arena. Had I been fortunate enough to form the government in that province, I would have honoured my campaign commitment. However, I am not a provincial politician. I am in a chamber where the chamber makes its own rules.

Senator Stratton: That is precisely the point. If the minister as a member of this chamber believed in the proposition at that time, surely to goodness she believes in it now, because that is precisely what should take place.

Senator Carstairs: Honourable senators, that matter has not come before the chamber. Since it has not come before the chamber, it is a hypothetical question to me and, as I said before, I will not make hypothetical statements or answer hypothetical questions.

Senator Stratton: Honourable senators, I will close by saying that perhaps the *Free Press* should be reminded of what the honourable leader said then and what she is saying now.

Senator Carstairs: I would assume that the honourable senator will make that reminder at his earliest convenience and I would welcome it.

CANADIAN HUMAN RIGHTS COMMISSION

RACISM ON INTERNET—LIMITATION OF RESOURCES TO RESPOND

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I do not understand that last set of exchanges but maybe it is the Manitoban way.

Yesterday afternoon we had what I thought was a very successful meeting of the Committee of the Whole with the Chief Commissioner of the Canadian Human Rights Commission. I thank the government for its work in facilitating that committee meeting.

• (1350)

One topic raised with the chief commissioner was hate on the Internet. My understanding of the information the chief commissioner provided us was that the Canadian Human Rights Commission's financial resources to concentrate in that area are very limited. The commissioner underscored for us that from a jurisdictional standpoint, the Canadian Human Rights Act does cover the Internet.

Would the minister be prepared to intervene with her colleagues the Minister of Canadian Heritage and the Secretary of State for Multiculturalism, whose department is serviced by the Department of Canadian Heritage, and the Minister of Industry, who has direct responsibility for the Internet and that new area of technology, to encourage them, thus the Government of Canada, to put some resources into new, contemporary, software-engineered means to deal with racism on the Internet?

Any of us can access this type of material by going on the Net. Honourable senators, the number of hate sites, particularly racist hate sites, such as anti-Semitic sites, has grown in the last three years from about 200 to over 5,000 today, and we are not responding to the problem.

Hon. Sharon Carstairs (Leader of the Government): I thank the Deputy Leader of the Opposition for that question. Like the honourable senator, I thought yesterday afternoon was an excellent example of the kind of work that this institution does, particularly in the way we interacted with the commissioner and the types of knowledgeable questions asked. I do not think the commissioner would mind if I told you that, during our few comments before the meeting began, she indicated her delight in coming before the Senate because of the quality of questions that came from members of this chamber on such occasions.

As to the specific question asked by the Deputy Leader of the Opposition, I am surprised he did not add the Minister of Justice to that list, because just recently, the Minister of Justice made an announcement with respect to pornography on the Internet, which is also, in my view, a form of hate crime. I would be delighted to take this matter forward to the ministers, and I will add the Minister of Justice to that list to see if we cannot make more resources available to handle what has become a very significant problem, particularly with regard to children. Although parents can put some limits and put up some shields, most children have absolute and total access. If they have access to the Internet, most of them have access to everything on the Internet.

FOREIGN AFFAIRS

UNITED STATES—MISSILE DEFENCE SYSTEM— GOVERNMENT RESPONSE

Hon. Douglas Roche: Honourable senators, my question is directed to the Leader of the Government in the Senate. In a speech yesterday proposing a national missile defence system, U.S. President Bush said he was “not presenting our friends and allies with unilateral decisions already made” and that he wants to hear and take into account the views of countries such as Canada. Will the government seize this golden opportunity to tell the United States administration that missile defences that tear apart existing arms control arrangements will destabilize the world and are directly counter to Canada’s interests?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, first, I think that we all welcome the statement of the President that he will consult with his allies before the introduction of any program. We also welcome the indications in the President’s speech that the United States will continue to engage Russia and other concerned states like China on this same issue.

As to the specific remark that we should move quickly to tell them what we think of this defence strategy, the reality is that we do not know what this defence strategy will be, and President Bush in his own comments indicated that he did not know exactly what it would be.

Senator Roche: Honourable senators, I would respectfully enter a dissent to the comment that we do not know what the President intends. Even without specific nuts and bolts, the sense of direction that he proposes was made very clear yesterday and was vigorously objected to today by Canada’s former Foreign Minister, Lloyd Axworthy. I would respectfully ask the minister if she would take forward the view that I expressed in the previous question and the one I will express in this question. Will the government, in its representations to the United States in these consultations that will now take place, emphasize that the rule of law must be followed in international affairs, that the United States has a legal obligation under the Nuclear Non-proliferation Treaty to enter comprehensive negotiations for the elimination of nuclear weapons and that such elimination is the best defence of all against missiles?

Senator Carstairs: Honourable senators, I, too, read with great interest the words of the Honourable Lloyd Axworthy this morning. The reality is we do not know yet. For example, the President of the United States talks about a variety of proposals, but he has not indicated whether he wishes to amend the ABM treaty. If he were to make that suggestion, I can tell you that Canada would want to evaluate the impact of any such amendment on the nuclear balance and on global efforts at arms control and disarmament. If the President were to go another route and replace the ABM treaty, which he also seemed to infer that he might do, then Canada would want to be assured that such an approach would maintain the significant gains that have been made over the last three decades under the existing treaty, as well as provide for enhanced international peace and security in the future.

THE SENATE

UNITED STATES—MISSILE DEFENCE SYSTEM—POSSIBILITY OF APPEARANCE OF MINISTERS OF FOREIGN AFFAIRS AND NATIONAL DEFENCE BEFORE STANDING COMMITTEE ON FOREIGN AFFAIRS

Hon. Marcel Prud’homme: Honourable senators, people say we do not know what Mr. Bush, the President, our friend, has in mind. My great concern, and I am sure it is the same with many senators and Canadians, would be that the morning he knows exactly what he wants, it will be too late for us to take sides. I agree that he does not know exactly where he is going, but as soon as he does know, it will be too late.

I wish to make a suggestion. If my friend and ex-colleague in the House of Commons who is now chairman of the Foreign Affairs Committee were still present, I would ask him the question. There is much concern among Canadians. At least one if not both ministers should appear, because they have made statements.

I am talking about the Minister of National Defence. I was the chairman of the House of Commons committees on Foreign Affairs and National Defence. The Defence people seem to already be on side. Many people in Foreign Affairs seem to be on side in the sense that they do not want to offend the President when and if he takes a decision. Surely, here is an occasion for the Senate to be informed on the topic raised by my esteemed colleague Senator Roche. We could take some precautions by informing members of the Senate, or those who are interested, and we should all be interested.

• (1400)

When the Chairman of the Foreign Affairs Committee comes back, I will make a request of him, or perhaps some other honourable senator will, to put aside his important work on the Russia and Ukraine situation for a day or two and consider this more immediate subject that could be completed without the Senate having a say. It will be too late once President Bush makes a decision.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I thank the honourable senator for his question. Senator Prud'homme has raised two issues that I believe are very significant. The first is that President Bush, for the first time, has made it extremely clear that before any policy is developed in the United States, there will be wide consultations with the allies of that country, and that includes Canada. In addition, there will be broad consultations with Russia and China, so those are positive steps that came out of this announcement of yesterday.

With respect to the second part of the honourable senator's question, potentially two committees in the Senate might look at this matter: one, of course, is the Foreign Affairs Committee, which Senator Prud'homme indicated, and the other is the new Defence Committee that will be established, I understand, on Tuesday. Both could be mandated by this chamber to examine the issues that are clearly of great concern to the two honourable senators.

[Translation]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour to table five delayed answers, one to a question raised by the Honourable Senator Oliver on March 28, 2001, regarding the merchant navy; one to a question raised by the Honourable Senator Andreychuk on March 28, 2001, regarding the Treasury Board; two to questions raised by the Honourable Senator Forrestall on March 14 and 28, 2001, regarding the replacement of Sea King helicopters; and one to a question raised by the Honourable Senator Kelleher on April 4 regarding the World Trade Organization.

VETERANS AFFAIRS

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

(Response to question raised by Hon. Donald H. Oliver on March 28, 2001)

No, all MNV special benefit applicants are treated equally.

The residence requirement for the MNV special benefit provides that the merchant navy veteran was either:

(a) a Canadian national (citizen) during service, or

(b) if domiciled in Canada or Newfoundland at the time of service, the merchant navy veteran must have continued domicile in Canada or Newfoundland after the war.

The four applicants in question appear to have been neither Canadian citizens nor domiciled in Canada at the time of their service. This qualification is not unique to the MNV special benefit.

VAC has not made a final review decision on any of these four cases yet. It is under review and we will ensure all veterans are treated fairly.

TREASURY BOARD

GRACE PERIOD FOR EMPLOYEES MOVING FROM PUBLIC SERVICE TO PRIVATE SECTOR

(Response to question raised by Hon. A. Raynell Andreychuk on March 28, 2001)

Part III of the *Conflict of Interest and Post-Employment Code for the Public Service* presents the post-employment compliance measures. These measures apply to employees in positions classified at the Senior Manager level (EX). For a period of 12 months persons formerly employed at the senior management level cannot be employed in positions related to their former responsibilities. These measures, without unduly restricting former employees in seeking employment in the private sector, are designed to minimise real, potential or apparent conflict of interest situations; to prevent obtaining preferential treatment or privileged access to government and to avoid taking personal advantage of information obtained in the course of official duties.

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTERS—CABINET COMMITTEE OVERSEEING PURCHASE COMPETITION

(Response to question raised by Hon. J. Michael Forrestall on March 14, 2001)

Ministers have always met informally, as needed, to review major Crown projects, to ensure they have all the information required to make decisions for which they are accountable to Parliament and Canadians. This is the case for the Maritime Helicopter project as well as all other major Crown projects.

Participation in any such discussion is not limited to specific ministers but determined by which ministers are interested in the topic at hand.

The Maritime Helicopter project is one of the Government of Canada's most important procurement projects. The Government is committed to taking the steps necessary to ensure we acquire a helicopter that meets the needs of the Canadian Forces, within a tight time frame and at the lowest possible cost to taxpayers.

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

(Response to question raised by Hon. J. Michael Forrestall on March 28, 2001)

The Privacy Act prevents the disclosure of any further information about Mr. Lagueux and Mr. Sturgeon beyond what is already available through the Public Lobbyist Registry and other open sources.

The Public Lobbyist Registry currently reflects that Mr. Lagueux and Mr. Sturgeon are registered to act on behalf of a number of clients in various areas such as procurement, defence, science and technology and regional development. They both have Ballard Power Systems as one of their clients; they are not registered to act on behalf of Eurocopter.

As registered lobbyists, Mr. Lagueux and Mr. Sturgeon are required to comply with the full requirements of the Lobbyist Registration Act and associated regulations, including the 1997 Lobbyists' Code of Conduct.

INTERNATIONAL TRADE

WORLD TRADE ORGANIZATION—WIN/LOSS RECORD OF GOVERNMENT IN DISPUTES

(Response to question raised by Hon. James F. Kelleher on April 4, 2001)

First, we would like to note that Canada is firmly committed to a rules-based system that provides a framework in which to manage international trade relations and the inevitable disputes that come up. When WTO Members undertake substantive obligations such as the ones contained in the Uruguay Round Agreements, issues concerning the application and interpretation of the rules, their scope, appropriate exceptions etc. will inevitably arise. Canada believes that the best way to resolve these issues is to follow the procedures contained in the WTO Dispute Settlement Understanding. Such a system, based on the rule of law is not only fairer, especially for small or

medium-sized countries, but it also contributes to the stability and predictability of the trading system to the benefit of all countries.

Since the WTO came into force in 1995, Canada requested the establishment of a WTO Panel to rule on seven measures maintained by other WTO Members. During the same period, other WTO Members requested the establishment of a Panel to address their complaints against eight Canadian measures. All the reports of WTO Panels and of the WTO Appellate Body are made available on the WTO website at the time they are circulated to WTO Members.

Summary of Canada's offensive cases:

EC — French measure on scallops: the Panel issued its confidential interim report to the disputing parties in early 1996. The report was favourable to Canada. The disputing Parties suspended the proceedings and agreed on a settlement which was notified to the Dispute Settlement Body on July 5, 1996.

Japan — measures regarding taxes on alcoholic beverages (joint Panel with the U.S. and the EC): the Panel and the Appellate Body concluded that the Japanese tax system as it applied to alcoholic beverages was inconsistent with Japan's obligations under the General Agreement on Tariffs and Trade (GATT). Both reports were adopted on November 1, 1996. Japan has since implemented the rulings.

EC — ban on beef produced with growth-promoting hormones (joint Panel with the U.S.): the Panel and the Appellate Body ruled that the EC was in violation of its obligations under the Agreement on the Application of Sanitary and Phytosanitary Measures. The reports were adopted by the Dispute Settlement Body on February 13, 1998. As a result of the EC's failure to implement the rulings, the Dispute Settlement Body authorized Canada, on July 26, 1999, to retaliate in an amount of \$11.3 million annually. Retaliatory measures were implemented August 1, 1999.

Australia — ban on the importation of fresh, chilled and frozen salmon: the Panel and the Appellate Body found the Australian measures inconsistent with Australia's obligations under the Agreement on the Application of Sanitary and Phytosanitary Measures. The reports were adopted by the Dispute Settlement Body on November 6, 1998. On February 18, 2000, a compliance Panel found that Australia had not implemented the rulings on fresh, chilled and frozen salmon. On May 16, 2000, Canada and Australia reached an agreement that reopened the Australian market effective June 1, 2000.

Brazil — export financing programme for aircraft: the Panel and the Appellate Body found Brazil to be in violation of its obligations under the Agreement on Subsidies and Countervailing Measures. On May 9, 2000, a compliance Panel ruled that Brazil had not properly implemented the rulings on Proex. On August 28, 2000, a WTO Arbitrator estimated at \$344.2 million annually the amount of retaliation Canada could take against Brazil for the continued failure to implement the WTO rulings on Proex. On December 12, 2000, following the breakdown of bilateral negotiations, Canada received authority from the WTO to impose countermeasures on Brazil in response to Brazilian non-compliance. At that time Brazil announced that it had revised Proex to bring the program into compliance with its WTO obligations. On February 16, 2001, Canada requested a compliance Panel to assess the revisions to the Proex program. The process of making written and oral submissions to the Panel has been completed, and the final report of the Panel is expected in late June 2001.

EC — French ban on asbestos: the Panel found that the French ban on chrysotile asbestos is consistent with WTO Agreements. The report of the Panel was circulated to WTO Members on September 18, 2000. Canada appealed, on October 23, 2000, some of the conclusions of the Panel report before the WTO Appellate Body. The Appellate Body modified some of the Panel's findings but confirmed that the ban was consistent with France's WTO obligations. The reports of the Panel and Appellate Body were adopted by the WTO Dispute Settlement Body on April 5, 2001.

U.S. — export restraints: the WTO Panel was established on September 11, 2000 to hear Canada's complaint that the U.S. treatment of export restraints in countervailing duty investigations is contrary to U.S. obligations under the Agreement on Subsidies and Countervailing Measures. The Panel held two hearings on the matter — January 18/19 and February 21/22, 2001. The WTO Panel is expected to release its report publicly sometime in May.

Summary of Canada's defensive cases:

Periodicals — complaint by the U.S.: the Panel and subsequently the Appellate Body found the Canadian measures to be inconsistent with Canada's obligations under the GATT. Both reports were adopted by the Dispute Settlement Body on July 30, 1997. Canada implemented the rulings.

Pharmaceutical patent regime — complaint by the EC: the EC challenged two provisions of Canada's Patent Act, the early working exception and the stockpiling exception. The Panel ruled that the early working exception was consistent with Canada's obligations under the Agreement on Trade-Related Intellectual Property Rights (TRIPS) but that the stockpiling exception was not. On October 7, 2000, Canada announced that it had implemented the ruling with respect to the stockpiling exception.

Canada's patent term — complaint by the U.S.: the Panel found that Canada's patent term for certain pre-1989 patents is inconsistent with Canada's obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). On September 18, 2000, the Appellate Body confirmed the Panel's findings. An Arbitration Panel determined that Canada would have 10 months (until August 12, 2001) to comply with the decision. Canada is in the process of making legislative changes necessary to implement the WTO ruling.

Automotive industry — complaints by the EC and Japan: the Panel and Appellate Body found that key elements of the Auto Pact violated Canada's trade obligations under the GATT, the General Agreement on Trade in Services (GATS) and the Agreement on Subsidies and Countervailing Measures. The reports were adopted by the Dispute Settlement Body on June 19, 2000. Canada implemented the Panel's subsidy finding within 90 days, as recommended by the Panel. On February 18, 2001, Canada revoked the remaining Auto Pact measures. At the WTO Dispute Settlement Body meeting of March 12, 2001, Canada announced that it had complied fully with the WTO ruling.

Dairy products — complaints by the U.S. and New Zealand: the WTO ruled last year that Canada had violated its export subsidy obligations for dairy products. In order to comply, new dairy export mechanisms were implemented in nine provinces (Newfoundland does not export dairy products). The United States and New Zealand contend that these mechanisms are not sufficient for Canada to meet its WTO obligations. At the request of both countries, a WTO Compliance Panel has been established. A Panel decision will be issued around July 11. While the United States and New Zealand have already sought WTO authorization to retaliate should the WTO uphold their challenge, their requests have been suspended until the end of any appeal process should one be requested (late October).

Measures affecting the export of civilian aircraft — complaint by Brazil: the Panel and the Appellate Body found that, of the 7 programmes cited by Brazil, only 2 were found inconsistent with the Agreement on Subsidies and Countervailing Measures. The reports of the Panel and Appellate Body were adopted by the Dispute Settlement Body on August 20, 1999. On May 9, 2000, a compliance Panel found that Canada had fully implemented the rulings on the Technology Partnerships Canada programme but that minor changes were required on the Canada account support for regional aircraft. The Appellate Body upheld the compliance Panel's decision on July 21, 2000. Canada is in the process of making the required changes.

Export Credits and Loan Guarantees for Regional Aircraft — complaint by Brazil: on March 12, at Brazil's request, the WTO established a Panel to examine Canadian export credit programs, specifically Canada Account and EDC's Corporate Account, as well as the involvement of these programs and equity guarantees provided by Investissement Québec in the Air Wisconsin transaction. The parties are in the process of selecting a chair and members of the Panel. A ruling in this matter can be expected in late summer or early fall.

major overhaul of a very important business framework law. The Minister of Finance continues to remind us that we live in a global economy. Indeed, Industry Canada noted that Canadian businesses compete in the global marketplace and will seek the corporate law and administration that most reduces their hard and soft transaction costs.

Honourable senators, we need to have enshrined in the bill a mechanism to allow for periodic reviews of the law. In the absence of any plan to regularly review the CBCA, I fear it will be yet another 25 years before the act is amended again. That would not be good for Canada, it would not be good for Canadian business and it would not be good for our national position in the global marketplace. It is my view that this bill, like many others, should be subject to periodic review and brought before both Houses of Parliament for study.

MOTION IN AMENDMENT

Hon. Donald H. Oliver: With that in mind, honourable senators, I move, seconded by the Honourable Senator David Tkachuk, that Bill S-11 be not now read the third time but that it be amended by adding, after line 38 on page 88 the following:

135.1 A committee of the Senate, of the House of Commons or of both Houses of Parliament that is designated or established for the purpose shall, within five years after the coming into force of this section, and within every ten years thereafter, undertake a review of the provisions and operations of the *Canada Business Corporations Act*, and shall, within a reasonable period thereafter, cause to be laid before each House of Parliament a report thereon.

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

Hon. Jeremiah S. Grafstein: Honourable senators, I have a question. I commend the Honourable Senator Oliver for this amendment, but I was not quite clear, because we do not have the words before us, as to whether he is suggesting that the House of Commons would review it, or a committee of the Senate, or a joint committee. Is the honourable senator raising the possibility that the Senate might be excluded from that review?

Senator Oliver: No, I am not, honourable senators. The House of Commons and/or the Senate — and it could be the Senate or the House of Commons, but I am asking that it be laid before both Houses of Parliament. The wording is: "A committee of the Senate, of the House of Commons or of both Houses of Parliament that is designated or established..."

[English]

ORDERS OF THE DAY

CANADA BUSINESS CORPORATIONS ACT CANADA COOPERATIVES ACT

BILL TO AMEND—THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Kirby, seconded by the Honourable Senator Grafstein, for the third reading of Bill S-11, to amend the Canada Business Corporations Act and the Canada Cooperatives Act and to amend other Acts.

Hon. Donald H. Oliver: Honourable senators, I rise today to speak briefly on third reading on the bill to amend the Canada Business Corporations Act and the Canada Cooperatives Act. You will recall that last week I spoke at length about my concerns regarding the fact that it has been 25 years since the last

[Senator Robichaud]

Senator Grafstein: Honourable senators, again, I agree with the principle. The other principle is that I hope we are not by this purpose excluding, as a mandatory requirement, the Senate. I am not sure on the reading of this, where it says the “House of Commons or of both houses.” The amendment says: “A committee of the Senate, of the House of Commons or...” and therefore, I ask again, is Senator Oliver saying that it is either a committee of both houses, either of the Senate or of the House of Commons, or a joint committee? Is that the meaning of this?

I am getting assurance from the Leader of the Government in the Senate that it is not to exclude the Senate, it is either a joint committee or both Houses. Having said that, I agree with the Honourable Senator Oliver.

I wish, however, to state this one historical footnote: I was involved in establishing an internal committee to review the Corporations Act back in 1965 or 1966. It took over two decades for that work to be done, so I commend Senator Oliver for forcing the commercial arms of the executive to review this very important piece of corporate governance legislation on a regular basis.

Hon. Michael Kirby: Honourable senators, as the sponsor of the bill and on behalf of the members on this side of the house, I welcome Senator Oliver’s amendment. We are delighted to give our support.

I may also say that many of the elements that are in the bill are elements that emanated from a series of hearings that the Senate Banking Committee had two or three years ago in which Senator Oliver participated extensively. I absolutely agree with him that the criticism that often befalls business legislation is that precisely because it is not politically zingy and does not attract attention it therefore does not get to the top of the government’s agenda. I believe insisting, as the honourable senator has done, that this matter be dealt with on a regular, periodic and expeditious basis is a good thing, so I am happy to support the amendment.

Hon. E. Leo Kolber: As the Chairman of the Standing Senate Committee on Banking, Trade and Commerce, I should like to commend Senator Oliver for his amendment.

• (1410)

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

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

Motion agreed to and bill, as amended, read third time and passed.

CANADA FOUNDATION FOR SUSTAINABLE DEVELOPMENT TECHNOLOGY BILL

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Sibbeston, seconded by the Honourable Senator Chalifoux, for the second reading of Bill C-4, to establish a foundation to fund sustainable development technology.

Hon. Ethel Cochrane: Honourable senators, I am pleased to have the opportunity to make a few remarks on Bill C-4, to establish the foundation to fund sustainable development technology. I note that this foundation will emphasize funding for new climate-friendly technologies with the potential to reduce greenhouse gas emissions and technologies to improve air quality. I support the principle of Bill C-4. Reducing greenhouse gas emissions and promoting cleaner air are important issues and certainly deserving of public support.

I am encouraged to see that the foundation will be looking outside of government for contributions to projects. The government will provide an initial investment of \$100 million and the foundation will be seeking collaborative agreements and financial investment from technology developers, suppliers and users, the business community, non-profit organizations and industrial associations. It is very appropriate that those who will benefit from technological development should assist in financing it.

Having said that, I have a number of concerns and reservations about why this foundation is being established, how it will be administered and how it will account to the taxpayers for its actions.

First and foremost, honourable senators, I am not persuaded that there is any need to create a new foundation in order to accomplish the government’s stated objective of supporting and promoting new environmentally friendly technologies. The foundation is to be launched with \$100 million in funding, but why could this not be administered by the Department of Industry or by any of the many programs and government-funded agencies that are already in place? A partial list of such government-funded agencies that are already in place includes: the Federal Business Development Bank; the Program of Energy Research and Development; fellowship programs and the Network of Centres of Excellence; the Industrial Research Assistance Program; Technology Early Action Measures; Technology Partnerships Canada, with an annual allocation of \$300 million; and the Canada Foundation for Innovation, which has received or been promised a total of \$3.1 billion since it was set up in 1997. With all of this money and all of these programs already in place, what is the justification for adding another new foundation that will no doubt have significant administrative costs?

Second, there are serious issues of transparency and accountability. The foundation will not be subject to access to information, nor will it be subject to the scrutiny of the Auditor General. The directors of the foundation will appoint their own auditor who will report to them.

The Auditor General has strongly criticized the government in recent years for what he has called new governance arrangements. In the November 1999 report, "Matters of Special Importance," he wrote:

By their very nature, these arrangements challenge the traditional accountability relationship that sees Ministers answerable to Parliament for their policies and programs.

The report continues:

Ministers are never wholly responsible for them. In some cases, arrangements have been intentionally set up to be totally independent from Ministers, even though they may depend on federal funds and federal authority.

That is the Auditor General's report.

I have been keenly aware of this evasion of responsibility, as Senator Carstairs well knows, with the Millennium Scholarship Foundation Fund. The government has continually ducked questions on the administration of that foundation by saying it is an independent agency, even though it is operating with \$2.5 billion of government funds. I can foresee the same thing happening with the foundation to be established in Bill C-4.

Third, I have several concerns about the management of the foundation. There are to be 15 directors and 15 foundation members. Seven directors, including the chair, and seven members will be appointed by the government, and they will also appoint the remaining eight directors and eight members. I appreciate the attractiveness of creating 30 new jobs for good Liberals —

Some Hon. Senators: Oh, oh!

Senator Cochrane: — but do we really need 30 people to manage this fund?

Senator Tkachuk: If they are Liberals, you do.

Senator Cochrane: Is it appropriate that they will then determine how much they should be paid? The bill stipulates that appointments must be paid having regard to certain considerations, one of which is regionally balanced representation. There is a significant difference, however, between having regard to regional balance and actually adhering to it.

Finally, I have some questions about the future administration and the finances of the foundation. We have no idea how much

[Senator Cochrane]

money the foundation will actually be administering in the future. It will begin with \$100 million, but the government may add any amount to that at any time.

Consider the Foundation for Innovation for a moment, which began in 1997 with an allocation of \$800 million. That foundation received an extra \$200 million in the 1999 budget, \$900 million in the 2000 budget, \$500 million more in last fall's pre-election spending binge, and a further \$700 million in March of this year.

• (1420)

The total was \$3.1 billion so far. That is the foundation for innovation. This gives honourable senators some idea of my concern, and of the magnitude of what we might be dealing with here.

A provision in Bill C-4 deals with the eventual dissolution of the foundation. If it is dissolved, any funds or assets are to be distributed to existing eligible project recipients. We are contemplating a gift of potentially hundreds of millions of dollars to projects which have already been paid for and which may not need additional support. Why would these funds and assets not be returned to the Consolidated Revenue Fund?

There are also provisions for the funds to be transferred to the administration by a private sector foundation at the discretion of cabinet. We must question the wisdom of handing over large sums of public funds to private sector control.

As I said earlier, in principle I am in favour of the government's objective of promoting sustainable development and tackling the problems of climate change and air quality. I support referring Bill C-4 quickly to committee, and I should like to see a detailed study done of it, but I do hope that government members will be receptive to some substantive improvements to that bill.

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

Some Hon. Senators: Question.

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

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Sibbeston, bill referred to the Standing Senate Committee on Energy, the Environment and Natural Resources.

ROYAL ASSENT BILL

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Lynch-Staunton, seconded by the Honourable Senator Kinsella, for the second reading of Bill S-13, respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament.—(*Honourable Senator Cools*).

Hon. Anne C. Cools: Honourable senators, I rise to speak to second reading of Bill S-13. Bill S-13 is wholly concerned with Her Majesty's Royal Prerogative, specifically her prerogative of Royal Assent. Consequently, it needs a Royal Consent for Parliament to even debate it. I said this on June 9, 1998 when this same subject-matter was contained in Bill S-15, and on December 1, 1999 when it was contained in Bill S-7, at which time I even tried to amend the second reading motion asking that it not be read the second time until its sponsor had fulfilled the proper, prescribed parliamentary procedure and obtained the Royal Consent preliminary to second reading.

Today I assert again that Bill S-13 requires the Royal Consent preliminary to second reading. This is the prescribed procedure laid down by the two fundamental laws, the law of parliament, the *lex parliamenti*, and the law of prerogative, the *lex praerogativa*. The authorities and parliamentary jurisprudence dictate thus. I shall cite them. First, there is Beauchesne. *Beauchesne's Rules & Forms of the House of Commons of Canada*, 6th Edition, paragraph 727.(1) states:

727.(1) The consent of the Crown is always necessary in matters involving the prerogatives of the Crown. This consent may be given at any stage of a bill before final passage; though in the House it is generally signified on the motion for second reading. This consent may be given by a special message or by a verbal statement by a Minister, the latter being the usual procedure in such cases. It will also be seen that a bill may be permitted to proceed to the very last stage without receiving the consent of the Crown but if it is not given at the last stage, the Speaker will refuse to put the question. It is also stated that if the consent be withheld, the Speaker has no alternative open except to withdraw the measure.

Honourable senators, on several occasions many senators have raised the question of the need for Royal Consent to this class of bills, bills that touch the interests of the sovereign, Her Majesty, Queen Elizabeth II. Last June 2000, when the Senate debated the Clarity Bill, Bill C-20, some of us raised this very question, asserting that Bill C-20 required the Royal Consent. On June 20,

2000, we spoke to a point of order. We were right. Bill C-20 required the Royal Consent. Some days later, Senator Bernard Boudreau, Leader of the Government in the Senate, gave it. On June 29, 2000, Senator Boudreau announced the Royal Consent saying:

Honourable senators, I have the honour to advise this house that Her Excellency the Governor General is pleased, in the Queen's name, to give consent, to the degree to which it may affect the prerogatives of Her Majesty, to the consideration by Parliament of a bill entitled 'An Act to give effect to the requirement for clarity as set out in the opinion of the Supreme Court of Canada in the Quebec Secession Reference'.

This adds much weight to my assertions that Bill S-13, solely and wholly concerned with the Royal Prerogative, requires the Royal Consent, which means Her Majesty's approval of Parliament's consideration and debate of her interest in this bill, being her prerogative of Royal Assent to bills, and Her Majesty's parliamentary role as the Queen in Parliament. I absolutely insist that this bill needs the involvement, consent and approval of Her Excellency, Governor General Adrienne Clarkson, prior to its introduction and debate here.

Honourable senators, we are told that this Bill S-13 is fundamentally similar to the United Kingdom's 1967 changes to the royal assent procedure, that is, their Royal Assent Act 1967. Previously, on February 22, 2000, in debate on Bill S-7, I had pointed out that, in that United Kingdom instance, the Royal Consent was obtained from Her Majesty prior to the bill's second reading. Again I shall restate these facts. That United Kingdom Royal Assent Act had originated in the House of Lords. There the Royal Consent had been announced by the Lord Chancellor. On March 2, 1967, before second reading, the Lord Chancellor, Lord Gardiner, announced it, saying:

My Lords, I have it in command from Her Majesty the Queen to acquaint the House that Her Majesty, having been informed of the purport of the Royal Assent Bill, has consented to place Her prerogative and interest, so far as they are affected by the Bill, at the disposal of Parliament for the purposes of the Bill.

Having done this, the Lord Chancellor then moved second reading of that bill. Weeks later, on April 17, 1967, the Attorney General, Sir Elwyn Jones, did the same in the House of Commons, saying:

I have it in Command from the Queen to acquaint the House that Her Majesty, having been informed of the purport of the Bill, has consented to place Her prerogative and interest, so far as they are affected by the Bill, at the disposal of Parliament for the purposes of the Bill.

It is uncontroverted that Her Majesty's consent is required for this Bill S-13 which touches her prerogative and interests in the form and procedure of giving Royal Assent, that critical constitutional act which gives bills the force of law and transforms bills into acts of Parliament.

Honourable senators, on December 14, 1999, in ruling on Senator John Lynch-Staunton's point of order on my proposed amendment to Bill S-7, the Senate Speaker, the late Senator Gildas Molgat, said the following:

It is now necessary to address the more substantive question concerning the possible need to signify Royal Consent.

As Senator Cools stated in her intervention, Royal Consent is required whenever a bill proposes to affect either the prerogative of the Crown, its hereditary revenues, personal property or interests. With respect to this case, there is no doubt that the only issue involved with Bill S-7 is that of the Royal Prerogative.

Clearly the bill affected the Royal Prerogative. Senator Molgat continued:

I would suggest, however, that, if this bill receives second reading, the issue of Royal Consent be studied by the committee to which it is referred as part of its examination.

I have reviewed the proceedings of the Standing Senate Committee on Privileges, Standing Rules and Orders and have found no study of this question. Further I could find no mention whatsoever of the points that I raised in that debate. It is as though the committee had no knowledge of my points, questions or speeches. However, now, a year later, the situation has changed dramatically. Circumstances and events around last year's Clarity Bill, Bill C-20, overtook that committee's study because of the evidence placed before the Senate about the requirements for Royal Consent and the Royal Prerogative. Again I shall say that this bill needs the agreement of Her Excellency Governor General Adrienne Clarkson prior to its introduction and debate here.

• (1430)

Honourable senators, I move now to private members obtaining Royal Consent for their bills, because Bill S-13 is a private member's bill. It is Senator Lynch-Staunton's bill. As was shown by Senator Bernard Boudreau, the Royal Consent must be announced in this chamber by a minister, a member of the Privy Council. That is one of the reasons that the Leader of the Government in the Senate must be a minister and Privy Councillor. The process of obtaining the Royal Consent by a private member is different from obtaining that consent by the ministry. A private member can only obtain the royal consent by

[Senator Cools]

an address, that is, by moving a motion for an address to Her Majesty, or to Her Majesty's representative, praying for her approval, her Royal Consent, to place the issue before Parliament. The private member's first step is to ask the Senate and its members to agree to seek the Governor General's approval. Second, the Governor General must then agree to the address. The authorities Todd, Beauchesne, and Bourinot tell us this about the address. Alpheus Todd's 1892 edition of his *Parliamentary Government in England* states:

But where a public bill of this description is proposed to be initiated by a private member, and not upon the responsibility of ministers, the House ought to address the crown for leave to proceed thereon, before the introduction of the same;...

Beauchesne's, sixth edition, paragraph 728, states:

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

Sir John George Bourinot's *Parliamentary Procedure and Practice in the Dominion of Canada*, fourth edition, 1916, stated the same:

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

These three are unanimous that the law of Parliament, the *lex parliamenti*, prescribes the parliamentary procedure that private members must move a motion to secure this house's agreement to obtain leave of the Governor General to proceed. Honourable senators, every senator has a right to debate and vote on asking the Governor General to agree. Any attempt to deprive any senator of that right is a breach of privileges and a breach of the law of Parliament. The process for determining the need for Royal Consent is the debate on the motion for the address itself, a parliamentary fact that seems to elude many.

Honourable senators, this bill's sponsor is not only a private member, but is in opposition. For opposition members seeking the Royal Consent, the parliamentary procedure of a motion for an address to Her Majesty becomes more compelling; it becomes absolute. The two most famous precedents on the opposition, both in the United Kingdom, are that of William Ewart Gladstone in 1868 in the House of Commons and Lord Lansdowne in 1911 in the House of Lords.

First, on May 7, 1868, William Gladstone, while in opposition moved an address for the Royal Consent, said:

...in this instance, the case is different. The interest of the Crown in this case is not merely a proprietary interest, but one of wide and far-reaching import; and also this is a Bill which, although it is not proposed by the Government, would be, I may say, proposed on behalf of a very large proportion of the Members of this House, acting together generally in its support. Now, that being so, I have felt, with the advice and concurrence of others, that it was my duty not to claim the entire liberty which the House has accorded to its Members; but to ask the House to present an address requesting the Assent of the Crown, and allowing us to deliberate upon this subject before any Motion be made in the House for the introduction of the Bill.

This is the eminent former Liberal Prime Minister of England, William Gladstone, speaking. He was Leader of the Opposition at the time.

The House must debate the matter prior to the bill. The other famous precedent was by Lord Lansdowne, an eminent constitutionalist, once a Governor General of Canada. On March 30, 1911, Lord Lansdowne in opposition in the House of Lords said:

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

Honourable senators, let us remember that Lord Lansdowne was one of the great parliamentarians of the century. Lord Lansdowne continued:

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

Honourable senators, learned parliamentarians Lord Lansdowne and Mr. Gladstone were both Leaders of the Opposition when they had described the proper parliamentary procedure prescribed for opposition members. The principle is obviously that changes of such moment should only proceed

either at the initiative of responsible ministers of the Crown with access to Her Majesty, or by the expression of the judgement and will of the whole house to ask Her Majesty. Senator Lynch-Staunton simply must seek and obtain the will of this Senate on the question of seeking Her Majesty's leave through the Governor General to deliberate this bill. To do otherwise is to breach the law of Parliament, the privileges of Parliament, and to breach the law of the prerogative. These two systems of law rely on each other for their maintenance, defence, and protection. Senators have a duty to ensure that Her Excellency, Governor General Adrienne Clarkson's agreement is sought and obtained prior to second reading in this chamber. It is proper, respectful, and necessary.

Honourable senators, I shall now quote the November 6, 1985 report of the Standing Committee on Standing Rules and Orders. That report proposed three recommendations about the Royal Assent. Recommendations 1 and 2 recommended substantive changes to the Royal Assent procedure itself, some of which are actually in Bill S-13. However, recommendation 3 was about the parliamentary procedure necessary to obtain the Governor General's approval of the proposed changes as the precondition to actual proposed changes as in this bill.

Recommendation 3 stated:

That representatives of the Senate meet with representatives of the House of Commons to draft a resolution for a joint Address of both Houses to be presented to Her Excellency the Governor General praying that she approve such changes to the Royal Assent ceremony as described in this Report.

Honourable senators, once again I say that that is the process that should be performed and conducted prior to the bill and prior to the consideration of the substantive questions themselves.

The Senate and the bill's sponsor, Senator Lynch-Staunton, have a duty to proceed with proper and due regard to these vital parliamentary and constitutional principles, with due regard to Parliament's law and with the respect and allegiance due to Her Majesty and her representative in Canada, Her Excellency, the Right Honourable Adrienne Clarkson.

• (1440)

Honourable senators, the Senate owes Her Excellency the Right Honourable Adrienne Clarkson the proper respect and dignity. Her Majesty's representative should receive no less from this chamber.

I thank Senator Lynch-Staunton for his initiative, and I would urge him again to move an address so that all honourable senators may debate the question of Royal Consent. It is my intention not to vote on this bill until I receive an indication that Governor General Adrienne Clarkson is involved in some way or other in this pressing matter of Royal Assent in Canada.

The Hon. the Speaker: Honourable senators, before Senator Lynch-Staunton speaks, he may wish to raise a point of order. If the honourable senator speaks, I am obliged to give notice to other honourable senators that his speech will close the debate.

Hon. Jeremiah S. Grafstein: Honourable senators, I have a question and I do not intend to speak or to take the adjournment. I am not clear about Senator Cools' suggestion. Is the honourable senator suggesting that because Royal Assent is a pre-condition to debate, the bill is out of order and, therefore, we should seek, in new circumstances, a decision from the Speaker to confirm her view?

Senator Cools: Honourable senators, I thank Senator Grafstein for his question, which is important. I thought long and hard about whether to raise this as a point of order, and I believe that it is a question that concerns the entire Senate.

I said, essentially, that the process for obtaining Royal Consent is twofold. One process is to obtain Royal Assent from Her Majesty's representative by virtue of the ready access of the cabinet —

The Hon. the Speaker: Honourable senators, the allotted time for Senator Cools has expired. Senator Cools, do you request leave to continue?

Senator Cools: Honourable senators, I request leave to continue.

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

Hon. Senators: Agreed.

Senator Cools: There are two ways to obtain Royal Consent. One way is through a member of the Privy Council who approaches Her Majesty and then stands on the floor of the chamber to announce the Royal Consent. The other way is to move an address. "Address" is the term used for "parliamentary conversation with the sovereign." The proper way for a private member to obtain the Royal Consent is by virtue of a motion for address.

Honourable senators, in respect of the second point raised by Senator Grafstein, the point of order was essentially about the decision, or the judgment, on whether a Royal Consent is required, is determined in the process of the debate on the address. The authorities and parliamentary jurisprudence tell us this. This is the proper way to proceed. I examined the three sets of precedents in England that occurred on three separate occasions of debate on this matter. One occurred in 1868, with Mr. Gladstone; the next one occurred in 1911, around the Lord Lansdowne speech, and a third occurred in the 1930s, which I did not raise today.

Honourable senators, the fact is that the opposition is not believed in a parliamentary process to have ready access to Her

Majesty. Therefore, it is incumbent upon an opposition member, when he or she is moving private member's bills that touch on the Royal Prerogative, to seek the agreement and the judgment of the entire chamber. It is a matter on which each and every one of us should have an opinion. Each of us should be able to express that opinion. The precedents exist and they speak for themselves.

Senator Grafstein: Honourable senators, I will not belabour this issue, but Senator Cools has made it more difficult for those of us, as we listened to the argument, to decide whether we are able to vote on second reading if, in fact, it offends the prerogative of the Governor General.

Senator Cools: It does.

Senator Grafstein: If it does, and we do not have a clear-cut ruling, it will be difficult to decide. I see that Senator Lynch-Staunton is not prepared to accede to your argument, honourable senator, or to seek that consent. I have not heard him stand and say that he intends to do that. Therefore, it puts us in a much more difficult position to determine whether, in acceding to second reading, the Governor General's prerogative has been interfered with.

Honourable senators, would it not be better, in the circumstances, to seek His Honour the Speaker's advice? If we disagree with that advice, each senator may stand and express that opinion. Otherwise, we are in a position to decide individually whether we agree with the argument. We cannot even get at the substance of the bill, and Senator Lynch-Staunton knows that I have some problems with that.

Senator Cools: Senator Grafstein, I said clearly that I, personally, will not vote at second reading on this bill because I believe that the chamber, as a whole, should not take such a vote in the absence of an indication from the Governor General. That is my personal position and solution.

Honourable senators, I believe that this bill is contrary to, or at least not consistent with, the law of Parliament. I am aware that there are many who no longer know what I mean, or what we mean when we say "the law of Parliament." For example, it is said that a bill should have three readings, and yet it is written nowhere in any statute in the land that a bill should have three readings. It is a question of the law of Parliament. The law of Parliament and the parliamentary jurisprudence, for some centuries now, has always insisted that an address, in the instance of a private member, is absolutely necessary before a bill should be introduced. That is what I have said. That parliamentary jurisprudence becomes more compelling in the instance of a bill at the initiative of the opposition. The opposition is not believed to have ready access to Her Majesty.

Honourable senators, I did not raise a point of order for particular reasons. On several occasions in this chamber, we have raised the need for Royal Consent. The question has never been answered. I have received no indication that it would be answered in this particular instance.

Last June, some of us spoke in that debate on that question. Senator Joyal raised the question on a point of order as to whether a Royal Consent was required. That question was never answered. The then Speaker of the House, Senator Molgat, took the question under advisement, but never answered the question. Some days later, Senator Boudreau rose in his place, announced that the Royal Consent had been obtained and that it was in hand. The honourable senator read the Royal Consent into the record of the chamber. At that point, His Honour the Speaker rose and said that there was no need for him to rule. It would have been my preference at that time to hear the ruling, because it seemed to me that the chamber had asked him for such a ruling. It would have been good to receive the ruling.

• (1450)

All I am saying is that if you wish to raise a point of order, be my guest. As a matter of fact, I would be happy to support you in it. I have raised the same issue on countless occasions and have received no answer.

Senator Grafstein: Honourable senators, I will take the adjournment of the debate on this motion.

However, I say in passing that I do not think the honourable senator is correct. It is my belief, and Senator Joyal is here to confirm it, that Royal Assent was indeed obtained on or before third reading of the Clarity Bill. That is my understanding. That is why we satisfied ourselves that people voted on that particular bill after they were satisfied that Royal Assent was indeed assented.

To suggest, honourable senators, that the Royal Assent was not obtained on that bill is wrong. It was indeed assented to.

Senator Cools: I did not say that.

Senator Grafstein: That is what I heard the honourable senator say.

Having said that, honourable senators, I will take the adjournment.

Hon. Peter A. Stollery: Honourable senators, I rise on a point of order.

Senator Cools: Could I answer the question first?

The Hon. the Speaker: If a point of order is raised, it is my obligation to hear the point of order.

Senator Stollery, do you have a point of order?

Senator Stollery: Yes, honourable senators, I do. My point of order is this. It seems to me that an argument between two senators is not an appropriate way to maintain order in the

chamber. If senators want to make speeches on subjects, that is the appropriate way to run an orderly chamber. I do not think this is an orderly way for us to do our business.

If senators have points to make, they should make them in the course of their speeches. However, do I not think it is appropriate to have long arguments between senators.

The Hon. the Speaker: Honourable senators, the rules provide for questions or comments by a senator other than the senator who spoke on a bill, which is the case with Senator Cools' comments on Senator Lynch-Staunton's Bill S-13. Within the time allowed there can be questions put or comments made by another senator. Of course, the senator does not have to take the question. However, the rules are blurred when it comes to the making of comments in terms of whether the senator is making a comment or making a speech. I will take from Senator Stollery's point of order that I should be more vigilant in clarifying whether or not Senator Grafstein, who had an exchange with Senator Cools, was making a speech or a comment. In the normal course, comments would be relatively brief.

In any event, I understand that the Honourable Senator Grafstein wishes to make a motion.

Senator Cools: No. I was answering —

Senator Grafstein: Honourable senators, I move the adjournment of the debate.

The Hon. the Speaker: I have received a request from Senator Cools to answer a question that the honourable senator put to her. I believe I should recognize her to answer a question that has been put to her.

Senator Cools: Honourable senators, I should like to make something quite clear to Senator Grafstein. Perhaps he did not hear everything I said, or perhaps I was not clear enough. I said in the text of my speech that we raised a point of order, and that we were clearly right. Senator Boudreau rose to his feet here in his place on June 29 and read the Royal Consent into the record. What I said was that the question was never answered by the Speaker.

If the record were to be examined, honourable senators would see that immediately following the signification by the minister, Senator Boudreau, the Speaker of the Senate, Senator Molgat, rose and said that there was no need for him to rule on the point of order that had been raised. There are two different issues. The fact is that on the substance of the matter we were absolutely right. We said a Royal Consent was needed and the Privy Council, in the person of Senator Boudreau, gave the Royal Consent. The fact remains that the question was never answered by the Speaker of the Senate as to whether Royal Consent was required.

I wish to put this on the record so that there is no question about how mistaken any of us may be and so that it will be perfectly clear for all to read. I wish to read from the *Debates of the Senate* for Thursday, June 29, 2000, page 1896. The title on that page states, "Royal Consent," and then the Honourable Senator Boudreau, who was Leader of the Government at that time, spoke and said exactly what I quoted him saying. After that, the Speaker rose and said:

Honourable senators, in light of the statement by the minister, which is the proper course of action in that if such a statement is to be made it must be made by a minister, it is unnecessary for me to proceed with my ruling because Royal Consent has been given.

The point I was making was that, yes, we raised a question of order; and, yes, the government took the point from us and took us seriously. The government obtained the Royal Consent and brought it before the chamber.

However, the question that was raised in the point of order and given to the Speaker to answer has never been answered by the Speaker. I put on the record the fact that the Speaker said that it was unnecessary. That is the record. I hope that satisfies Senator Grafstein.

The Hon. the Speaker: Two senators have risen to speak. They are Senators Bolduc and Lynch-Staunton. In the case of Senator Lynch-Staunton, unless this debate is adjourned, if he were to speak it would end the debate. Thus, I will recognize first Senator Bolduc.

[Translation]

Hon. Roch Bolduc: Honourable senators, I should like to raise a point of order. We have a rule and it is clear. Honourable senators speak for a period of 15 minutes, and then the Speaker asks for leave of the Senate for the honourable senator to continue. I always understood this to mean that —

[English]

— in a gentlemanly manner, we will give another five minutes. Now, however, over the course of the last few days, we are going on from half an hour to one hour. It seems to me that that is not reasonable for the other senators here.

[Translation]

I would suggest, if the *Rules of the Senate* need changing, that they be changed. Let us say that a senator speaks for 15 minutes and then, when his time is up, leave is granted for him to continue for another 5 or 10 minutes. Fine, but there has to be a limit. There are 100 senators at present, and if everyone decided to speak for an hour, that would really add up. This is a part-time job for us, not a full-time one!

[Senator Cools]

[English]

The Hon. the Speaker: Honourable senators, to some degree this is an extension of Senator Stollery's point. I will take it as a matter of order.

Our rules provide for time limits. However, when we give leave to extend the time, unless there is a limitation, the time is essentially unlimited. Accordingly, I do not believe there is any lack of order in this exchange, in that the rules are suspended in terms of this particular exchange, because no time limit has been put by any senator on the additional time that will be taken for additional remarks, questions or comments.

Senator Lynch-Staunton is asking for the floor.

Senator Stollery: Honourable senators, I want to briefly recall for honourable senators the fact that debates are supposed to take place in committees. We have our rules. We can make speeches in the Senate on bills and all kinds of various other things. However, debate on the details of matters is to take place in committees. It costs a lot of money to keep the Senate sitting here for items that should be properly dealt with in committees.

Senator Cools: Honourable senators, I rise on a point of order.

The Hon. the Speaker: Senator Cools, are you answering a question?

Senator Cools: No, I am rising on a point of order.

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

Senator Cools: The point of order about the debate in the chamber can be succinctly put. First, there is supposed to be debate in the chamber. I take issue with Senator Stollery's point of order. If the substance of the debate is whether a matter should go to committee or whether a question should be voted on prior to referring it to committee, the language of the jurisprudence clearly states that Royal Consent should be given before the bill is committed. It is absolutely absurd, if not ridiculous, for anyone to assert that the debate on the issue should take place in the committee, when in point of fact the question is whether the bill should even be referred to committee.

• (1500)

I wanted to make that point, honourable senators. I do not know how His Honour will resolve questions of order of this type. If ever there was a point of order, it was as to the appropriate moment for a debate to take place on whether a question should be referred to committee. I would submit that the issues that I was raising could not be discussed in committee.

The Hon. the Speaker: Honourable senators, time is passing and frustrations are being expressed. I think we have come to the point where what is transpiring here is a debate, and not a discussion of matters of order.

I have not called on Senator Lynch-Staunton because if I do, then he would be the last speaker on this matter. I have an indication from Senator Gauthier that he wishes to adjourn the debate. I believe I should recognize him and then we can vote on his request to adjourn the debate.

Hon. Jean-Robert Gauthier: Honourable senators, I move the adjournment of the debate.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, pursuant to rule 33, I move that Senator Lynch-Staunton do now be heard.

Hon. Marcel Prud'homme: Honourable senators, a point of order is certainly in order at this time.

The Hon. the Speaker: I am sorry, Senator Prud'homme, but a motion of this type is not debatable. A motion to adjourn the debate moves closure of a debate. I must put the question.

Honourable senators, it is moved by the Honourable Senator Kinsella, seconded by the Honourable Senator Bolduc, that with respect to debate on Bill S-13, Senator Lynch-Staunton be recognized now.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Will those honourable senators in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators opposed to the motion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "yeas" have it.

Senator Cools: On division.

The Hon. the Speaker: On division.

If the Honourable Senator Lynch-Staunton speaks now, his speech will have the effect of closing debate on second reading.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I do not think that the Royal Prerogative is being trespassed on at all. The current form of Royal Assent remains. All the bill does is add an alternative, which is not compulsory; on the contrary, it is voluntary. I do not think that the approval of Her Majesty or the Governor General is necessary. I think as a courtesy that the Governor General should be advised and even asked for her opinion, but I do not think that her approval is necessary.

Royal Assent by itself is not affected; the procedure as we know it is not affected. We are simply adding an alternative.

Honourable senators, I believe that all of the arguments put forward by Senator Cools and other senators should be debated before the committee. An expert can be called to testify, and the committee can make a recommendation accordingly to the chamber when it comes time to report the bill.

Honourable senators, I would be most pleased to refer Bill S-13 to committee when the time is appropriate.

The Hon. the Speaker: It was moved by the Honourable Senator Lynch-Staunton, seconded by the Honourable Senator Kinsella, that this bill be read the second time.

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

Senator Cools: On division.

The Hon. the Speaker: On division.

Motion agreed to and bill read second time, on division.

REFERRED TO COMMITTEE

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

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I move that Bill S-13 be referred to the Standing Committee on Privileges, Standing Rules and Orders.

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

Some Hon. Senators: Agreed.

Senator Cools: On division.

Motion agreed to, on division.

CONFERENCE OF MENNONITES IN CANADA

PRIVATE BILL TO AMEND ACT OF INCORPORATION—
THIRD READING

Hon. Richard H. Kroft moved third reading of Bill S-25, to amend the Act of incorporation of the Conference of Mennonites in Canada.—(*Honourable Senator Robichaud, P.C.*).

Hon. Eymard G. Corbin: Honourable senators, on a point of order, what happened to this bill yesterday? We were debating this bill yesterday afternoon when His Honour called the Committee of the Whole. Discussion on the bill at that stage stopped dead in its tracks. I do not think that even a motion was put. Where does this bill stand at the moment?

The Hon. the Speaker: The honourable senator's memory is good. Yesterday afternoon, the house, in Senator Corbin's absence — although it was noted that Senator Corbin wished to speak to this bill — expressed its will that the question be put. The house is the master of its business, so the question was put and second reading was given to the bill. We are now at third reading stage. The observation was made that Senator Corbin would perhaps speak at third reading.

[Translation]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I believe that yesterday we discussed the report of the Standing Senate Committee on Legal and Constitutional Affairs presented on April 26, 2001. We adopted the report yesterday. The Honourable the Speaker then asked: "When shall this bill be read the third time?" And we said: "At the next sitting of the Senate." We are now at that stage.

[English]

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): For greater clarification, honourable senators, we were at report stage yesterday regarding a report with an amendment. I think the house adopted the report with the amendment, knowing full well that today we would be at third reading. Many of us did take note of Senator Corbin's desire to speak to this matter. We knew that he would have this opportunity at third reading.

The Hon. the Speaker: Honourable senators, it is moved by the Honourable Senator Kroft, seconded by the Honourable Senator Losier-Cool, that the Bill S-25 be read the third time now.

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

Senator Corbin: Honourable senators, it is with some trepidation and fear that I rise to speak to this bill today. I have no objection to the report having been adopted because the comments that I wished to make will not be obnoxious in any way. Indeed, I have no objection to the bill, but I wish to place on the record one or two comments. They arise from Senator Kinsella's comments at second reading stage. Indeed, Senator Kinsella at the time said that the other side would not oppose the bill. Then he said that "some of us think that there should be an administrative process to deal with matters of this kind."

Matters of this kind refer to "corporations sole," which is what this bill is all about. Senator Kinsella also referred to the historical record. Some of us in this house and colleagues who have since departed — the one senator who comes readily to mind is the Honourable Jacques Flynn — thought that the Senate should not be harnessed with bills of this kind in the future. Indeed, reform of the Canadian Corporations Act, which, as our honourable colleague Senator Grafstein indicated today, took some 10 or 20 years to complete, did not go as far as providing for incorporation of corporations sole. In the past, senators have objected.

• (1510)

I do not object to the current bill because it is an amendment to an incorporation which Parliament enacted in 1947, as I did not object in the past to amendments to other corporations sole incorporated by the Parliament of Canada in a more distant past; indeed, at a time when some of the Western Canadian provinces were not part of Canada and the federal government and the federal Parliament were charged with the obligation to proceed with incorporation when requests were made. That was the case with Catholic as well as Anglican bishops of the northern territories, some of which have now become the provinces of Manitoba, Saskatchewan and Alberta.

This house, at the time of the Mulroney government, as well as at the time, I believe, of the first Chrétien government, indicated that it wished the government to complete its revision of incorporation laws of Canada so as to deal with the matter of corporations sole. This was clearly uttered and generally supported by senators in this house. The government has not yet moved. This house has business to attend to other than matters of incorporation. Indeed, in a democratic country and system such as ours, everyone should follow the same route for incorporation. It should be an administrative process, not a parliamentary process. I reiterate the request that the government proceed with the rest of the reform of the incorporation process in Canada.

The Hon. the Speaker: It is moved by the Honourable Senator Kroft, seconded by the Honourable Senator Losier-Cool, that the bill be read the third time now.

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

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

STUDY ON EMERGING DEVELOPMENTS IN RUSSIA AND UKRAINE

BUDGET—REPORT OF FOREIGN AFFAIRS
COMMITTEE ADOPTED

The Senate proceeded to consideration of the second report of the Standing Senate Committee on Foreign Affairs (budget-special study on Russia and Ukraine) presented in the Senate on April 25, 2001.—(Honourable Senator Stollery).

Hon. Peter A. Stollery: Honourable senators, I move the adoption of the second report of the Standing Senate Committee on Foreign Affairs.

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

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, if it is the intention of the Chairman of the Foreign Affairs Committee to speak to the report, I will yield to him. If it is not, I wish to speak to it.

Honourable senators, in order for us to be absolutely clear on what we are doing here, it may be helpful to open your *Journals of the Senate* dated Wednesday, April 25, because it is in that issue that we have, in written form, the second report of the Standing Senate Committee on Foreign Affairs which contains an appendix. In fact, there are two appendices. The first appendix, as I understand it, is an outline of the budget that the Standing Senate Committee on Foreign Affairs prepared to meet the cost of its study authorized by the Senate, namely, to look at:

...the emerging political, social, economic and security developments in Russia and Ukraine, Canada's policy and interests in the region; and other related matters.

The sum total of the budget that was prepared by the committee is \$298,970. Also attached and published in the *Journals of the Senate* and headed "Appendix (B) To The Report," dated Thursday, April 5, 2001, is an appendix which speaks to a report from the Standing Committee on Internal Economy, Budgets and Administration. The Committee on Internal Economy is approving \$62,340.

The question is: What would we be approving were we to adopt the motion that has been moved by the Honourable Senator Stollery, Chairman of the Foreign Affairs Committee? Are we approving the entire budget of \$290,000, or are we simply approving the \$62,000 which has been approved by the Standing Committee on Internal Economy, Budgets and Administration?

This is a new procedure that we are following, and therefore we should place on the record what I believe to be the case, namely, that by adopting this motion moved by Senator Stollery, we are approving the expenditures approved by the Committee on Internal Economy of \$62,000, which I think deals with expenses to be incurred on part of the study which relates to a visit to Washington.

Senator Stollery: Honourable senators, Senator Kinsella is absolutely correct. If the Senate approves the portion of the report in Appendix "A", it will be approving the portion allotted for travel to Washington that was approved by the Internal Economy Committee and nothing more. The next stage of this process must go back to the Standing Committee on Internal Economy, Budgets and Administration for approval.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I find that a very awkward procedure. I am sorry that the Chairman of the Internal Economy Committee is not here to explain it. Either we approve a committee's project and a total budget, giving it the discretion to spend it wisely, or we do not. As I understand it, we have the total budget before us, yet it will be allocated through an eye-dropper. Every time the committee wants to continue further with its study, it will have to go back to the Committee on Internal Economy for additional funds.

Why would we suddenly change the procedure? If the budget is valid, we should approve it. If the Committee on Internal Economy has questions about the budget, it should stipulate that it is only allocating a fraction of the budget initially. Once the trip to Washington has taken place, the committee will want to carry on with the second phase of its study. It will have to go back to Internal Economy, and Internal Economy may say that the Foreign Affairs Committee cannot have more money. That could happen.

On behalf of all committees I argue that if we approve the terms of reference, we are obliged to approve the budget to carry out those terms of reference, and that the Standing Committee on Internal Economy, Budgets and Administration has an obligation to ensure that those funds are available.

• (1520)

We are proceeding now on a contradictory two-step basis: We approve the budget, yet we do not because the money is not available. The money is to be made available at the discretion of the Internal Economy Committee with the approval of the chamber here.

I do not know how anxious Senator Stollery is to have this approved. Perhaps he will insist on going through this awkward procedure now. I should hope that the next time this matter arises we would have a clearer process than this awkward procedure.

There is another committee in the same situation. The Standing Committee on Social Affairs, Science and Technology has a similar budget for a study on health. The budget amount is five figures or six figures; I forget which. Again, only a fraction of the request was allocated for immediate need.

Honourable senators, I do not think that that is the way in which we should be operating here. Either the committees do their job with full approval and full budget, or they do not do their job.

Senator Stollery: Honourable senators, there is certainly substance in Senator Lynch-Staunton's comments. As matters stand at the moment, it is important that the committee proceed in this way as it is the way in which we were instructed to proceed. I am not complaining.

I would hope that the Senate would allow us to proceed by approving this item. Therefore, I move the adoption of the report.

The Hon. the Speaker: I have put the motion and Senator Stollery has just moved the motion again. It is my duty to put the question so that the vote can be taken. However, two honourable senators have risen requesting an opportunity to either speak or put a question to Senator Stollery. I see Senator Bryden first.

Hon. John G. Bryden: Honourable senators, I will ask a question. I believe that we are following a rule that deals with the Procedural Guidelines for the Financial Operation of Senate Committees. It appears that reference, as is required by the rules, was made to the Standing Committee on Internal Economy, Budgets and Administration by the Standing Senate Committee on Foreign Affairs. Presumably, as under paragraphs 2:04 and 2:05, Internal Economy has given a report to the Chairman of the Standing Senate Committee on Foreign Affairs, and the chairman is now asking for that to be approved here.

Paragraph 2:06 reads:

A committee that has received a report from the Standing Committee on Internal Economy, Budgets and Administration, pursuant to guideline 2:05 may present a report to the Senate requesting the authorization that the committee requires to incur the special expenses that it anticipates.

Presumably, "the special expenses that it anticipates" are the special expenses to do the study in relation to Russia and Ukraine. If the committee is complying with the rules, it seems that Internal Economy would have approved that larger amount and that we are being asked to approve that now. However, it appears that we are being asked to approve only a portion.

If that is the case, why is the larger amount included?

Senator Lynch-Staunton: Honourable senators, I will give the answer to that, if I may.

We did approve the larger amount on March 1, 2001 according to a careful reading of the *Journals of the Senate*. According to the *Journals of the Senate* of Thursday, March 1, 2001, Honourable Senator Stollery moved, and the total budget of \$298,970 was voted. Is that correct?

In any event, we need some explanation on this matter. Was the committee's budget approved or not, in total, on March 1, 2001? According to the *Journals of the Senate*, the budget was approved.

Senator Stollery: Honourable senators, I cannot recall what happened on March 1, 2001, but I know that our total budget of \$298,000 was not approved on March 1, 2001. I am not asking for it to be approved today.

I am following the procedures of the Senate in every detail. We are asking for the portion that we have talked about to be approved today, and not \$298,000, because that has not been approved by Internal Economy.

Honourable senators, I have nothing further to add. I think that everything is in order.

I would also point out to honourable senators that the Standing Senate Committee on Foreign Affairs is once again trying to

have a meeting when the Senate rises. We have witnesses from the Canadian Ukrainian community so the quicker we get out of here, the better for us.

Hon. Roch Bolduc: Honourable senators, I suspect that the chairman of the committee followed the instruction of the Internal Economy, Budgets, and Administration Committee. Perhaps they asked him to request only the amount required for the next month or for a certain time frame. Perhaps at a later date, they will seek approval for the remaining amount.

I am not sure that this is the best procedure, but apparently this is the one that is used by the Standing Committee on Internal Economy, Budgets and Administration.

Hon. C. William Doody: Honourable senators, I might be able to add a word of explanation to this situation. I sit on the subcommittee of that Internal Economy Committee. The subcommittee deals with the financial affairs of all of the committees. The applications for most, but not all, of the committees have arrived before the subcommittee. The subcommittee studied them, totalled them and found to its horror that the applications were about two times as much or two and a half times as much as the money that had been allocated.

We looked at the submissions carefully and suggested to the Standing Committee on Internal Economy, Budgets and Administration that the chairmen of the various Senate committees should accept a portion of their anticipated budgets at this time in order to continue their work.

When the total requests were firmly totalled, we would be able to determine the size of the shortfall. At that point we would seek to determine what the Senate wanted to do about it. If they wanted to go for more money, that would be a Senate decision. If they wanted to ask the committees to cut back on their activities, that would be a Senate decision.

It was not a decision that the Standing Committee on Internal Economy, Budgets and Administration could make at that point because the full total was not known. However, the total of budget requirements that had been received far exceeded the amount that had been voted to fund committee business.

All the committee chairmen agreed to this process. The Internal Economy subcommittee chairman, Senator Furey, has been assiduously following up to make sure that we proceed in a fair and equitable manner.

Honourable senators, the Internal Economy Committee agreed with the approach that the subcommittee was taking. The chairmen of all the committees agreed with the approach that was recommended. It now sits in that stage of the process. When the final numbers are determined, the Senate will need to decide whether or not we carry on with the requested studies or whether we cut them short and expend only the amount of money that has been allocated to this point. We are discussing matters of the internal operations of the financial end.

Senator Stollery is quite correct in saying that the total amount that he anticipates is for the European section as well as the American section. The Internal Economy Committee, after hearing from the subcommittee, suggested that he go ahead with the first phase. When we found out where we were financially, we could discuss the second phase.

We have no quarrel with the principle of the European expedition. The Senate has approved the study; the Senate has not approved the funding of the European part of the committee.

• (1530)

Senator Lynch-Staunton: Honourable senators, I was in error when I said that the budget had been approved. A more careful reading is that the budget is based on the terms of reference that were approved on March 1. I apologize for that.

On the other hand, this raises the problem of financing terms of reference approved by the Senate. Again it proves that we do things upside down. What should happen, to my way of thinking, is that a committee which has a study in mind should first go to the Standing Committee on Internal Economy, Budgets and Administration with a budget, determine whether funds are available or not, and then, with the support of the Internal Economy Committee, both the terms of reference and the budget could be approved at the same time.

As it happens, from what Senator Doody has said, only part of the monies for this study can be allocated at this stage, with no guarantee that the balance will be available. There is no suggestion that it will not be available, but there is no guarantee that it will be available because the demands are coming from everywhere, and there is only so much money available. That is frustrating for the members of the Internal Economy Committee, but it is more frustrating for the committee that wants to do its job. Perhaps the Internal Economy Committee might try to allow a better appreciation of both budgets and terms of reference by having both brought in at the same time.

Senator Doody: Senator Lynch-Staunton is absolutely correct. In an ideal world, we would be able to approve both the money and the committees. Unfortunately, the ideal world is shaped by the amount of money that is available to us.

If we went the route suggested by Senator Stollery, the first two committees that applied for their full budgets would receive approval and the rest of the committees would get nothing. That does not seem to be an ideal solution to the problem.

This subject is not new; it has been around for 20 years. I fully expect it to go on for another 20 years. No committee will ever be turned down in this place when it comes up with a proposal for a reasonable study or project.

On the other hand, the budget committee, and, indeed the financial people in charge of the budget process in Canada, will

not give us a blank cheque to spend all the money we want in anticipation of some committee that wants to do a study. We must try to deal with this as best we can. The best that we can do at present is to ask Senator Stollery to go to Washington, to be a good boy, to try not to spend too much money, and when he comes back we will review the matter.

Senator Bryden: Honourable senators, in light of Senator Doody's explanation — and I understand completely because I was on that committee once — I now understand why this is happening, and I will support this motion.

I do not believe that what Senator Lynch-Staunton is proposing is possible under the rules. The rules need to be changed in order to make what he is saying possible. I have always made the argument that rules are the way they are so that people do not get approval for a study without attaching numbers to it and then hammer the Internal Economy Committee by saying that they must approve what is being asked for. We must adjust the rules in order to do what the honourable senator is suggesting. I understand completely.

The Hon. the Speaker: I regret to advise Senator Stollery that his time has expired.

Are you requesting leave to continue, Senator Stollery?

Senator Stollery: Well —

The Hon. the Speaker: Is it your pleasure, honourable senators, to extend the honourable senator's time for debate?

Senator Stollery: Actually, I have a question.

Senator Lynch-Staunton: Question!

The Hon. the Speaker: There is a question. I thought you were asking for leave to extend your time.

Senator Stollery: Honourable senators, what I am interested in is getting my three reports — the other two are not the least controversial — approved before the Senate rises.

The Hon. the Speaker: I should clarify. I interrupted Senator Bryden who was asking you a question. Do you wish to ask for time to deal with that question before we go to the question?

Senator Bryden: If you are asking me, the answer is "no." I am perfectly satisfied with Senator Stollery proceeding.

The Hon. the Speaker: It is moved by the Honourable Senator Stollery, seconded by the Honourable Senator Sparrow, that this report be adopted now. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

[Earlier]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I draw your attention to visitors in our gallery. I am referring to participants in the Inter-American Defence College, an institution affiliated with the Organization of American States.

[Translation]

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

[English]

STUDY ON EUROPEAN UNION

BUDGET—REPORT OF FOREIGN AFFAIRS COMMITTEE ADOPTED

The Senate proceeded to consideration of the third report of the Standing Senate Committee on Foreign Affairs (budget — special study on European Union) presented in the Senate on April 25, 2001.—(*Honourable Senator Stollery*).

Hon. Peter A. Stollery: Honourable senators, I move the adoption of the report.

Motion agreed to and report adopted.

STUDY ON ISSUES RELATED TO FOREIGN RELATIONS

BUDGET—REPORT OF FOREIGN AFFAIRS COMMITTEE ADOPTED

The Senate proceeded to consideration of the fourth report of the Standing Senate Committee on Foreign Affairs (budget — special study on foreign relations) presented in the Senate on April 25, 2001.—(*Honourable Senator Stollery*).

Hon. Peter A. Stollery: Honourable senators, I move the adoption of the report.

Motion agreed to and report adopted.

[Translation]

BUSINESS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, it is 3:35 p.m. On

Wednesdays, we usually try to conclude Senate business by 3:30 p.m. I request, with leave of all senators, that all items appearing on the Order Paper remain in their present order until the next sitting of the Senate.

[English]

CLARIFICATION OF RECORD—POINT OF ORDER

Hon. Eymard G. Corbin: Honourable senators, as a point of order, with respect to the motion or the proposal made by the Honourable Deputy Leader, I wish to point out that there is an omission in yesterday's record, following events that occurred when the Committee of the Whole reported progress and obtained permission to continue its work beyond six o'clock. At that time, the Honourable Deputy Leader sought and obtained permission from the house for committees to proceed with their work. I distinctly heard him say that it would be his intention later in the sitting to have all other matters stand.

On that understanding, I left this house and proceeded to the Standing Senate Committee on Foreign Affairs, of which I am a member.

• (1540)

I do not see those words in yesterday's Hansard. It was modified by the omission of those words. That is why, as senators will recall from earlier today, I was somewhat confused about the stage we were at with respect to a particular bill. I thought we were still at report stage, but I was informed that the report had been adopted. I left the house yesterday with a totally different impression. When I checked the record, I noticed the omission.

Honourable senators, once I have indicated a desire to speak to a bill at a specific reading, no senator can presume that it is in order for me not to be heard then, but instead that I could speak to the bill at the subsequent, or in this case third reading. When you look at Hansard, you will see that at the end.

Honourable senators, it may not be a serious matter, but I am concerned. I could just as easily speak to the bill at third reading, and I did use that opportunity today. However, it is serious to meddle with the official record, either to change the official record or to omit statements made in this house. That is my point of order, honourable senators.

The Hon. the Speaker: Does any other senator wish to speak specifically to the point of order?

Hon. Marcel Prud'homme: Honourable senators, I wish to speak specifically to another point.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, Hansard is not the official record. If anything is to be faulted, it must be the *Journals of the Senate*. We have many examples — or at least some examples — where Hansard and the Journals do not necessarily agree. I have always been told that the *Journals of the Senate* are the official record.

Senator Corbin: For legal purposes, the honourable senator is absolutely correct. I will not dispute that.

Senator Lynch-Staunton: The point of order should be based on that.

Senator Corbin: Honourable senators, with respect to proceedings in the house, we usually refer to, and in fact we often quote from Hansard, which is the newspaper of the Senate. It has that purpose.

I will add to my point of order: I wish for His Honour the Speaker or the Officers at the Table to check the tape of yesterday's proceedings in order to determine exactly what was left out of yesterday's Hansard.

The Hon. the Speaker: On Senator Corbin's point of order, Senator Sparrow.

Hon. Herbert O. Sparrow: Senator Corbin, are you asking that Hansard be corrected with the addition of omitted proceedings?

Senator Corbin: Was that question directed to me? Honourable senators, I ask that Hansard reflect, in totality, what was said in this house.

The Hon. the Speaker: On Senator Corbin's point of order, and before we proceed to Senator Prud'homme's point of order, the tape will be reviewed. However, as your Speaker, I will share with Senator Corbin my recollection. It was as described by Senator Kinsella and Senator Robichaud that item number one under Private Bills, Bill S-25, was dealt with as had been indicated in the exchange. The tape will be reviewed. The Clerk has assured me that the tape will be reviewed and that Hansard will be corrected accordingly.

Senator Corbin: I do not wish to comment on His Honour's recollection, because that would not be appropriate. However, I wish to add to the point that I made.

The offensive thing is that I was given assurance shortly after 6:00 p.m., after receiving permission to proceed to the Standing Senate Committee on Foreign Affairs, that all other items or matters would stand. That did not happen. There was departure from an earlier statement, a promise, and indeed, the house did proceed with the adoption of the report on that bill, contrary to what the deputy house leader had indicated would be done.

Senator Lynch-Staunton: The deputy house leader was quite right. We were still in the middle of that particular item; it was not another item. The particular item under discussion was

interrupted by the house going into Committee of the Whole, and it was understood that the item would be terminated after we resumed. All other items beyond that stood. I will let His Honour decide.

Senator Corbin: We will let the tape speak for itself, but there could be some confusion of your understanding of the proceedings. We were not on that item at the time.

Senator Lynch-Staunton: Yes, we were.

Senator Corbin: We were between matters, with permission to report and permission granted to continue Committee of the Whole, et cetera. We will let the tape speak.

[Translation]

Senator Robichaud: Honourable senators, yesterday, when the Senate interrupted its proceedings to go into Committee of the Whole, consideration of the report tabled by the Chair of the Standing Senate Committee on Legal and Constitutional Affairs was suspended. The Senate adjourned during pleasure and we then went into Committee of the Whole.

When the sitting of the Senate was resumed, the Honourable the Speaker put the question. I subsequently asked that all items appearing on the Order Paper remain in their present order.

[English]

The Hon. the Speaker: In any event, I will take this point of order as commented upon and debated. The upshot of it is that we will review the tape and correct the Hansard as required.

Point of order, Senator Prud'homme?

POINT OF ORDER

Hon. Marcel Prud'homme: Honourable senators, I am pleased that you will look into what took place. May I ask you to revisit an earlier decision that occurred?

When we debated, rightly so, the motion of Senator Lynch-Staunton, Senator Gauthier had asked to adjourn the debate under his name. I could be mistaken, so I ask you to kindly review what took place today. We should have disposed of that matter first. However, immediately following, Senator Kinsella astutely and wisely stood on a point of order, and demanded that Senator X, instead of Senator Y, be now recognized. We disposed of that.

Immediately, an event that took place in December 1964 came to mind. It was during the flag debate, and people wanted to listen to Mr. Diefenbaker speak to the national anthem. There was a great deal of conniving that took place, and it was decided that Mr. Pearson would be recognized. We voted on that, but it ended according to the rules. Of course, the motion to recognize Mr. Pearson in the minority government was accepted, and he spoke last.

Honourable senators, I am not sure; I may be wrong, but I humbly submit to His Honour that if I am wrong, I have no hesitation in saying that I will know for the future. However, I believe that I am not wrong. I ask if he would kindly revisit, not necessarily today, but revisit this incident and come back some time with his ruling, because I am afraid of the precedent that we may be creating.

Honourable senators, I almost rose earlier after the decision, while someone was speaking, to make a point of order that Senator Sparrow or Senator Chalifoux be recognized. The future of the revisit is important, and I ask His Honour to do that. If I am out of order, he will tell me so, but I urge His Honour to revisit the proceedings.

The Hon. the Speaker: Honourable senators, does anyone else wish to speak?

Hon. John Lynch-Staunton (Leader of the Opposition): Senator Gauthier did not move the adjournment of the debate. The Speaker told us that he had that in mind after Senator Grafstein had decided to withdraw his similar motion, before Senator Gauthier could rise. Senator Kinsella then applied rule 33, so everything was done in order.

Senator Prud'homme: Honourable senators, can we hear the tape?

• (1550)

The Hon. the Speaker: Are there any other honourable senators who wish to comment on this point of order?

I know honourable senators are anxious to proceed with committee work on what would normally be a short day. Rather than reading rule 33, I will just indicate to Senator Prud'homme that it is rule 33, as mentioned by Senator Lynch-Staunton, under which I proceeded. The operative provision of the rule is that when a third senator rises requesting that a particular senator be recognized instead of the one whom the Speaker is recognizing, that that matter be dealt with and that the question on such a motion be put forthwith without debate or amendment. That is the rule I was using, and that is what I did.

[*Translation*]

Senator Robichaud: Honourable senators, with leave of all honourable senators, I repeat my earlier proposal. I ask that all items on the Order Paper remain in their present order until the next sitting of the Senate.

The Senate adjourned until Thursday, May 3, 2001, at 1:30 p.m.

CONTENTS

Wednesday, May 2, 2001

PAGE

PAGE

SENATORS' STATEMENTS

The Honourable Raymond C. Setlakwe

| | |
|--|-----|
| Congratulations on Birth of First Great-Grandson. | 747 |
| Senator Poy | 747 |

H.R.H. The Prince of Wales

| | |
|---|-----|
| Visit to Yukon. Senator Christensen | 747 |
|---|-----|

ROUTINE PROCEEDINGS

Official Languages

| | |
|--|-----|
| Second Report of Joint Committee Presented. Senator Maheu | 748 |
|--|-----|

Adjournment

| | |
|-------------------------|-----|
| Senator Robichaud | 748 |
|-------------------------|-----|

Canada Elections Act

Electoral Boundaries Readjustment Act (Bill C-9)

| | |
|-----------------------------------|-----|
| Bill to Amend—First Reading. | 748 |
|-----------------------------------|-----|

Eldorado Nuclear Limited Reorganization and Divestiture Act Petro-Canada Public Participation Act (Bill C-3)

| | |
|-----------------------------------|-----|
| Bill to Amend—First Reading. | 748 |
|-----------------------------------|-----|

Personal Watercraft Bill (Bill S-26)

| | |
|-------------------------------------|-----|
| First Reading. Senator Spivak | 748 |
|-------------------------------------|-----|

Delayed Answers To Oral Questions

| | |
|-------------------------|-----|
| Senator Robichaud | 751 |
|-------------------------|-----|

Veterans Affairs

| | |
|--|-----|
| Merchant Navy—Exclusion of British West Indian Seamen from Compensation Program Question by Senator Oliver Senator Robichaud (Delayed Answer) | 751 |
|--|-----|

Treasury Board

| | |
|--|-----|
| Grace Period for Employees Moving from Public Service to Private Sector Question by Senator Andreychuk Senator Robichaud (Delayed Answer) | 751 |
|--|-----|

National Defence

| | |
|--|-----|
| Replacement of Sea King Helicopters—Cabinet Committee Overseeing Purchase Competition Question by Senator Forrestall Senator Robichaud (Delayed Answer) | 751 |
| Replacement of Sea King Helicopters—Ballard Power Systems—Involvement of Mr. Pierre Lagueux and Mr. Raymond Sturgeon Question by Senator Forrestall Senator Robichaud (Delayed Answer) | 752 |

International Trade

| | |
|---|-----|
| World Trade Organization—Win/Loss Record of Government in Disputes Question by Senator Kelleher Senator Robichaud (Delayed Answer) | 752 |
|---|-----|

QUESTION PERIOD

The Senate

| | |
|--|-----|
| Possibility of Committee to Vet Government Appointments. Senator Stratton | 749 |
| Senator Carstairs | 749 |
| Senator Lynch-Staunton | 749 |

Canadian Human Rights Commission

| | |
|--|-----|
| Racism on Internet—Limitation of Resources to Respond. Senator Kinsella | 749 |
| Senator Carstairs | 750 |

Foreign Affairs

| | |
|---|-----|
| United States—Missile Defence System— Government Response. Senator Roche | 750 |
| Senator Carstairs | 750 |

The Senate

| | |
|---|-----|
| United States—Missile Defence System—Possibility of Appearance of Ministers of Foreign Affairs and National Defence Before Standing Committee on Foreign Affairs. Senator Prud'homme | 750 |
| Senator Carstairs | 751 |

ORDERS OF THE DAY

Canada Business Corporations Act

Canada Cooperatives Act (Bill S-11)

| | |
|---|-----|
| Bill to Amend—Third Reading. Senator Oliver | 754 |
| Motion in Amendment. Senator Oliver | 754 |
| Senator Grafstein | 754 |
| Senator Kirby | 755 |
| Senator Kolber | 755 |

Canada Foundation for Sustainable Development Technology Bill (Bill C-4)

| | |
|--|-----|
| Second Reading. Senator Cochrane | 755 |
| Senator Tkachuk | 756 |
| Referred to Committee. | 757 |

Royal Assent Bill (Bill S-13)

| | |
|-------------------------------------|-----|
| Second Reading. Senator Cools | 757 |
| Senator Grafstein | 760 |
| Senator Stollery | 761 |
| Senator Bolduc | 762 |
| Senator Gauthier | 763 |
| Senator Kinsella | 763 |
| Senator Prud'homme | 763 |
| Senator Lynch-Staunton | 763 |

| | |
|------------------------------|-----|
| Referred to Committee. | 763 |
| Senator Lynch-Staunton | 763 |
| Senator Cools | 763 |

Conference of Mennonites in Canada

| | |
|---|-----|
| Private Bill to Amend Act of Incorporation— Third Reading, Senator Kroft | 763 |
| Senator Corbin | 763 |
| Senator Robichaud | 764 |
| Senator Kinsella | 764 |

Study on Emerging Developments in Russia and Ukraine

| | |
|---|-----|
| Budget—Report of Foreign Affairs Committee Adopted, Senator Stollery | 764 |
| Senator Kinsella | 764 |
| Senator Lynch-Staunton | 765 |
| Senator Bryden | 766 |
| Senator Bolduc | 766 |
| Senator Doody | 766 |

Visitors in the Gallery

| | |
|----------------------------|-----|
| The Hon. the Speaker | 768 |
|----------------------------|-----|

Study on European Union

| | |
|---|-----|
| Budget—Report of Foreign Affairs Committee Adopted. Senator Stollery | 768 |
|---|-----|

Study on Issues Related to Foreign Relations

| | |
|---|-----|
| Budget—Report of Foreign Affairs Committee Adopted. Senator Stollery | 768 |
|---|-----|

Business of the Senate

| | |
|--|-----|
| Clarification of Record—Point of Order. Senator Robichaud | 768 |
| Senator Corbin | 768 |
| Senator Prud'homme | 768 |
| Senator Lynch-Staunton | 769 |
| Senator Sparrow | 769 |
| Point of Order, Senator Prud'homme | 769 |



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