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OFFICIAL REPORT
(HANSARD)

Tuesday, March 19, 2002

THE HONOURABLE DAN HAYS
SPEAKER

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THE SENATE

Tuesday, March 19, 2002

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

PARALYMPIC GAMES, 2002

SALT LAKE CITY—SUCCESS OF CANADIAN ATHLETES

Hon. Joyce Fairbairn: Today, honourable senators, I am delighted to congratulate Canada's Paralympic athletes for their record-breaking performance in Salt Lake City. They brought home 15 medals, and Canada is now ranked sixth in the world, a spectacular jump from fifteenth in the 1998 games in Nagano.

From Canmore, Alberta, our blind Nordic skier Brian McKeever, with his brother and guide Robin, won two gold medals and a silver one. Calgarian Lauren Woolstencroft, injured the first day, fought back to win two golds and a bronze in alpine skiing. Calgary alpine colleague Karolina Wisniewska collected the largest number of Canadian medals, with two silver and two bronze.

From New Westminster, veteran alpine sit-skier Daniel Wesley brought home a pocket full of gold, silver and bronze, and his teammate Scott Patterson of Vancouver was on the podium for the first time with a bronze.

After injuring his knee in a practice run, world champion blind alpine skier Chris Williamson from Scarborough and his guide Paralympian Bill Harriott from Calgary kept trying throughout the week and, on the final day, blazed down the mountain for a gold medal.

Our sledge hockey team, of which I am so proud, came within a whisker of the bronze in one of the most exciting contests of the games. We tied Sweden, went into overtime and tied, and then went into a five-player shootout and tied. The game finally came down to a one-on-one shootout and Sweden won. Team captain Todd Nicholson of Ottawa, a leader on and off the ice, was named all-star defenceman of the games.

The other members of our team — Nordic sit-skiers Shauna Maria White from Hinton and Collette Bourgonje from Saskatoon, alpine sit-skier Stacy Kohut from Banff, alpiners Ian Balfour from Pincher Creek, Gord Tuck from Victoria, and Mark Ludbrook from Whistler, who carried in our flag — all competed with great skill and heart.

In the end, the Canadian team brought honour and affection to this country as they fulfilled, with class and pride, the values of "Mind, Body and Spirit" that are the international Paralympic creed. These are individuals whose excellence goes far beyond competitions. They are vivid and willing examples to all Canadians, particularly disabled young people, who see and hear their message, which is, "Yes, you can reach your goals."

Thanks to the CBC and other news outlets, Canadians had a chance to witness the accomplishments of these magnificent athletes. Hopefully, this will accelerate support for their efforts as well as the larger message that Canada must become a country where access and opportunity is truly the right of each citizen. We thank the athletes, their coaches, Sport Canada and all of the sponsors for leading the way. It was a great games for Canada.

NUTRITION MONTH

Hon. Yves Morin: Honourable senators, 150 years ago, before vitamin C was discovered, sailors exploring the world knew that eating citrus fruits prevented scurvy. Since then, we have added iodine to salt, fortified milk and margarine with vitamin D, and most recently added folic acid to white flour and pasta products.

March is Nutrition Month. This year, Nutrition Month is particularly important as it was officially stated recently that obesity, especially obesity in children, has now surpassed tobacco smoking as the most important preventable public health problem in our country. As a matter of fact, one preschool child out of four in North America is overweight. We are now aware, more than ever, of the deleterious influence of the fast food industry and its very effective marketing on the food habits of our children and, in my case, grandchildren.

Honourable senators, in universities, hospitals, clinics and laboratories across the country, researchers are exploring how what we eat affects our health. The Canadian Institutes of Health Research, through its Institute for Nutrition, Metabolism and Diabetes, under the able direction of Dr. Diane Finegood, funds more than 400 researchers across the country.

•(1410)

[*Translation*]

At Laval University, the Institut des nutraceutiques et des aliments fonctionnels, under the direction of Dr. Paul Paquin, has a close interest in the relationship between diet and prevention. Increasingly, the scientific evidence indicates that certain molecules or ingredients in food have beneficial effects on health, that go beyond basic nutrition. This is precisely what Dr. Paquin's research is on.

[*English*]

At the University of Manitoba, CIHR funded researcher Dr. Hope Weiler is focussing on nutritional intervention in pre-term infants and its effects on catch-up growth, bone mineralization and neurodevelopment.

Honourable senators, sharing research results is an important undertaking. The information is vital, not for just those with specific health concerns, but for everyone who wishes to maintain and improve their health. The Canadian Health Network, funded by and in partnership with Health Canada, is a rich source of health information provided by more than 700 non-profit organizations dedicated to helping Canadians understand recent research findings, so that they can make healthy choices.

[*Translation*]

The government must therefore be involved not only in research on nutrition but also in insuring that the knowledge thus acquired is made readily available to Canadians. This area is, honourable senators, one of the most important areas of public health, not only in this country, but in the entire international community.

[*English*]

THE ECONOMY

Hon. Gerry St. Germain: Honourable senators, like most Canadians, I am deeply concerned about what is happening to our country. I have raised this issue many times in this place. The management of our economy over the last 10 years has resulted in the worst decade for living standards since the 1930s.

For the past two years, the loony has been falling against the U.S. dollar at an annual pace of nearly 5 per cent. Over the last decade, U.S. productivity has increased by about 23 per cent while Canada's productivity has risen by a mere 16 per cent.

Last week, Deputy Prime Minister John Manley said the low value of the Canadian dollar is a crutch that allows Canadian companies to remain competitive, even if they are not. He said that some companies cannot compete and would fold if our currency increased in value against the U.S. dollar. He said that productivity is the country's most pressing economic concern. I believe he tried to get the Finance Minister to do something, but the Finance Minister has been too wrapped up trying to assume the Liberal leadership.

Honourable senators, our businesses will not survive if things do not change soon. The Prime Minister and the Minister of Finance can talk up the dollar all they want, but now is the time to actually do something. The federal government may have reduced personal income taxes slightly, but the high level of taxation on property, payrolls and capital reduces profit that could be spent on productivity, research and development, and working on technology. The government needs to play its part by reducing regulation and taxes and improving coordination among all levels of government on business issues.

Three things make Canada less competitive on the world stage — high government debt levels, high taxes and high government spending. Innovation must come from the private sector. The role of government is to ensure that there is reward for risk, and create and atmosphere in which the private sector can innovate. Otherwise, government should stay out of their way.

Lord Black was not really wrong when he described this country as too socialistic and headed for economic ruin. We are in a situation possibly similar to that of Argentina, today.

CANADIAN BROADCASTING CORPORATION

PRINCE EDWARD ISLAND—TWENTY-FIFTH ANNIVERSARY OF RADIO BROADCASTING

Hon. Elizabeth Hubley: Honourable senators, on March 7, 2002, CBC Radio in Charlottetown celebrated its twenty-fifth anniversary. It was a great day both for management and staff of the station and for the people of Prince Edward Island.

Honourable colleagues, my province has an illustrious history in radio, going all the way back to 1926 and the Bayfield Street Charlottetown studio of CFCY — the "Friendly Voice of the Maritimes." In fact, the founder of CFCY, Mr. Keith Rogers, was one of Canada's broadcasting pioneers. When public broadcasting finally arrived in Prince Edward Island in 1977, a strong tradition of quality local programming already existed.

From the day it went on the air from the old studios above the Atlas Tire store in Charlottetown, CBC Radio gave notice that it was committed to carrying on this tradition of programming about the Island, for the Island.

Combining local, regional and national news and current affairs with information about the community, and demonstrating its strong commitment to discovering and sharing with Islanders their heritage and culture as expressed in stories, poetry and song, CBC Radio quickly became a valued institution in the province.

CBC Television, of course, also continues to leave its mark on the Island, but it is the FM radio service that has carved out a special place in the hearts of our citizens.

Prince Edward Island is a small and intimate community. We tend to know one another, or at least who our fathers and mothers are and where they come from. Most Islanders know our CBC Radio hosts by first name. They are good neighbours who come into homes every single day bringing winter storm warnings and road reports, news about community festivals and events and political debate. CBC Radio has been a mainstay of Island life during its quarter century of service.

Honourable senators, I know that CBC Radio is important to millions of Canadians, but it is especially important in rural communities where there are fewer broadcasting choices and where the boundaries of the communities are more clearly drawn. In such places, CBC Radio is an indispensable and powerful force contributing to community renewal and growth and also serving as a bridge between provincial and national identities.

Honourable senators, Canada is a stronger and richer country because of public broadcasting. I invite you to join with me in wishing the management and staff of CBC Radio Charlottetown a very happy twenty-fifth anniversary.

[*Translation*]

THE ART OF JEAN-PAUL RIOPELLE

Hon. Gérald-A. Beaudoin: Honourable senators, for the past week, we have heard much well-deserved praise in tribute to Jean-Paul Riopelle from those who have known him well and those who are experts in the field. What has this great man left behind in the century that has just come to a close?

Jean-Paul Riopelle has left a huge body of work, joyous and larger-than-life work. He was one of the leading artists of this past century. A painter, sculptor and engraver, a man whose ardent love of nature was so evident in his canvasses, he has left his mark on his time. Riopelle was unique.

He joined forces with Paul-Émile Borduas and the automatists in 1944. The cover of their 1948 Manifesto featured a Riopelle watercolour. In 1948, he settled in Paris, where he made a huge name for himself. Moving back and forth between France and Canada until 1988, he then returned here to live. His name will be on people's lips for a long time.

Honourable senators, we have been incredibly fortunate to have had such a genius among us. Thank you, Jean-Paul Riopelle.

[*English*]

COMPANY OF YOUNG CANADIANS

Hon. Thelma J. Chalifoux: Honourable senators, the Company of Young Canadians, in existence now for more than 30 years, has hit the news again. I am proud that my name was mentioned yesterday along with such notable Canadians as former Foreign Affairs Mminister Lloyd Axworthy, former Toronto Mayor Barbara Hall, environmentalist Maurice F. Strong, and First Nations leaders Phil Fontaine and Georges Erasmus, to name a few, as members of the alumni of the Company of Young Canadians. However, I am not impressed with the reasons for which we and others have been mentioned in the press this week.

A freedom of information request reports that the RCMP labelled us as members of a subversive terrorist organization dedicated to the destruction of Canadian society. None of the people mentioned were terrorists. Our "crime" was that we were idealists in pursuit of social reform.

In the Canadian North, thousands of our people benefited from our programs. Agricultural societies were created; organic farming was pursued; and moms and tots programs were organized to counsel non-Aboriginals through the long northern nights because of the problems of depression. These were just a few of the activities.

•(1420)

The idea of the Company of Young Canadians was inspired by the Peace Corps, established five years earlier by President John Kennedy. Its purpose was to enhance our citizenship. The experience benefited thousands of young Canadians. The Company of Young Canadians, established by Parliament in 1966, was a child of the progressive attitudes of the Liberal Party of Prime Minister Pearson.

In 1970, the RCMP, by its failure to foresee the October Crisis, readied itself to pounce on anyone who did not fit its view of the ideal Canadian. I remind those in the RCMP that, today, I am alive and well. I am neither a subversive nor a terrorist. I am a loyal Canadian and I am a proud alumnus of the Company of Young Canadians. We were agents of social change. I like to think that we played a large part in bringing Canada's regions into the industrial revolution of the 21st century.

ROUTINE PROCEEDINGS

THE ESTIMATES, 2002-03

INTERIM REPORT OF NATIONAL FINANCE COMMITTEE ON MAIN ESTIMATES PRESENTED

Hon. Lowell Murray: Honourable senators, I have the honour to present the thirteenth report of the Standing Senate Committee on National Finance, which deals with the Main Estimates, 2002-03, first interim report.

Tuesday, March 19, 2002

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

THIRTEENTH REPORT

Your Committee, to which were referred the 2002-2003 Estimates, has, in obedience to the Order of Reference of March 5, 2002, examined the said estimates and herewith presents its first interim report.

Respectfully submitted,

LOWELL MURRAY
Chair

(*For text of report, see today's* Journals of the Senate, *Appendix, p. 1316.*)

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

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

BUDGET IMPLEMENTATION BILL, 2001

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-49, to implement certain provisions of the budget tabled in Parliament on December 10, 2001.

Bill read first time.

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

On motion of Senator Robichaud, with leave of the Senate and notwithstanding rule 57(1)(*f*), bill placed on the Orders of the Day for second reading later this day.

LEGAL AND CONSTITUTIONAL AFFAIRS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY IMPLEMENTATION OF STATUTORY REVIEW PROVISIONS

Hon. Lorna Milne: Honourable senators, I give notice that tomorrow, Wednesday, March 20, 2002, I shall move:

> That the Standing Senate Committee on Legal and Constitutional Affairs be authorized to examine and report on the implementation of statutory review provisions contained in selected legislation relating to legal and constitutional matters;
>
> That the papers and evidence received and taken during the examination of such legislation during previous Parliaments, and reports thereon, be referred to the Committee; and
>
> That the Committee submit its final report to the Senate no later than December 20, 2003.

INTERNATIONAL DAY FOR ELIMINATION OF RACIAL DISCRIMINATION

NOTICE OF INQUIRY

Hon. Vivienne Poy: Honourable senators, I give notice that on Tuesday, March 26, 2002, I will call the attention of the Senate to the significance of March 21, the International Day for the Elimination of Racial Discrimination.

QUESTION PERIOD

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTERS—
WITHDRAWAL OF EUROCOPTER FROM COMPETITION

Hon. J. Michael Forrestall: Honourable senators, is the Leader of the Government in the Senate in a position today to confirm what we learned from the scrum outside the other place, that Eurocopter has withdrawn the Cougar from the Maritime Helicopter Project competition?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, Honourable Senator Forrestall has asked if I can confirm. Yes, Eurocopter informed officials of the Department of Public Works, on March 18, 2002, that it is withdrawing the EC 725 helicopter from the competition, which was a business decision on their part.

WAR IN AFGHANISTAN—VETERANS BENEFITS TO TROOPS—
TERMS OF SPECIAL DUTY AREA PENSION ORDER

Hon. J. Michael Forrestall: Honourable senators, my other question for the Leader of the Government is a matter that I have raised here on a number of occasions. It is in regard to the preciseness with which Canadian Forces are operating in Afghanistan and generally on service in Operation Apollo.

Has the government moved to amend the special duty area pension order to include Afghanistan and the service on Operation Apollo?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I cannot give Senator Forrestall an answer to that question. I thought the matter was covered in the Order in Council. It is a particularly narrow issue, although it is not narrow in terms of those who would receive pension benefits. However, in my reading of the answer to your question, it is not necessarily covered. Therefore, I will make a specific request to that issue.

Senator Forrestall: Honourable senators, there is confusion as to whether those presently serving are covered. The special duty area pension order deals exclusively with veterans' benefits for war service. The order allows, as the leader will know, a lower evidence of burden on veterans for those disabled or having been killed in a special duty area. Indeed, she now knows that it has only to be shown that death or injury resulted from an injury or an illness during such service. As a preventive measure, a special duty pension order also removes the pre-existing condition from the disabled veterans receiving the benefits. In other words, it must be specific because the order, in the beginning, was location-specific.

Finally, disability due to service in a special duty area allows for — and this is part of the importance of it — veterans to apply for or, in some cases, be awarded public service jobs, for example, without competition.

•(1430)

The fact of the matter is that, as of last Thursday, the special duty area pension order had not been amended to include service in Afghanistan or to include troops engaged in Operation Apollo, where troops are fighting al-Qaeda and the Taliban on the front lines. With Canadian Forces personnel on Canadian ships intercepting one in six of all ships intercepted in the adjacent sea, it becomes clear that we are dealing with a large number of people.

It is also clear that this anomaly will raise some questions in the minds of veterans and their families until such time as it can be cleared up. If a simple amendment to the order is required, I have no doubt that the order would stand up. If only a simple amendment is required, let us prepare that amendment to avoid embarrassment for the veterans and their families. They should not have to say, "The order was not area specific, but the intent was clear." Let us make it specific and clear. Is that possible?

Senator Carstairs: Honourable senators, as the honourable senator knows, up to 2,500 Canadian service people are now or have been engaged in the activities of Operation Apollo, either on land or at sea. This is an important issue for all of them. I will make inquiries to try to speed up a resolution because, obviously, it is a sensitive matter.

[*Translation*]

NATIONAL REVENUE

ONE-TIME GRANT TO RECIPIENTS OF GST CREDIT TO OFFSET HEATING COSTS

Hon. Roch Bolduc: Honourable senators, the Leader of the Government in the Senate will remember that the last time we discussed this issue, in the fall, I mentioned that 8,600,000 cheques of $125 had been sent before the election to help poor people pay for their heating oil, since prices had increased. Eight million cheques were sent. Many people received cheques. The whole operation cost $1.5 billion.

Apparently, 7,700 deceased persons, 4,600 persons living abroad and 1,600 inmates received cheques to help pay for their heating oil. Moreover, it has been determined that 600,000 individuals who were eligible for these cheques did not get one. Those who were in dire straits did not get a cheque, while some who were living in relative comfort did! In short, $500 million was not given to the right people. Apparently, $500 million vanished. It is normal to ask — these are public funds — where the government will get that money. Out of taxpayers' pockets! We know that some of those who received these cheques are well off. Only one third of those who were living in relative poverty received a cheque. The government does not know where $500 million went, and it does not want to recover the other $500 million.

The agency — because we do not talk to ministers any more, we talk to agencies — said, through its spokesperson, that it would not recover the money and that the case was closed. Could the Leader of the Government explain this?

[*English*]

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, as the honourable senator will recall, the process for sending out the GST rebate cheques was on the basis of whether individuals had applied in the past for GST rebates. Those eligible for GST rebates are among the poorest people in the country who are deemed, on the basis of their tax returns, to have incomes well below the average in Canada. It was on that basis that the system sent out cheques to those individuals.

We have had this discussion before about what happens if someone receives a rebate cheque although they have died. In that case, we know that their estate must return that cheque to the federal government. It would be fraudulent for another person to sign that cheque on behalf of the intended recipient, unless the person was the inheritor of the estate. In that case, there would be narrow provisions upon which they would be allowed to do that.

We never questioned that some cheques ended up in the wrong hands. We knew at the time that, in all likelihood, some cheques would turn up in the wrong hands. Some people who, perhaps, deserved the money did not receive it. Regrettably, that was due to the system that was used. Apparently, those individuals had not been entitled to a GST rebate for that particular year.

[*Translation*]

Senator Bolduc: Honourable senators, I do not understand why the government says that it will not recover the money. It is turning this into a matter of principle. The government gives money to people who were not supposed to receive it and says that it will not recover the money. What is this government's policy?

On the one hand, the government says that it will not recover this money from people who are comfortably off and, on the other hand, when a taxpayer owes $2.25, the government spends $25 to recover it. What is the explanation for this state of affairs?

[*English*]

Senator Carstairs: Honourable senators, we all know that Senator Bolduc does not receive a GST rebate because he has told us that he did not receive that cheque. I would assume that that applies to each honourable member of this chamber. We are not entitled to a GST rebate on the basis of the income that we earn from the Government of Canada.

In the reality of the situation, it is sometimes more costly to claw back certain issues than to not do that, and to recognize that the system, from the outset, was not absolutely fair. However, the system was as fair a system as the government could use at a time when many people in Canada were in crisis because fuel bills had escalated so quickly and dramatically. The government made the decision that this system would be the way in which to administer the rebates.

[*Translation*]

Senator Bolduc: Honourable senators, I would point out that the minister gives the impression that there were only a few cheques. That is not the case. We are talking about $500 million — half a billion dollars. I find this scandalous. Anywhere else, the government and the ministers would be out of a job. In Ottawa, they are promoted when they do things like this. It is crazy!

[*English*]

Senator Carstairs: Honourable senators, I have no indication that $500 million is an accurate figure. We will hear from the Auditor General about the true figure. I have no proof that the figure spoken to today by the Honourable Senator Bolduc is, in fact, correct.

[*Translation*]

OFFICIAL LANGUAGES

CANADA POST—
OBSERVANCE OF STATUTE IN ATLANTIC PROVINCES

Hon. Pierre Claude Nolin: Honourable senators, last weekend, a conference was held in Memramcook, New Brunswick, at which the status of French in the Atlantic provinces was discussed. On this occasion, a Canada Post employee complained that her language rights were not being respected.

Is the minister aware of this conference? If so, is she aware of the problems mentioned by this employee? Can the minister confirm that Canada Post is doing everything in its power and everything that it is required to do to respect the language rights of its employees?

[*English*]

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, as the Honourable Senator Nolin is well aware, the Honourable Stéphane Dion, Minister of Intergovernmental Affairs responsible for ensuring that the official language policy is at its full blossoming, has indicated that he is listening carefully to issues such as the one that has been indicated today. Canada Post is a Crown Corporation and has obligations under the Official Languages Act. I will certainly bring to the attention of Minister Dion that a complaint was made and that it must be considered extremely seriously. I am also pleased with the recent announcement of the new Institut de Moncton, which will, I hope, ensure that languages flourish in this country, in particular, the minority languages: French in most provinces and English in the Province of Quebec.

•(1440)

[*Translation*]

Senator Nolin: Madam Minister, it would appear that this is not a recent situation and that it has been dragging on for some time. This is not an isolated complaint. The phenomenon is apparently widespread. Could the minister ask the minister responsible for Canada Post about the measures being taken to ensure that the basic language rights of Atlantic Canadians are being respected in law and in fact?

[*English*]

Senator Carstairs: Honourable senators, I thank the honourable senator for his question. I will raise this matter not only with Minister Dion, whom I know has a particular interest; but also with Minister Manley, who is specifically responsible for Canada Post.

HEALTH

PROPOSED DRUG MONITORING AGENCY

Hon. Marjory LeBreton: Honourable senators, my question is addressed to the Leader of the Government in the Senate. Apparently, Health Canada plans to announce the creation of a new organization to increase the effectiveness of drug monitoring after the drugs have been approved for sale. Last year, the Canadian Medical Association demanded that Health Canada set up such an organization. The department is responsible for ensuring that drugs are safe for doctors to prescribe. Two years ago, an Oakville teenager, Vanessa Young, died after taking the stomach drug prepulcid. It has since been pulled off the market.

Can the Leader of the Government tell us when this drug monitoring agency will be set up?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the honourable senator raises a serious issue. A coroner's report has indicated that we must have far greater monitoring of prescription drugs that are put on the market and keep accurate records of their side effects. My understanding is, that action is now underway.

Senator LeBreton: Honourable senators, the Canadian Food Inspection Agency has inspection programs to ensure food safety. However, it is unclear what powers this drug monitoring agency will have. Can the minister — and she has indicated it somewhat in answer to my first question — tell us what powers the agency will have and whether it will be an organization similar to the Canada Food Inspection Agency?

Senator Carstairs: Honourable senators, I do not have that exact information available for the honourable senator today. The 14 jury recommendations that were made on this issue and directed at Health Canada have been receiving careful consideration. Health Canada is working to improve the post-market surveillance program. On April 1, 2002, which is approximately 10 days from now, Health Canada will open a new directorate with responsibility for post-approval activities. This new directorate will improve Health Canada's capacity. As to whether it will have the full ability of the agency to which the honourable senator made reference, I cannot answer that at the present time.

AGRICULTURE AND AGRI-FOOD

DECLINE IN NUMBER OF FARM WORKERS

Hon. Leonard J. Gustafson: Honourable senators, recent statistics continue to underscore the difficulties facing our farmers in Canada. For instance, between 1998 and 2001, Canada

lost more than one-quarter of its farm workers. This fact was revealed in a recent Statistics Canada survey and it is the largest decline in the number of farm workers in 35 years.

Could the Leader of the Government in the Senate please tell us what her government's thoughts are on these very serious trends?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, first, we should be careful about that statistic. Yes, there was an indication that the number of farmers who were listing farming as their major source of income had declined by 26 per cent. However, it is not quite accurate to say that there were one quarter fewer farm workers. The regrettable part — and I think Senator Gustafson would agree — is that more and more farmers are having to seek off-farm employment opportunities and can no longer depend totally on their farm income as the source of their viability as an economic unit.

In terms of what the government is doing specifically, as the honourable senator knows, the provinces and the federal government have signed an agreement to work together. They had meetings before Christmas. They are having meetings, I believe this month, in order to come up with long-term plans for the agriculture sector in Canada.

Senator Gustafson: Honourable senators, does the minister feel that it is fair that farmers must work at two jobs, working for 16 or 18 hours a day, while people in other walks of life can work at one job and make a decent living?

Senator Carstairs: Honourable senators, no, I do not think that is the ideal way in which our agricultural community should survive in this country. Obviously, great stress is placed on farm families when that occurs. That is why the federal government is working together on an agricultural policy framework.

NEW AGRICULTURAL POLICY TO IMPROVE SAFETY NET PROGRAMS

Hon. Leonard J. Gustafson: Honourable senators, in the recent speech to the Saskatchewan Association of Rural Municipalities, the federal Finance Minister tried to alleviate the concerns of farmers by explaining that the federal government is working with the provinces to develop a new agricultural policy intended to improve the safety net programs. However, it is my understanding that the crux of this new policy will focus on issues of environmentally responsible farming and food safety. In fact, most analysts doubt that the new policy will contain any new aid for programs to help combat low commodity prices.

Has the minister any thoughts in this area?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I can only say that I understand that the discussions taking place between the federal and provincial agriculture ministers is broadly based, that it is not limited only to the few areas that the honourable senator has indicated and that the consultations will expand and intensify literally over the next few days.

[*Translation*]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour to table the delayed answers to two questions. The first one was raised in the Senate on March 7, 2002, by Senator Jean-Robert Gauthier regarding linguistic rights; and the second one was raised in the Senate on February 20, 2002, by Senator Pierre Claude Nolin regarding the modernization of the armed forces equipment.

JUSTICE

FEDERAL COURT DECISION—MAINTENANCE OF ESTABLISHED LINGUISTIC RIGHTS—INTENTIONS OF GOVERNMENT

(Response to question raised by Hon. Jean-Robert Gauthier on March 7, 2002)

The Contraventions Act is a statute that aims at simplifying and facilitating the prosecution of federal offences found in federal laws and regulations. The purpose of the agreements signed pursuant to the Contraventions Act is the implementation of the Act and not the enforcement of federal laws and regulations.

Since Ontario has formally committed itself to continue working to comply with the Federal Court judgement in *Commissioner of Official Languages and Her Majesty*, the Department of Justice has sought an extension of the time frame imposed by the Court.

If such an extension is granted, the Department of Justice and the Ministry of the Attorney General of Ontario will pursue actively their solving of the issues raised in the judgement.

In the event of a failure of the negotiations pertaining to the signing, within the additional period that could be granted by the Court, of an agreement that would comply with the original Federal Court decision, the Government will suspend the application of the Contraventions Act in Ontario and will return to the summary conviction process of the Criminal Code for the prosecution of contraventions other than parking contraventions.

NORTH ATLANTIC TREATY ORGANIZATION

MODERNIZATION OF ARMED FORCES EQUIPMENT TO MEET OBLIGATIONS

(Response to question raised by Hon. Pierre Claude Nolin on February 20, 2002)

The government's investment in the military is already substantial and should not be assessed solely from last budget perspective. The Department of National Defence has base funding this year of more than $11 billion.

Under the government's fiscal framework, that funding is increased automatically over time in line with increases in public sector wages DND's base funding is increased annually by an automatic 1.5 per cent to protect Defence from rising costs.

Moreover, the government has made substantial investments in the military. The last two budgets have added greatly to DND's funding:

$700 million of the base funding this year was provided in those two budgets, and by 2004-2005, that number will have risen to more than $800 million per year.

By the end of this fiscal year, those budgets will have added $2.5 billion cumulatively to the defence budget, and they will add another $3.9 billion in the next five years.

All told, in the last three budgets the government will have invested a total of over $7.6 billion in the military by 2006-07.

[*English*]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I draw your attention to the presence in the gallery of Jean Gleason, Hammond Dick, Sam Donnesey, Clifford McLeod, Leslie Smith and Dixon Lutz, all elected representatives of First Nations in the Yukon.

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

Hon. Senators: Hear, hear!

[*Translation*]

ORDERS OF THE DAY

ROYAL ASSENT BILL

THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Rompkey, P.C., for the third reading of Bill S-34, respecting royal assent to bills passed by the Houses of Parliament.

And on the motion in amendment of the Honourable Senator Grafstein, seconded by the Honourable Senator Ferretti Barth that the Bill be not now read a third time but that it be amended in clause 3 by adding the following after subsection 2:

3(3) The signification of royal assent by written declaration may be witnessed by more than one member from each House of Parliament.

Hon. Serge Joyal: Honourable senators, it is an honour for me to speak to you briefly about why I am supporting not only the principle and the content of Bill S-34 but also the amendment introduced by our colleague Senator Grafstein.

[*English*]

First, I should like to express the pleasure I had to work with the honourable members of the Standing Committee on Rules, Procedures and the Rights of Parliament under the chairmanship of Senator Austin and the various witnesses and participants who attended the various meetings of that committee.

•(1450)

It might appear almost trivial in the minds of some observers, that it took us many hours and much reflection to come forward with a bill after many attempts by various members of this chamber. I bow to Senator Murray, who considered the issue, and, of course, I cannot but recognize the various attempts made by Senator Lynch-Staunton to finally bring the issue to a positive conclusion.

I should also like to commend the government leader for the government's initiative of making the proposal of Senator Lynch-Staunton a government bill. That being said, it did not mean that the work was complete. Today, when I was reading *The Hill Times*, I noticed a headline that read: "Royal Assent Goes Modern." It seems that our procedure is antiquated, of another age, or that we are an oddity in the sphere of the Commonwealth countries, because our Royal Assent has not varied through the 135 years of our Confederation.

I should like to remind honourable senators that the issue of Royal Assent involves a very important constitutional element, and Professor David Smith outlined this very clearly when he appeared at our committee's hearings last fall. He said the following:

> The time of Royal Assent is when the Queen-in-Parliament makes law. Then the representative of the Crown personifies the nation; the Senate embodies the federal principle; and the Commons represents the people through their representatives. One may dispute the description of the parts, but not the parts themselves, nor their inclusion in a manner visible to all.

Royal Assent is provided for in section 91 of our Constitution. Its introductory clause states:

> It shall be lawful for the Queen, by and with the Advice and Consent of the Senate and House of Commons, to make Laws for the Peace, Order, and good Government of Canada, in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces;

That means that the Crown, the Queen, is an essential part of the legislative process in Canada, and it personifies the nation. The Constitution is not silent on the way the prerogative of the Queen should be exercised. In fact, sections 55, 56 and 57 of the Constitution provide the cases where the Queen, or the representative of the Queen, can withhold consent to Royal Assent. Even though it has rarely happened in the past, and if it were to be used it would create a major constitutional crisis,

there is no doubt that those powers are still in our constitutional statute.

What is the constitutional status of Royal Assent? Royal assent exists substantially in the Constitution. What the Constitution does not provide is the way Royal Assent is given. Traditionally, Royal Assent has been given through the physical presence of the representative of the Queen, either the Governor General or his or her delegate, a justice of the Supreme Court of Canada. Traditionally, the Queen's representative attends in this chamber and nods to the concurrence of both legislative Houses having adopted a specific bill. In other words, there is no provision in the Constitution that explains or describes the process.

The process is essentially a matter of convention; that is, it is not written. What is a convention? There is an interesting quote from a group of learned professors from Laval University — and my colleague Senator Beaudoin will certainly nod to this. When can we say that there is a convention?

[*Translation*]

I quote from our constitutional law text, second edition, on page 45:

> Three conditions have to be met —

— for a constitutional convention to exist.

[*English*]

There are to be three conditions for a convention to exist. The first one is as follows:

[*Translation*]

> — there must be precedents.

[*English*]

It means that the gesture, the attitude, has to be repeated not once, but multiple times.

The second condition is as follows:

[*Translation*]

> — the actors must believe to be bound by a rule;

[*English*]

In other words, those who repeat those things have to appear to be bound by it.

The third condition is stated as follows:

[*Translation*]

> — and there should be a reason for the rule.

[*English*]

In other words, there should be a reason for this.

[Senator Joyal]

That is the nature of a constitutional convention. That is how, traditionally, our Royal Assent has remained the same. The concurrence of those three elements has been confirmed repeatedly over the last 140 years, in the way Royal Assent has been given in this chamber. Those aspects are fundamental to the understanding of our Constitution.

If it is a convention, is it meaningless? I would submit, honourable senators, that conventions are part of our constitutional order. The Supreme Court of Canada, in many instances, has ruled that conventions are part of the Constitution. I should like to quote from the ruling in the *Reference re: Secession of Quebec*. The court said, at paragraph 32, the following:

[*Translation*]

> ... the global system of rules and principles which govern the exercise of constitutional authority in the whole and in every part of the Canadian state.
>
> These supporting principles and rules, which include constitutional conventions and the workings of Parliament, are a necessary part of our Constitution...

[*English*]

This is the constitutional convention that is part of our constitutional order. It is important, if we want to change this, to question — as members of the committee have done during the hearings and debates that followed the introduction of the bill by the government leader, and the alternative proposals that our colleague, Senator Grafstein, has tabled at the committee — the essential elements of the procedure we follow presently.

In my opinion, there are at least three elements. First, there is the presence of the Governor General, or his or her delegate. Thus, there is a physical presence. Second, it must be transparent. Both Houses of Parliament attend that element of consent of the Governor General, or his or her delegate. Third, of course, it is public. Anyone can, outside the members of Parliament from both Houses, attend that element of the nodding, of the consent given.

What does Bill S-34 do? It provides an alternative to the convention we have followed up to now. What is the alternative? It is in the form of a written declaration.

Honourable senators will ask: What changes in the three elements have you just given? The first element is that it is still the person; it is still a personal act. It is still coming from the person who happens to be, according to the Constitution, the Governor General or his or her delegate. That person is chosen by the Governor General according to the Letters Patent, and Bill S-34 does not change that. According to the Letters Patent, the Governor General retains the same power to choose the person he or she wishes to appoint for the exercise of that responsibility. This is still a personal act.

•(1500)

Transparency is less obvious in the bill as it is written now, and that is why I support the amendment of Senator Grafstein. The transparency is that the written declaration will no longer be performed within the precincts of the Senate. The written declaration will be performed in a private office, whether the residence of the Governor General; the office of the delegate of the Governor General, who has traditionally been a justice of the Supreme Court; or someone else down the road who the Governor General, according to the Letters Patent, may decide to appoint for the specific exercise of that constitutional responsibility of the Governor General. In other words, Royal Assent will be done in private.

According to clause 4 of the bill, notice of Royal Assent is given to both Houses. The bill, as presently written, is less transparent than when the Governor General, or his or her representative or delegate, comes into this chamber.

The amendment that Senator Grafstein has introduced is not a new amendment. Members of the committee discussed that aspect of the work extensively. Some committee members thought that the written declaration could not happen without the presence of a representative from both Houses. We set aside that proposal. We thought it was too stringent. However, the proposal of Senator Grafstein that was discussed in committee, as introduced by Senator Cools, is a sound and permissive proposal. It allows at least one member from each house to be present. Neither the Governor General nor his or her delegate is compelled to request the presence of the representative of either house in order to give the written declaration. However, any of us would be able to request to be present when the bill is assented to by the Queen's representative or his or her delegate. Essentially, we want to maintain flexibility in the procedure.

Honourable senators, some research has been conducted on this subject. Up to 1885, the Governor General always gave Royal Assent to bills himself. In the early years of Canada's history, parliamentary sessions were very short. The session would typically last for one or two months and the Governor General would traditionally give Royal Assent at the opening and closing of the session.

Through the years, parliamentary sessions have been extended. Various governments wished to give Royal Assent to pressing legislation, especially in situations of immediate implementation. In these cases, the Governor General could not always be present, and from 1885 onward, the Governor General started to appoint delegates.

The Hon. the Speaker: Honourable senators, I regret to advise Senator Joyal that his 15 minutes have expired.

Senator Joyal: Honourable senators, within three minutes I would be able to conclude my remarks.

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

[*Translation*]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, it is simply a matter of allowing the Honourable Senator Joyal to conclude his remarks.

[*English*]

Hon. Senators: Agreed.

Senator Joyal: Thank you, honourable senators.

The frequency of the ceremonies started to multiply. The multiplication of the ceremony meant that the Governor General could not be present and therefore started to delegate that responsibility. That event triggered the justices of the Supreme Court to become involved in the legislative process.

Bill S-34 responds to those two needs in a perfect respect of our constitutional principle. I urge honourable senators to support the amendment because it is important that flexibility and transparency be maintained. That is a fundamental element of a democratic system and is well served by the bill as amended by Senator Grafstein.

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

Hon. Senators: Question!

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

Hon. Senators: Agreed.

Motion in amendment agreed to.

Hon. Anne C. Cools: Honourable senators, I rise to speak at the third reading stage of Bill S-34.

Although there is no time for this today, I would love to challenge Senator Joyal on several of the issues he raised, including what he said about the definition of "conventions." It is my clear understanding that the ancient Royal Assent ceremony, which we have held until now, was the meeting point of the law of Parliament, the *lex parliamenti,* and the law of the King, the *lex prerogativa*, and is not related to the issue of conventions.

We can debate that at some other time. Conventions are a very troublesome area. They govern the exercise of power and the relationship between cabinet and Parliament. Therefore, it is not quite the same thing.

I should also like to make the point that until 1947 or 1948, the Governor General of Canada kept an office in the East Block. I hope that with the passage of this bill we may see our way to re-establishing that office, perhaps even the same historical office.

Honourable senators, most senators here know that I am an ardent supporter of the monarchy, particularly the constitutional monarchy here in Canada. I fervently believe that it is the highest achievement of constitutionalism.

Constitutional monarchy embodies the special and unique personal and political relationship that the monarch, Her Majesty, possesses and holds with each and every individual subject citizen. It is a relationship wrapped in the duty of allegiance owed by each to Her Majesty, the sovereign, and the duty owed by the sovereign to each individual subject citizen.

I was reminded of this last Friday, honourable senators, March 15, 2002, when I attended the luncheon held by His Honour James Bartleman, the Lieutenant Governor of Ontario, in honour of His Royal Highness Prince Michael of Kent, and again on Friday evening when I was honoured to be a head table guest at a dinner in Toronto for His Royal Highness hosted by the Monarchist League of Canada.

Honourable senators will know that His Royal Highness Prince Michael of Kent is the first cousin of Her Majesty Queen Elizabeth II. His father and Her Majesty's father, King George VI, were brothers.

•(1510)

Honourable senators, my intervention today is to record here a matter of great importance. This bill has been around for some years now in its various incarnations. It is now Bill S-34, and in other sessions it had been S-7, S-15 and then S-13. At all material times, and in all my interventions, I have insisted that this bill required a Royal Consent, that it required the involvement and agreement of Her Majesty's representative in Canada, the Governor General of Canada, Her Excellency Adrienne Clarkson. This constitutional fact was either unknown or ignored here by many senators.

I repeatedly read and recorded here Her Majesty Queen Elizabeth II's Royal Consent as signified in 1967 in the United Kingdom, both in the House of Lords by the Lord Chancellor Lord Gardiner and in the House of Commons by the Attorney-General Sir Elwyn Jones. I quoted the significations word for word. I draw attention to my speeches here on December 1, 1999, and, particularly, my speech on this bill when it was Bill S-13, on May 2, 2001. I said, at *Debates of the Senate*, page 757:

> 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.

In that same speech, I also said:

> 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.
>
> 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.
>
> ...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.

Honourable senators, I meant that most sincerely. I honoured my commitment at the time because I felt very strongly that such a bill could not and should not dare to proceed without Her Excellency's approval at the outset.

Honourable senators, I felt very affirmed and gratified when last fall the Government Leader, Senator Sharon Carstairs, introduced this bill as Bill S-34, which it now is and when, prior to its second reading, she rose and indicated that the Royal Consent had been signified. On October 4, 2001, Senator Carstairs, in *Debates of the Senate,* at page 1379, said:

> I have the honour to advise this House that:
>
> Her Excellency the Governor General has been informed of the purport of this bill and has given consent, to the degree to which it may affect the prerogatives of Her Majesty, to the consideration by Parliament of a Bill entitled "An Act respecting royal assent to bills passed by the Houses of Parliament."

I further note that, in her same speech, while not mentioning me, she cited Lord Gardiner in the United Kingdom's House of Lords. I felt justified by Senator Carstairs' close reading of my speeches and by her acceptance, as I had proposed, of the constitutionally correct course of action, which was to obtain Her Excellency's Royal Consent prior to second reading.

Honourable senators, the Royal Assent, the actual enactment of bills into laws, is the quintessential point in Parliament. It is the culmination of the process, its highest point and, simultaneously, it is the meeting point, the union of the three estates of Parliament in their seminal role.

Honourable senators, the Prime Minister represents the state of politics of a country, but Her Majesty the Queen, through the Governor General, represents the state of the country itself and its people themselves. That is why she is the Head of State.

Honourable senators, I wish to say the following. When I came to this place, this Senate, I took the Oath of Allegiance. I believed it then and I believe it now. I am not a republican, as is our Leader of the Opposition, Senator John Lynch-Staunton, who was the originator of this bill in previous sessions. I have been claimed by my background, my culture, my own study, the constitution of my personality and by the cast of my mind.

In conclusion, I should like to say that the monarch Her Majesty, as Queen in Canada, is no mere empty form or ornament; Her Majesty is the source and authority of all power. About the Royal Assent, many misrepresent it, decrying its constitutional importance and relegating it to mere sentiment, but the Royal Assent is no sentiment.

I close by recording here a statement from Benjamin Disraeli on this subject. In his 1852 book entitled, *Lord George Bentinck: A Political Biography*, Mr. Disraeli describes the true force and meaning of the Royal Assent by the Queen. Remember that this man was not the Prime Minister of the United Kingdom at the time. He wrote:

> As a branch of the legislature whose decision is final, and therefore last solicited, the opinion of the sovereign remains unshackled and uncompromised until the assent of both houses has been received. Nor is this veto of the English monarch an empty form. It is not difficult to conceive the occasion, when supported by the sympathies of a loyal people, its exercise might defeat an unconstitutional ministry and a corrupt parliament.

That is the true and profound meaning of the Royal Assent in which Her Majesty embodies the subjects and the citizens of the whole realm, over and above each of the two Houses of Parliament.

When I was a child, I was told that the difference between republicans and monarchists is that monarchists do not aspire to be King or Queen because the occupant of that position has been settled by history. However, with republicans, everyone knows that in the United State of America every shoeshine boy and every other person wants to be president. That is why I am a supporter of the monarchy, because the question of this high power is settled historically.

When I was a little girl, a schoolmistress of mine used to tell me, "Beware of any man who wants to be King. Beware of men and women who would be King or Queen." Honourable senators should ponder on that.

Honourable senators know the dangers to modern Commonwealth democracies that are being posed by modern cabinets and governments themselves, particularly with the ascendancy of the universal primacy all over the world of the Prime Minister's Office and also with the ascendancy of unelected bodies in policy matters, such as the Supreme Court of Canada. Canada's famous constitutionalist, Professor Arthur Lower, cautioned of the danger of absolutism in cabinet government. In his 1958 book entitled, *Evolving Canadian Federalism*, Professor Lower wrote:

> Most people would content themselves with saying that Canada is a monarchy and that the monarch's ancient attributes give us theory enough: 'the King is the fount of justice'; 'the King can do no wrong'; et cetera. But what if the Cabinet became King, with both King and Constitution in its hands?

That is the inherent danger of absolutism in cabinet government.

Honourable senators, I thank Her Excellency the Governor General of Canada, Adrienne Clarkson, and Her Majesty Queen Elizabeth II of Canada. I uphold her and I celebrate her in this year of her Golden Jubilee. About her I say, God bless the Queen, God save the Queen.

Honourable senators, I should like to close by reading a particular stanza — very rarely used — of *God Save the Queen*, now the Royal Anthem, which states:

> O Lord our God arise,
> Scatter her enemies
> And make them fall.
> Confound their politics
> Frustrate their knavish tricks
> On Thee our hopes we fix
> God Save us all.

Long may she reign over us.

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

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, as amended, read third time and passed.

•(1520)

CRIMINAL LAW AMENDMENT BILL, 2001

THIRD READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Pearson, seconded by the Honourable Senator Poy, for the third reading of Bill C-15A, to amend the Criminal Code and to amend other Acts, as amended.

Hon. Anne C. Cools: Honourable senators, I rise to speak to third reading of Bill C-15A. I shall confine myself to the issue raised by clause 71 of this bill, being the particular clause that amends the Criminal Code, section 696. The issues of this clause and the parent Criminal Code sections are the issues of the miscarriage of justice. It seems that daily our newspapers report on more miscarriages of justice, wrongful convictions, and wrongful prosecutions. The very famous cases, usually cases of homicide and murder, punctuate our consciousness. We are all aware of the cases of Guy Paul Morin and Donald Marshall. Clearly, correction is needed. Toronto's excellent, accomplished criminal lawyers like Alan Gold, Morris Manning and Edward Greenspan have raised these questions publicly and have repeated their concerns numerous times.

Honourable senators all know that I thought that the powers of the Minister of Justice, under this clause, should be wide so as to permit the minister to choose the best and the most able persons to conduct those reviews. I also believe that the minister should consider for appointment not only lawyers, but other professionals, including coroners, forensic pathologists, ex-chiefs of police and former parliamentarians. However, today I am speaking to a different point.

Honourable senators, I wish to raise the question of the dominion and the domination of ideology, particularly radical feminist ideology and its consequent distortion and mischief in the administration of justice, in both the criminal law and civil law, but particularly in the criminal law. I refer to the plethora of problems that have flowed from the premise of the radical feminist ideological posture that all men are beasts and that all women are victims; that women are morally superior to men; that men are morally inferior to women or that men are somehow morally defective; and the proposition that men are inherently liars and that women are inherently truth tellers.

Honourable Senators, I am speaking of the plethora of wrongful convictions and prosecutions in sexual and physical abuse that have flowed from the misguided premises of the recovered memory movement — now discredited, thank God — the sexual assault witch hunts, the misguided and one-sided zero-tolerance domestic violence policies directed at male offenders but not at female offenders, and other ideologically based phenomena. I hope that the new Minister of Justice will turn his mind to these problems, which are of some enormity. I shall cite a few cases.

The first is the case of *Regina v. Nelson*. James Nelson, now about age 34, was convicted in 1996 of several assault and sexual assault charges and served about three and one-half years in prison. Last August 23, 2001, there was an about-face. In a short, one-paragraph judgement, the Ontario Court of Appeal allowed Mr. Nelson's appeal, set aside his conviction and granted him an acquittal. In this exceptional and unusual step, the Court of Appeal, in judgement delivered by Mr. Justice Laskin, said:

> The proposed fresh evidence meets the test in *R. v. Palmer* and shows that the trial proceedings resulted in a miscarriage of justice. Although ordinarily we would order a new trial, in this case we enter an acquittal because of the Crown's acknowledgement that there is no reasonable possibility of a conviction and because the appellant has largely served his sentence. Therefore the appeal is allowed, the conviction is set aside and an acquittal is entered.

An acquittal was entered. The entire text of the judgment is that one paragraph. This case is exceptional because Mr. Nelson's accuser is a woman named Cathy Fordham, a close friend of Mr. Nelson's ex-spouse, who at the time was in a child custody battle with Mr. Nelson.

There are many press articles about this matter. I commend one article particularly, which is the *National Post* article of September 8, 2001, by Christie Blatchford, headlined "Crying Wolf: In a system that assumes children don't lie and women are victims, false allegations happen with alarming regularity and frequency." Miss Blatchford interviewed Detective Wendy Leaver and reported the following:

> The fact is, as Detective Leaver said, some women enjoy the process. 'It's a sex assault,' the veteran investigator said, 'and as a society, we accept that as horrendous. You wouldn't believe the attention we pay to you.' And some women are outright malicious, and see a rape claim as a way to punish a boyfriend or a former spouse, especially if they are locked in a custody or support battle, and some are mentally ill.

Honourable senators, compare that one paragraph in the 2001 judgment of Mr. Justice Laskin to the harsher and tougher words of Provincial Court Judge Fraser, in Ontario Provincial Court, on the same man, Mr. Nelson, a few years before, on November 14, 1996. Judge Fraser said:

> Further, to offer additional protection to the complainant, due to the fact that this is now the third time that this individual is being sentenced for criminal behaviour involving this complainant, I am going to, for the reasons stated — the repeated contact with this individual, the need for specific deterrence of Mr. N. — order that this offender not be released on full parole until at least one-half of the sentence has been served.

Judge Fraser waded into the area of parole. All of this was to protect this complainant, the alleged victim, who has since been revealed to be a chronic and accomplished malicious liar, and who now stands charged and convicted with public mischief arising from this case and others.

Honourable Senators, every time I read one of these cases, and I read many, I continue to wonder at how and why so many courts, judges and crown prosecutors have allowed themselves to be so deceived by the radical feminist ideology which says that women do not lie and that every male is a potential rapist.

Honourable senators, human goodness like human vice is not a gendered characteristic. They are human characteristics. Men and women are equally capable of virtue and are equally capable of vice.

•(1530)

Justice must be blind to unscientific, artificial and unproven ideological notions of human behaviour. Justice has to look at the facts and the law, and therein make its judgment, because judgment should not be based on gender or gender notions of behaviour.

Honourable senators, the record is peppered with these cases. These are all miscarriages of justice. They are not homicide cases, they are not as spectacular as the *Guy Paul Morin* case, but there are many of these individual cases.

I come now to certain cases of wrongful prosecutions, of which there are many, but which thankfully, though difficult for the accused, ended in acquittal.

I wish to cite the Provincial Court of Alberta, June 22, 1998, case in *R. v. Ghanem.* Mr. Ghanem had been charged with assaulting his wife, a domestic assault. He was tried and acquitted of this particular charge. Mr. Ghanem's wife had charged him in an effort to imperil him and to ensnare him in their divorce proceeding. This fact is very well documented in the judgment.

It seems that Mr. Ghanem was elsewhere when the assault was supposed to have taken place. Apparently, it turns out, he was in another place with other people. He had an alibi. Judge Fraser writes about the investigation and the lack of an alibi, saying:

> It was also disclosed to the police officer immediately upon being told of the allegations. The officer chose not to investigate the alibi and instead just laid the charge. Apparently he didn't feel he had any responsibility to do so.

Judge Fraser, in his reasons for acquitting Mr. Ghanem, said the following:

> I find the evidence of the complainant and her mother to be contradictory, confusing, contrary, conflicting, irreconcilable and quite frankly, false.

Judge Fraser was emphatic about the falsehood. Then Judge Fraser turned his mind to the question of zero-tolerance policies for domestic violence. He said:

> I want to make two further comments because one is curious as to how a man could be falsely accused in these circumstances right up to and including a trial. The reasons are quite clear to me and disturbing. First, the police apparently have a policy of zero tolerance in domestic assault cases. Any zero tolerance policy is dangerous. It is especially dangerous when it is not properly applied. If the police consider zero tolerance means laying a charge whenever they receive a complaint, they are incorrect. The power to arrest and lay charges is an awesome power. Used incorrectly it is oppressive to the public. Complaints must be investigated. An officer doesn't automatically have reasonable grounds just because someone makes a complaint of domestic abuse.

Honourable senators, these cases of wrongful physical and sexual abuse prosecutions abound and are compelling investigations. In previous speeches in this chamber, I have spoken to the issue of false accusations. However, I spoke on false allegations made in civil proceedings, usually child custody disputes in which no criminal charges were laid or prosecutions ensued. In those speeches in this chamber, I have recorded dozens of those cases, adjudicated cases citing the judges' findings, for example, as in my speech of February 17, 2000.

These cases were false accusations of mostly child sexual abuse and some physical abuse used as a strategy to obtain sole custody in judicial proceedings and in divorce proceedings. However, earlier today I have been speaking to criminal charges and criminal proceedings.

Honourable senators, time does not permit me to cite more cases. However, I should like to make a very special appeal here to the Minister of Justice under this clause in the bill to say to him that these matters are compelling investigation. I wish to take this opportunity to urge the Minister of Justice to direct his mind to these problems and to this subject matter. I also take the opportunity to urge him to promote the notion that the administration of justice should eschew radical feminist ideology.

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

Hon. Senators: Agreed.

An Hon. Senator: On division.

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

PAYMENT CLEARING AND SETTLEMENT ACT

BILL TO AMEND—THIRD READING

Hon. George Furey moved the third reading of Bill S-40, to amend the Payment Clearing and Settlement Act.

He said: Honourable senators, I have nothing to add to was said at second reading, except to say that the bill was reported back on March 14. It received the support of industry, finance and members opposite.

I had understood earlier that Senator Angus may have wished to speak, but at this time, if he is not here, I would suggest that we just move forward.

Motion agreed to and bill read third time and passed.

YUKON BILL

THIRD READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Christensen, seconded by the Honourable Senator Léger, for the third reading of Bill C-39, to replace the Yukon Act in order to modernize it and to implement certain provisions of the Yukon Northern Affairs Program Devolution Transfer Agreement, and to repeal and make amendments to other Acts.

Hon. Ethel Cochrane: Honourable senators, I am pleased to have the opportunity to speak on Bill C-39 once again.

At its fundamental level, this bill modernizes the language of the present act and aims to put the decision-making power in the hands of those it most directly affects, the people of the Yukon.

It also puts into law the form of responsible government that has been practised in the territory for more than 20 years and articulates more clearly the concepts outlined in the Epp letter of 1979.

The devolution of power has been a long process and has spanned decades. The importance of this bill to the Yukon cannot be overstated. It means that decisions affecting the territory and her resources will be made locally, not by a politician or a bureaucrat sitting in Ottawa. This proposed act marks the latest and one of the most significant steps in the territory's political evolution.

It must be a very special honour for Senator Christensen to stand as sponsor of this bill. Today, her work has come full circle, and I commend her for her dedication and her tireless efforts on behalf of the people of the Yukon, Aboriginal and non-Aboriginal, today and in the decades past.

Indeed, there are many strong arguments to be made in support of this bill. First and foremost, the bill modernizes the statutory language relating to Yukon's governmental structure so that it better reflects the practice of responsible government. This is essentially putting into law the approach to government that has been in practice since the late 1970s. The bill also sends a positive message to resource developers and businesses regarding the territory's economic climate. Consider, for instance, its likely contribution to the development of the local mining industry. Bill C-39 will eliminate bureaucratic obstacles and open the door for Yukon-made regulations. This will provide greater regulatory certainty and eliminate duplication — factors so crucial to fostering the development of this industry in particular.

•(1540)

Perhaps more important, however, this bill brings the people of Yukon into closer contact with the government structures that are there to serve them. Essentially, it gives them the power to be masters of their own destiny, similar to the powers enjoyed by the provinces. The bill contains a number of features that publicly acknowledge past successes in managing local resources. It also indicates the level of respect held for the abilities of the Yukon government in handling Yukon business. Under the new Yukon Act, for example, the minister is required to consult with Yukon representatives — the Executive Council — before introducing legislation that would have the effect of amending or repealing the Yukon Act.

The territorial government will also become responsible for operating the Northern Affairs programs currently controlled by DIAND. The Yukon government will receive $34 million a year from Ottawa to help cover the cost of running these programs.

[Senator Cochrane]

Of course, the importance of this legislation is providing job security for the federal government employees in Yukon, and that is another important consideration in support of this bill.

Passing this bill will mean that job offers from the Yukon government can be made to these federal employees. This will also allow for everything to be in place to accommodate the smooth transfer of power to the territorial government.

When I spoke at second reading, I voiced my support for the bill. However, I noted the absence of some Aboriginal voices in discussions in Ottawa and the consultation process. I am pleased to be able to say that the Standing Senate Committee on Energy, the Environment and Natural Resources heard from some of those concerned Aboriginal communities. I am especially satisfied that they were given a forum to discuss their reservations with this bill and state their concerns for the record. The testimony of the Kaska Nation and the Carcross/Tagish First Nation was insightful and a crucial element in our understanding of the implications of the bill. Above all, it was an opportunity for us to hear the thoughts and reactions of local people firsthand.

In her remarks last week, Senator Christensen highlighted some of the valid questions and major concerns raised by the Standing Senate Committee on Energy, the Environment and Natural Resources. While the committee was not afforded the opportunity to have the minister appear on this bill, Senator Christensen relayed his response in her last speech. I accept the response offered by the minister. However, I also feel compelled to reiterate the primary concerns of these witnesses.

Recently, we heard from both the Kaska Nation and the Carcross/Tagish First Nation that they had made significant progress in their negotiations. In fact, they were relatively confident they could complete negotiation of their final agreements within six to eight months. Surely, after decades of discussion, this shows they are indeed very close to resolving these historically significant issues. Clearly, this is positive news.

However, I am gravely concerned that the mandate will expire March 31, 2002, and that Aboriginal negotiators have been informed that if the substantial items have not been finalized by that date, there will be no more negotiating. The crux of their arguments is that Canada has a constitutional obligation to settle with all Yukon First Nations prior to transferring the administration and control of all public lands to the Yukon government. Their concern is that Bill C-39 fails to make clear that the Yukon government is not acquiring jurisdiction over the administration and control of lands where Canada's obligations under the Rupert's Land and North-Western Territory Order of 1870 remain unfulfilled.

They also take no comfort in the take-back land provisions. In their presentation to the committee, representatives from the Kaska Nation told us that they think, and I quote:

> — the appropriate course for Canada is to maintain administration and control until the claims are settled and not hold out any false prospects that they will be taking land back.

They raise a reasonable point in acknowledging concern over the take-back land provision. It would appear difficult, in a hypothetical situation, for the federal government to take back lands after a territorial government had granted third party rights. As the committee was told, there are major questions about the resources of Yukon and its ability to pay out the amount of compensation that would be required to remedy such a violation. As they indicated, a situation such as that would place particular pressure on Yukoners to cover the costs of compensation.

A final point that the witnesses addressed was the language in the non-derogation clause. This was a contentious issue with regard to another bill that the committee recently studied. The Kaska Nation highlighted this point in reference to Bill C-39, saying they would be better off having no non-derogation clause at all than having it as it is currently expressed.

I trust, however, the Government of Canada will remain true to the spirit of, and its obligations arising from, the 1870 order. I am confident that these claims will be settled in good faith by all parties involved and that this bill will in no way infringe upon that process.

It cannot be denied, nor should it be overlooked, that concern exists at the local level over this bill. While Aboriginal groups were particularly effective in communicating their dissatisfaction with the proposed legislation and making compelling arguments, there are other indications of displeasure with the bill. For instance, local media and the official opposition party in Yukon have cited supposed shortcomings of the bill. However, their arguments primarily deal with issues surrounding transparency and the process involved in drafting the legislation.

In hearing these latter concerns, I am reminded of the old saw: "You cannot please all people all the time." This bill to me is like that. On the one hand, some people say it goes too far, while, on the other hand, others say it does not go far enough.

Some critics have argued that Yukon should have outright ownership of its land. This legislation falls far short of doing that. However, it will see Yukon gain the power to do most of what the provinces can do. The territory will be able to sell and lease land. It will be able to decide what type of development takes place on property through its power to issue permits.

Perhaps more significantly, the territory will retain the money made from sales and leases of Yukon water, Yukon land and Yukon resources. Basically, as a result of this bill, decision-making power with regard to land, minerals and water in the Yukon Territory will rest firmly in the hands of the people and the Government of Yukon, as it should, I believe.

Honourable senators, it has been said before, but I believe it warrants repeating: This bill received the overwhelming support of all parties in the House of Commons. I believe this reflects the overwhelmingly positive intentions of this bill, as well as an appreciation of its importance in the life and the development of Yukon.

There are issues with this bill, but no one refutes the merits of devolving greater powers to the Yukon government.

Again, I would like to congratulate Senator Christensen and all the people of Yukon on this achievement. I am confident that official devolution in 2003 will bring continued success to the territory and mark a new beginning for all her people.

On motion of Senator Watt, debate adjourned.

•(1550)

[*Translation*]

LEGISLATIVE INSTRUMENTS RE-ENACTMENT BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Joyal, P.C., seconded by the Honourable Senator Corbin, for the second reading of Bill S-41, to re-enact legislative instruments enacted in only one official language.

Hon. Gérald-A. Beaudoin: Honourable senators, I would like to say a few words in connection with Bill S-41, the Legislative Instruments Re-enactment Bill.

Senator Joyal has very clearly delineated the context of this bill and has provided an excellent synthesis of it.

The Standing Joint Committee for the Scrutiny of Regulations has discovered that five legislative instruments were published in both official languages although not enacted in both but rather in only one of our official languages. The purpose of Bill S-41 is to correct this and to retroactively re-enact these texts in both official languages. The texts in question are the following: Public Lands Mineral Regulations (June 25, 1958); Hull Construction Regulations (February 7, 1958); Aids to Navigation Protection Regulations (August 6, 1964); Flue-cured Tobacco Producers' Marketing Order (July 13, 1961); and Regulations respecting Aeronautics (December 29, 1960).

With the exception of the Public Lands Mineral Regulations, abrogated on December 20, 1995, all the others were in effect at the time the committee released its report. In that context, the joint committee indicated that these regulations might be invalid, even if they had been published in French and English, because they had not been re-enacted in both official languages after 1969.

Moreover, Bill S-41 gives the Governor in Council the power to re-enact retroactively, in both official languages, legislative instruments that were passed or published in only one language or not published at all. As Senator Joyal explained, there may be other instruments that were not passed in both official languages.

The importance of bilingualism in our federation cannot be overemphasized.

Section 133 of the Constitution Act, 1867, deals with the legislative, parliamentary and legal language. Out of the four original provinces, Quebec is the only one mentioned. Sir George-Étienne Cartier saw parity between the status of French in Ottawa and of English in Quebec City.

Section 133 provides that either the English or the French language may be used in the debates of the Houses of the Parliament of Canada and of the Houses of the Legislature of Quebec; that both languages shall be used in the respective records and journals of those Houses; that either of those languages may be used by any person, or in any pleading or process in or issuing from any court. Finally, this section provides that the acts of the Parliament of Canada and of the Legislature of Quebec shall be printed and published in French and in English.

In the famous *Jones* case, the Supreme Court of Canada ruled that section 133 provides a constitutional guarantee. The federal Parliament cannot go against the provisions of that section, but nothing prevents it from going beyond its wording, which is a minimum, and from granting more. Section 133 gives the "constitutional right" to use either language in the areas and places specified in it.

The Parliament of Canada also recognized statutory rights after 1867. In 1968, realizing that the Constitution was seriously flawed with regard to official languages, Parliament adopted the Official Languages Act. Section 2 of that act puts French and English on an equal footing in all the institutions that come under the government and the Parliament of Canada. Both languages have equal rights and privileges as to their use in the institutions of the Parliament of Canada and of the Government of Canada.

This 1968 legislative measure was in response to the report of the Royal Commission on Bilingualism and Biculturalism — the Laurendeau-Dunton Commission — set up by Prime Minister Lester B. Pearson. The coming into effect of this legislation signalled the beginning of significant language reforms.

A new Official Languages Act was passed in 1988.

The legislation between 1968 and 1988 plays an important role in Canadian policy. Furthermore, in *Beaulac*, Mr. Justice Bastarache said, with respect to the Official Languages Act:

> The objective of protecting official language minorities, as set out in s. 2 of the Official Languages Act, is realized by the possibility for all members of the minority to exercise independent, individual rights which are justified by the existence of the community. Language rights are not negative rights, or passive rights; they can only be enjoyed if the means are provided. This is consistent with the notion favoured in the area of international law that the freedom to choose is meaningless in the absence of a duty of the State to take positive steps to implement language guarantees...

Honourable senators, it is my view that Bill S-41 remedies important oversights with respect to legislative and/or regulatory bilingualism. I hope that this sort of error will not recur.

[Senator Beaudoin]

Bill S-41 does not contain any list of the regulations which do not respect the provisions of section 133 of the 1867 Act. Apart from the five regulations identified by the Committee's report in October 1996, it is impossible to determine the number of legislative instruments that will have to be re-enacted either from an instrument published in both official languages or from a translation of the original version.

One might wonder why the Department of Justice has waited over 22 years before proposing measures to correct this situation.

•(1600)

The report of the Standing Joint Committee for the Scrutiny of Regulations states, at paragraph 15, and I quote:

> The government has had ample time in which to identify those federal regulations which are subject to section 133 and that are still in force in order to bring them into conformity with section 133. As your committee sees it, rather than address the problem of the continued existence of unconstitutional regulations, the governement has chosen to ignore it, and when that was no longer possible as a result of the raising of the issue by the joint committee, the government put forward the argument that "good faith" absolves it from complying with its constitutional obligations.

This inaction could have had significant consequences on the enforcement of the provisions of certain federal statutes and on the rights of those who are subject to trial. The Standing Senate Committee on Legal and Constitutional Affairs will have to clarify this issue when it studies the bill.

The backgrounder published by the Minister of Justice on March 5, 2002 states, and I quote:

> The proposed bill provides an efficient and cost-effective way to address any remaining uncertainty while, at the same time, demonstrating the Government's ongoing commitment to the rule of law, respect for the Charter and the importance of linguistic duality in Canada.

The government should have thought of some way to comply with the Constitution well before the month of March 2002. Nonetheless, I support moving forward with Bill S-41, even if it means studying it much more carefully in committee and examining better ways to rectify this situation.

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

[*English*]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I draw your attention to the presence in our gallery of Mr. Roch Carrier, National Librarian, and Karen McGrath, Executive Assistant.

Welcome to the Senate.

Honourable senators, I also draw your attention to the presence in the gallery of Wilton Littlechild, former Member of Parliament for Alberta.

Welcome to the Senate.

Hon. Senators: Hear, hear!

[*Translation*]

BUSINESS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, under Government Business, we would like to proceed first with Item No. 1, followed by Committee Reports Nos. 1 and 2, and then move to second reading of Bill C-49.

ROYAL ASSENT CEREMONY

MOTION PERMITTING TELEVISION COVERAGE IN CHAMBER ADOPTED

Hon. Fernand Robichaud (Deputy Leader of the Government), pursuant to notice of March 14, 2002, moved:

> That television cameras be authorized in the Chamber to broadcast the Royal Assent ceremony scheduled for March 21, 2002, with the least possible disruption of its proceedings.

Motion agreed to.

[*English*]

THE ESTIMATES, 2001-02

REPORT OF NATIONAL FINANCE COMMITTEE ON MAIN ESTIMATES ADOPTED

The Senate proceeded to consideration of the twelfth report of the Standing Senate Committee on National Finance (2001-02 Estimates), presented in the Senate on March 14, 2002.

Hon. Lowell Murray moved adoption of the report.

He said: Honourable senators, you will note that there are before us three reports from the Standing Senate Committee on National Finance, two relating to the fiscal year ending this month and one relating to the Main Estimates for the fiscal year beginning April 1.

Unless provoked, I do not intend to speak to the other two orders. However, I will speak now to the twelfth report of our committee that deals with the 2001-02 Estimates to pave the way for the interim supply bill which, if history is any guide, will not be long coming.

As I begin, allow me to say a word about the work of this committee. This committee has met 45 times so far in this session of Parliament. Twenty-six of our meetings have taken place since September last. In all, this amounts to something in the vicinity of 70 hours of deliberations. We have brought in 13 reports. We have considered five sets of Supplementary Estimates or Main Estimates. We have completed committee stage of three government bills and one private member's bill. We have completed a study on deferred maintenance at post-secondary educational institutions, which subject is still being debated here and is gaining some attention in certain circles, notably education and government circles across the country. As well, we will be reporting later this week on our study of the federal government's equalization program.

As chairman, I mention this simply to commend my colleagues on the committee for the seriousness and diligence with which they have gone about their work. If you examine the attendance records of this committee, you will find that the attendance of your colleagues on the committee has been exemplary. We have a very good mix of members on this committee of highly experienced and relatively new senators. That, in itself, I think, has added something positive to our deliberations. It often happens that some questions are more obvious to some of the newer senators than they are to some of the older senators. In any case, the mix has been very productive for the committee.

I want to say a word of commendation to the clerk, the Library of Parliament research officer and other staff who service this committee. The fact is that a workload such as this imposes an increasing burden on the finite human resources that are at our disposal. On behalf of the committee, and indeed on behalf of the entire Senate, I wish to commend them.

Honourable senators, I will flag several items in this report that will form the backbone of our agenda for the weeks and months following the Easter break.

•(1610)

We have mentioned the Treasury Board contingency Vote 5 items. We have discussed this matter in this place on several occasions in the past. The committee is quite concerned with the apparent flexibility that departments give themselves to use this contingency vote to finance new initiatives and various bright ideas that the government or ministers think are expedient to implement with or without proper parliamentary scrutiny.

The government and its officials, when confronted with this issue, plead the historical legitimacy of a contingency vote as well as the practical necessity of a contingency vote. We accept both of these arguments up to a point. There probably has been a contingency vote since 1867. One is necessary precisely to provide for unforeseen contingencies.

The question is whether the money is being used properly. The committee is compiling a file documenting the quite limited uses to which the vote was put in the early days and the rather more liberal use of it in modern times. We will be getting at that in some detail in the coming weeks and months.

Honourable senators, we have also a section in this report dealing with foundations and agencies. The concern is expressed that they are operating at arm's-length from government and have not been subject to the usual financial supervision.

Here, I should like to draw a distinction. Two agencies, the Canada Customs and Revenue Agency and Parks Canada were created by Parliament at the insistence of the government. I and other honourable senators objected in the chamber when this was done. We objected in particular to the fact that these agencies were created for the purpose of getting out from under the Public Service Staff Relations Act and other administrative or legislative constraints that apply to the rest of the government. We protested that.

However, we lost the battle. Parliament has decided. Those agencies are in existence.We have no intention of revisiting that decision and those debates. It remains only for us to ensure that these so-called "arm's-length" agencies respect the essence of parliamentary accountability which, we have been assured by ministers, is inherent in the legislation that created the agencies.

I am rather more concerned, and I think it is fair to say that the committee is rather more concerned, about some of the other agencies. Certain other agencies were created under the aegis of the Canada Corporations Act or a similar statute and, toward the end of a fiscal year, the government spills surplus money into these agencies. Perhaps Parliament catches up with the entire process later but, meanwhile, the money is gone. Money that could have been applied to the national debt, a tax reduction or some other purpose, has been spilled into the new agencies that have sprung up.

These agencies are at considerable arm's-length from the government. We are never quite clear what they are supposed to do. They are rather slow to get off the ground. The entire arrangement bears the marks of improvisation, and quite expensive improvisation at that.

Some of these agencies, such as the one that we mentioned the other day, the Pierre Elliott Trudeau Foundation, were essentially created privately, albeit a not-for-profit foundation. Parliament has no paternity over the creation of these foundations at all. We do not even have a respectable role of midwifery with them. We are simply called upon to approve a funding estimate, and later, perhaps some legislation.

The committee wants to carefully scrutinize what is being done here. We want to determine if we cannot set out some proper guidelines for the creation and operation of these agencies, and in particular, for their accountability to Parliament.

The third issue that we flagged is the reform of the public service. Again, agencies such as Parks Canada, the Canadian Food Inspection Agency and the Canada Customs and Revenue Agency have been mentioned because they have large numbers of employees, particularly the Canada Customs and Revenue Agency, and they are no longer subject to the provisions of the Public Service Employment Act and its guiding principles. We want to examine that question anew.

However, the larger question is the ongoing overall reform of the public service that has been announced and that is in some ways the talk of the town, at least among those involved or interested in it. There is rather an underground controversy going on about it, the details of which escape me, but there is clearly quite a division of opinion in the public service, and perhaps in the government itself, about what is being done and what the outcome is likely to be.

I come to the question of the merit principle. Some reports note that the merit principle as we have known it, in the recruitment of public servants, will disappear with this reform. It may well be that some of the legislation governing the public service has been overtaken by time and ought to be changed, but there is a question of the fundamentals. There is a question of the merit principle concept, and it seems to me that our aim ought to be to reinforce it in any reform of the public service and not to diluted it.

It occurs to me also that the emasculation of the Public Service Commission, which seems to me to be one of the objectives of this exercise, ought to be resisted. I do not care if it does go back to Sir Robert Borden, as indeed it does. There was good reason for it, and we ought to first examine principles and concepts before we idly throw them away in the guise of administrative efficiency, modernity or any other interests.

Honourable senators, we have had a conversation about this with the minister, Madam Robillard. These matters fully deserve the attention of the committee in the coming weeks and months. I assure you that they will receive our attention and, in due course, a full report will be made to the Senate.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): I should like to ask a question of Senator Murray.

The honourable senator made reference to a suspicion that many corporations are created in order to dump money into them — money that would otherwise lapse. He specifically referred to the proposed Pierre Elliot Trudeau Foundation, which would receive $125 million. Would the honourable senator provide an explanation of the nature of that foundation? Why would taxpayers' money go into that foundation? Would it be subject to the Auditor General's review?

•(1620)

Senator Murray: I do not know that I can reply at any length except to refer my friend to the eleventh report of the committee, when we were discussing Supplementary Estimates (B). We were called upon in Supplementary Estimates (B) to approve the expenditure of $125 million as a transfer to finance the affairs of the Pierre Elliott Trudeau Foundation. The foundation is a private, not-for-profit foundation under the Canada Corporations Act, I believe. I think we were told who the directors are. They are people of various political stripes known to all of us.

One of the questions asked of the officials at the committee was exactly the question Senator Kinsella has put: Will the Auditor General be the auditor for this foundation? The answer appears to be no. It is a private foundation. The official said that a fine line has been drawn between the obvious interest of government and Parliament in seeing that its money is spent properly, on the one hand, and the autonomy of a foundation such as this on the other.

The question was raised whether this foundation would be financed 100 per cent by public funds or whether private funds would be involved. I think the answer was that they would accept private as well as public funds.

Senator De Bané criticized the intent of the foundation to offer financial assistance to people studying in Canada only. He made the point that Mr. Trudeau himself had attended a number of institutions abroad, and some of our best and brightest are studying at the London School of Economics, Harvard and Oxford, and the foundation ought not to limit the assistance to students studying at Canadian universities.

These substantive questions were raised, as well as questions about the process of parliamentary supervision. We reported on them in our eleventh report, and I invite my friend to have a look.

Hon. Roch Bolduc: Honourable senators, I should like to say a few words about the questions raised by my friend, one of them being what I consider to be evolving structural organization of the government. It has changed a great deal in the last few years. No one has looked at it in a systematic way, but it has changed a great deal. We have to understand that. Traditionally, we had ministries with one deputy minister, because the ministry is a kind of corporation with one deputy minister, with one head. It is important to realize that. We used to have as many as 20 or 25.

Suddenly, during the last 15 years, we began to have semi-judicial organizations called "administrative commissions" outside the ministries. The Public Service Commission is an example. We wanted an arm's-length relationship vis-à-vis the government. We also wanted to give these administrative commissions some regulatory power at certain times, and some judicial or semi-judicial power for the arbitration of cases, which is the case with respect to the Public Service Commission, which has an administrative duty, as well as regulatory powers and semi-judicial powers. Later, we had some business-type organizations, such as Crown corporations, in which money could be involved. Those were the traditional days: the ministries, the administrative commissions and the Crown corporations.

Then, with the Financial Administration Act, we modified the situation for the organizations that were partly in and partly out. We had two kinds of government corporations: Crown corporations, such as CN, and departmental corporations, such as Statistics Canada.

For the last 10 years, we have had special agencies, which are organizations taken out of the ministries for administrative operations. We decided to create a special agency without a boss, and sometimes, as we did with Parks Canada and the revenue agency, we just got them out of the civil service. In my mind, that is troubling, but I do not say that it is bad.

Regardless of whether if you are inside the public service or outside of it, some principles should be kept, such as the merit principle. Other principles are included in the Financial Administration Act, and they are financial administration, financial accountability, merit and competition. Merit is not easy to judge when one judges or evaluates people. The only way to do it is to open the field to candidates. We have a jury, we process through written or verbal examination, and then we decide, relatively speaking, who is the most competent.

That is the only way to do it. If we do not do that, we have a system of protection and, finally, patronage. That is the history of Canada. It was the history of England before 1855. It was the history of the United States before 1923. We know very well what happened in the public services.

Under the coalition government in 1917 during World War I, we had finally a system that was partly based on the British system. Included in it was a civil service commission, which was an administrative agency outside the government, and it judged the merit of the people who came into the civil service. That was the idea. It worked not too badly at the beginning. People were not used to it because one does not change traditions just like that. There were various cases of patronage. Finally, a royal commission in 1935 decided that the power of appointment must be given to the civil service commission itself. Otherwise, it would be friends of ministers, pressure by House members, pressure by a friend, and finally, you are in a mess. The public administration is not good in that situation.

Although it is not in the open, because higher civil servants are discreet, apparently there are big discussions in the government between the Privy Council, the Treasury Board, the Public Service Commission and the ministry. Some people, probably at the Treasury Board, want to have all the administrative power for regulation in the public service. They already have what we call the "working conditions," such as labour agreements, but they also want to be able to delegate selection to the ministries.

Let us be very prudent, honourable senators. If we do that, we must put in the legislation of every ministry the fact that there will be a merit system with competitive examinations if one is to advance and to be promoted. If the principles of financial administration that are in the public service act are added to the legislation of every ministry, then I am not troubled greatly because we have a guarantee. If someone does not behave according to the regulations, that person will be thrown out. However, let us not forget: We must have principles in public administration, otherwise it is a mess. History proves that. I will not expand on that point, but I know that there is a debate. The pressure is intense at the civil service commission.

•(1630)

Honourable senators, I know a gentleman who was involved in that in 1935. I knew him as a young man when I too was interested in those matters. This gentleman was an old House member on the other side, Mr. Jean-François Pouliot from Rivière-du-Loup. He was involved in a royal commission. I read through that, and it was anecdotal; in terms of patronage, it was history at its best. It has been described in a way that no one else could describe it. We changed it immediately after that, because the government of Mackenzie King accepted it. That was the beginning of a better, higher, civil service for Canada. We want to keep that.

The Hon. the Speaker: I wish to advise honourable senators that if Senator Murray speaks now, it will have the effect of closing the debate on this motion.

[*Translation*]

Senator Murray: Honourable senators, since Mr. Carrier is in the gallery, I am taking this opportunity to point out that the committee is taking the problems that Mr. Carrier and his staff are facing at the National Library very seriously.

Our friend Senator Corbin raised the issue on several occasions before the committee and he did so vigorously. I simply wish to draw your attention to a paragraph in the interim report on the budget for the year 2002-03, which begins on April 1. It reads:

> Some senators asked questions about the financing of the National Library. On page 18-3, we see that the library's budget is only increased by $489,000, to $36.7 million for 2002-2003. Yet, the National Librarian pointed out that the facilities housing the collections are seriously deteriorating. Senators were dismayed to learn that these facilities are in such disrepair that there is a constant risk of flooding or fire. Upon reading the budget, they are under the impression that nothing is being done to meet the wishes of the National Librarian and to remedy the problems that are causing damage to invaluable documents. Mr. Bickerton recognized the existence of the problem at the National Library and he told the committee that the National Library had recently requested $1 billion in additional resources. He anticipates that the money allocated to correct the above-mentioned problems will appear in the next supplementary estimates. He could not say whether the amount requested would be sufficient to put an end to the problems, but he did say that Treasury Board's policy was to encourage departments and organizations to prepare capital spending plans that include costs to repair and maintain their facilities.

I do not know whether Mr. Carrier finds these assurances comforting, but I felt that they should be put on the record.

[*English*]

I am hopeful for any small bit of encouragement that may be provided to him by the words of this report, by the testimony of the Treasury Board officials and by the very determined manner in which our honourable colleague and friend, Senator Corbin, brought these matters to the attention of the committee and the Senate.

Motion agreed to and report adopted.

BUDGET IMPLEMENTATION BILL, 2001

SECOND READING—DEBATE ADJOURNED

Hon. Anne C. Cools moved the second reading of Bill C-49, to implement certain provisions of the budget tabled in Parliament on December 10, 2001.

She said: Honourable senators, I rise to speak to second reading of Bill C-49.

If I may, honourable senators, I wish to say that I was a little distracted as I listened with such interest to Senator Bolduc's comments and Senator Murray's comments. As always, I was touched and impressed by the quality and volume of the knowledge that sits on our Standing Senate Committee on National Finance.

Bill C-49 will implement many of the measures that were contained in Minister Paul Martin's December 10, 2001, budget. In particular, two of these measures flow directly from the terrorist attacks of September 11, 2001 in the United States. The first of these two measures is the proposed Canadian Air Transport Security Authority intended to deliver enhanced security services at Canadian airports and on board flights. The second measure is the proposed Air Travellers Security Charge to fund these enhanced security measures for air travellers.

In addition, Bill C-49, if passed, will also create the Canada Strategic Infrastructure Fund and the Canada Fund for Africa; will introduce tax measures to encourage the acquisition of skills and learning; will improve the environment; and will make the operation of the tax system fairer. Further, the bill proposes to improve parental benefits under the Employment Insurance (EI) program.

Honourable Senators, I wish to begin by providing a brief overview of the measure contained in the 2001 budget speech. The 2001 budget is built on the government's long-term plan for a stronger economy and for a more secure and protected society. Bill C-49 is responding to the immediate economic and security concerns of Canadians resulting from the events of September 11.

In respect of the personal security of Canadians, particularly air travellers, the 2001 budget provided a new approach to air security and introduced measures for intelligence, policing, emergency preparedness, military deployment and for the better screening of visitors, immigrants and refugees entering Canada through airports.

To safeguard the economic security of Canadians, the 2001 budget advanced the government's long-term plan through measures that would make the Canada-U.S. border more open and efficient. As well, the long-term plan included strategic investments in health, skills, learning and research, strategic infrastructure, the environment, Aboriginal children and international assistance. All of these proposals have been advanced in a fiscally affordable way. Bill C-49 includes several of these measures.

Honourable senators, I shall begin this debate by speaking to the government's new and necessary approach to air security, particularly the establishment of the proposed Canadian Air Transport Security Authority as a new agency. As honourable senators know, the 2001 budget announced $2.2 billion in funding for the proposed Canadian Air Transport Security Authority. This authority will be responsible for delivering a number of key air transport security services. It will be required to demonstrate that consistent, effective and highly professional services be delivered at or above the standards set by federal regulations and rules. Transport Canada will continue to regulate the delivery and provision of these security services. This department will dedicate new resources, particularly by hiring additional screening personnel, by increasing the level of security in the air transport system, by adjusting requirements as appropriate and by ensuring compliance to high standards through an enhanced enforcement program. This new separation between the service delivery and the regulatory monitoring will respect the distinction between the two functions and will enhance the checks and balances in the system.

•(1640)

Honourable senators, the primary purpose of the Canadian Air Transport Security Authority is to provide effective, efficient and consistent screening of all those persons who have access to aircraft or restricted areas at designated airports and to screen, as well, all of their belongings. For the delivery of these screening services, the new authority will have the power either to recruit and deploy its own screening officers or to enter into arrangements and agreements for local delivery with security organizations or also to authorize airport operators to provide for these services.

The new authority will be empowered to certify all screening contractors and screening officers, regardless of who employs them, on the basis of criteria that are at least as stringent as the criteria provided for in Transport Canada's regulations and standards.

This new authority will also have the power to establish contracts to address certain basic working conditions that affect the ability of screening officers to do their jobs effectively, such as wages and hours of work, even though the screening officer may not be an employee of the authority. This new authority's approach to screening will provide the benefits of flexible delivery mechanisms, private sector involvement and sensitivity to local needs, while yet simultaneously creating consistency and constancy across the whole system and country. By utilizing the variety of mechanisms available, the authority will be able to put into place a well-qualified and well-trained workforce.

Honourable senators, in addition to certification and pre-board screening, the authority will also be responsible for the following: the acquisition, deployment and maintenance of screening equipment at airports, including explosives detection systems; contributions for airport policing related to civil aviation security measures; and contracting with the RCMP for armed officers on board aircraft.

The Canadian Air Transport Security Authority will be a Crown corporation accountable to Parliament through the Minister of Transport. Two of its eleven-member board of directors will be nominated by the airlines and two by the airport operators.

With the creation of this new authority, Canadian air travelers will benefit from effective, efficient and consistent security screening at airports. The authority and the other comprehensive and far-reaching initiatives of the budget will ensure that Canada can maintain its good record for safety and security and that Canada will succeed in its efforts to enhance air transport security in the months and years to come.

Honourable senators, Bill C-49 also makes another far-reaching proposal. This proposal is the new Air Travellers Security Charge. These new air travel security measures as proposed will be funded by the Air Travellers Security Charge, a charge that will be paid directly by air travellers, passengers, the primary beneficiaries of the new measures. The charge will be collected by air carriers or their agents when airline tickets are purchased. The government believes that these costs should be borne by the travellers who actually use the Canadian air transportation system rather than by all taxpayers.

For travel within Canada, this new security charge will apply to flights connecting airports where the Canadian Air Transport Security Authority has responsibility for passenger screening. The charge on domestic travel will be $12 for a one-way ticket and $24 for a round trip. For continental United States travel, the charge will be $12 and $24 for a ticket to travel outside Canada and the continental U.S. The new charge will not apply to direct flights to or from small and remote airports where the authority will not be taking over responsibility for passenger screening. That is an important fact. There are also exemptions from the charge for certain speciality services, such as air ambulance services. All proceeds from the charge will be used to fund the enhanced air travel security system. The government will review the charge annually, beginning in the fall of 2002 this year, and if revenues exceed costs over time, the charge will be reduced.

Honourable senators, the December 2001 budget had also addressed the immediate needs of Canadians through targeted investments intended to boost confidence in the economy in a way that fits within the government's prudent fiscal framework. By investing in strategic infrastructure, in skills, learning and research, and in health, Aboriginal children, the environment and international assistance, the 2001 budget reflected the government's long-term vision while providing important support for the economy as a whole.

Several of these strategic investments are included in Bill C-49. The first such investment is infrastructure investment. This involves the establishment of the Canada Strategic Infrastructure Fund, with a minimum of $2 billion in federal funding, to provide additional support for large strategic infrastructure projects across Canada. Such projects will bring lasting economic and social benefits while providing both stimulus and long-term productivity benefits. Previous budgets had allocated funding to improve provincial and municipal infrastructure, including green infrastructure, highways and affordable housing.

On reflection, Budget 2000 had introduced the Infrastructure Canada Program and the Strategic Highway Infrastructure Program, initiatives that the 2001 budget are now building upon with the Canada Strategic Infrastructure Fund. Working with provincial and municipal governments and the private sector, this fund will provide assistance for projects in highways and rail, in local transportation, in tourism and urban development and in water and sewage treatment. I should also mention that the infrastructure minister will now be responsible for all government infrastructure initiatives. This will ensure better coordination and integration of all the government's infrastructure activities.

Honourable senators, another strategic investment in the 2001 budget involves the establishment of the Canada Fund for Africa. The 2001 budget had announced $500 million over three years for African development to implement a proposal known as a New Partnership for Africa's Development, NePAD. African leaders presented NePAD at the G8 Summit last July in Genoa, where G8 leaders, including Prime Minister Jean Chrétien, had pledged to support the initiative. Since then, the Prime Minister has been clear that development in Africa will be a key theme at this year's G8 Summit, which Canada will host in June of this year, 2002, in Kananaskis, Alberta.

The Canada Fund for Africa will establish a government program to provide funding for activities that will help reduce poverty, provide primary education in Africa and will set Africa on a sustainable path to a brighter and better future. The creation of this fund reaffirms that Canadians are earnest in their duty to help the less fortunate in the world. It also echoes a commitment made in the Speech from the Throne, that the long term well being of Canada and Canadians depends on its success in improving global human security, prosperity and development.

Honourable senators, whether through the education system, or through on-the-job training, or through universities and other centres of advanced research, the Government of Canada has long recognized the importance of investing in human beings. The government remains committed to provide every opportunity for Canadians to upgrade their skills and job capabilities. For example, under the Canadian Opportunities Strategy announced in the 1998 budget, the government had introduced the Canada Millennium Scholarships, the Canada Education Savings Grants and the Canada Research Chairs program and had invested in the Canada Foundation for Innovation, among other initiatives.

[Senator Cools]

Honourable senators, building on these, the 2001 budget further encourages the acquisition of skills and learning by making changes to the tax system. First, tax assistance will be provided to help apprentice vehicle mechanics cope with their extraordinary costs. Beginning this year in 2002, apprentice vehicle mechanics registered in a provincial program will be able to deduct the cost of buying new tools in a year to the extent that those costs exceed the greater of $1,000 and 5 per cent of their apprenticeship income.

•(1650)

A second measure will affect adult students who must now include as income any government assistance they receive to pay their tuition fees for basic education at the primary or secondary school level. Bill C-49 will remove this impediment by exempting from tax the tuition assistance for adult basic education provided under certain government programs, including Employment Insurance.

A third measure will involve the education tax credit, which assists students to offset their education expenses. The October 2000 economic statement and budget update had doubled the amounts on which the credit is calculated. With the passage of Bill C-49, the education tax credit will now extend to students who receive financial assistance for post-secondary education under certain government training programs, including EI. Approximately 65,000 Canadians who are upgrading their skills will now have access to the same tax benefits as other post-secondary students.

Honourable Senators, new spending and tax measures intended to ensure continued progress toward a cleaner and healthier environment were also part of the 2001 budget. One of these measures involves commercial woodlot owners who can currently be subject to income tax when transferring woodlots to their children. As a result, woodlots may have to be harvested prematurely to generate the revenues required to pay the tax on the transfer, which can be detrimental to the sound management of this natural resource. Bill C-49 proposes to extend the existing intergenerational tax-deferred rollover for farm property to intergenerational transfers of woodlot operations that are farming businesses managed in accordance with a prescribed forest management plan.

Additional tax measures, all designed and intended to improve fairness in the tax system, were also announced in the December 2001 budget. One such measure will make permanent the 1997 budget measure that provides special tax assistance for donations of certain securities to public charities and the 2000 budget measure that reduces the tax on employment benefits for donations of eligible securities acquired through stock option plans. Another measure will improve the system for providing GST credits. Beginning in July 2002, GST credit entitlements for a quarter will be based on an individual's family circumstances at the end of the preceding quarter, not those at the end of the previous calendar year.

Honourable Senators, Bill C-49 will include other tax measures, which are as follows: A cash-flow benefit to small businesses by deferring their federal corporate tax instalment payments for January, February and March, 2002, for at least six months without penalty; the allowance of full deductibility for the cost of meals provided to employees at a construction work camp where the employees cannot be expected to return home each day; and the removing of tax-related impediments to venture capital investment in Canada through the use of partnerships by Canadian pension plans and foreign investors.

Honourable Senators, the final measure in Bill C-49 will further improve the delivery of parental benefits under EI, Employment Insurance. The current 50-week cap on the combined amount of sickness, maternity and parental benefits that an individual can receive under EI results in women who become ill, not having full access to these extended benefits. To enable a mother to receive her full entitlement of special benefits, this cap increases by one week for each week of sickness benefits she takes while pregnant or receiving parental benefits. This bill will also improve the parental benefits that can be claimed following the birth or adoption of a child by providing parents with a window of up to two years within which to claim benefits. In unfortunate cases where the child is hospitalised for an extended period of time following its birth or adoption, this change will provide more flexibility for parents who want to start claiming parental benefits once their child arrives home.

In conclusion, the 2001 budget builds on Canada's sound fiscal and economic fundamentals. The economic stimulus provided in the budget is in addition to the stimulus provided by the large tax cuts the government announced in October, 2000.

In the 2000 budget, the government introduced the largest tax cuts in Canadian history. In October, 2000, the government had accelerated that plan. This year, lower taxes have put $17 billion back into the pockets of Canadian families and businesses — needed money that they can spend or save as they wish. By next year, the value of the tax cuts will grow to $20 billion. This is a significant stimulus which is already working its way through the economy.

The 2001 budget struck the right balance. It provided support at a critical time, without jeopardizing the advances of our past or the prospects of our future. The government will continue to invest in people, cut taxes, reduce debt and build a stronger economy. However, we will not go back into deficit.

Honourable Senators, the Government is definitely on the right track. I urge all senators to support Bill C-49.

[*Translation*]

Hon. Roch Bolduc: Honourable senators, obviously the Budget Implementation Act, 2001, addresses a number of subjects, the main ones being the new Crown agency for administering airline security and the air travel tax, as well as the new funds, the Africa Fund and the Strategic Infrastructure Fund.

Between six and eight sectors of the Income Tax Act are affected. I will not go into all this today. Because there will not be much debate on the amendments relating to the Income Tax Act, I will concentrate the bulk of my criticism on four items, the first concerning the tax on air travel.

[*English*]

The new surcharge of $12 per flight or $24 return on air travel is by far the most contentious measure. It is far higher than it needs to be. It will adversely affect travel that ought not to be affected, and government has not even looked at the potential economic downsides.

Honourable senators, back in December, the government announced it was taking over airport security, and imposed this $12 tax to cover the cost of running and improving it. We were promised that the tax would cover those costs and nothing more. How did the government decide that $12 would be exactly the right amount? We know the minister's officials took the number of people boarding planes in the year 2000, subtracted 30 per cent, then assumed that passenger levels would remain at that lower level for the next five years. It then divided the amount of money needed by this deflated denominator to arrive at $12. The reality is that passenger loads have almost recovered to September 11 levels. This tax could raise an extra billion dollars in revenue over the next five years if it is not significantly reduced.

I am very sorry to say this, but the government should not be using the tragic events of September 11 as an excuse to pad its surplus. This is another version of EI, a dedicated tax that is anything but dedicated.

Nothing in Bill C-49 specifies that revenues from this tax must match the cost of airport security. There is nothing that forces the government to lower the tax if it raises too much money. Of course, the government is promising to review the tax in the fall and lower it if necessary. That promise was made in desperation when the Liberal member of the Finance Committee in the other place was about to cast the deciding vote to cut the tax. Do you remember the promise to axe the GST? We are still waiting.

Honourable senators, beyond the rather questionable math used to set the rate during committee testimony in the other place, it was learned that the government made a new economic impact assessment prior to announcing the tax. The minister of finance might want to take a few minutes to read his own government Treasury Board guidelines, as they specifically require departments and agencies to conduct an impact assessment before setting or changing a user fee.

While the government failed to look at the potential damage this tax could cause, the problems are obvious. There is the matter of service to remote communities. Places like Sandspit, British Columbia, and Îles de la Madeleine, Quebec, where air travel is the only reliable year-round means of getting in and out.

•(1700)

Honourable senators, if you live here, in the National Capital Region, it is a 20-minute drive to take your child from Kanata, Hunt Club, Hull or Orleans to the Children's Hospital of Eastern Ontario. If you live in Kuujjuaq, Quebec, forget about driving your child to a hospital in Quebec City or Montreal. The two of you will have to fly, and it will cost the two of you an extra $48.

Then there is the impact of this tax on passenger travel. An extra $24 return will not make that much difference when applied to a $2,000 ticket from Edmonton to Ottawa. However, it will make a significant difference on a $200 seat-sale flight from Ottawa to Toronto — except for civil servants, of course, because their tickets are paid by the government. So the government is taxing itself.

Several of the carriers serving smaller communities have pointed out that this could create a major disincentive to fly on short-haul routes, and they are right. If you and your spouse are flying at your own expense from Ottawa to Toronto, or from Edmonton to Calgary, or from Regina to Saskatoon, you will notice an extra $48 between the two of you. That is almost what you would spend on gas one way; and if you have a small enough car, it may cover the return trip. You will think about getting in your car and driving.

Some people will consider taking the bus. A round-trip bus ticket from Montreal to Toronto is about $165, including tax. If a budget-conscious traveller books a week in advance, a companion ticket is free. If you live in the Quebec-Ontario corridor, add VIA to the list of travel options. A round-trip economy ticket from downtown Montreal to downtown Toronto on VIA costs $235, including all taxes; and if you buy your ticket far enough in advance, that fare drops to a tax-included amount of $142.

Honourable senators, there is not an airline seat sale around that beats those bus and train prices, once you have included all taxes and NAV CANADA charges. If you factor in the time it takes to get to the airport, to check in and to go through security, as well as the time it takes to pick up your luggage at the other end and then the time it takes to get a cab downtown, you find that you have spent a lot of money to save a couple of hours of travel time. The result is that an extra $24 charge on short-haul flights will shift a lot of travellers off the planes and into cars, buses and VIA at the expense of competition and service in the air.

If the government really wants competition in the airline industry, shrinking the market so that short-haul runs can no longer support two carriers is not a very smart thing to do. The government has refused to consider any other model than a flat $12 rate, regardless of distance travelled. That rate is simply too high for short-haul flights. Nor has the government considered other alternatives to keep the tax down. For example, it wants the tax to pay for all equipment the year it is purchased, rather than amortizing the cost over the life of the equipment. That alone would lower the tax to $8.

The Minister of Transport now tells us that airlines can offset the tax by reducing their prices to account for the savings in having the government run the transportation system. That saving, some $70 million per year, works out to about $2 per ticket.

A further problem is that, as written, this tax will apply to some flights for which there is no security. For example, it is not unusual for passengers on a special charter to be bused onto the tarmac and taken directly to their waiting plane. Another example occurs at Vancouver International Airport. There is the main terminal that many of us have been through at one time or another. There is also the south terminal, two kilometres from the main terminal. The south terminal is the point of departure for smaller planes and charters. You walk in one door and then out the other to go to your plane, without passing through security. As written, the bill applies to the south terminal, unless the minister agrees to waive the tax, as he already has for flights from the Vancouver harbour to Victoria Harbour. Why does Bill C-49 give that kind of discretion to the minister instead of simply saying that no tax shall apply if no security services are provided?

Another problem would be the way the tax applies when the same trip involves two airlines that do not have an integrated ticketing system. You will pay the tax once on the ticket for the first airline and then a second time for the ticket on the second airline. You will then have to apply for a refund, as you only went through security once.

Honourable senators, this tax has not been well thought out. It ought to be sent back to the drawing board before it causes unnecessary harm.

Here is an additional argument, which I think is a good argument. Even though the flat rate was adopted by the government in part because of its apparent simplicity, changing complex computer reservation systems has proved a complex undertaking. Provincial sales tax, the point of ticket purchase, the number of legs in the trip and the airports of origin and destination all must be factored in. However, the government has yet to resolve even the basic issue of how to implement the fees. So we might have some problems, like we had with the credit to offset heating costs.

These things were decided suddenly in January, to be applicable at the end of March. Even though the bureaucracy works hard and tries to be efficient, it is not easy to apply a new system for the whole of Canada. We might have some problems, although I hope not. We have more than 125 airports in Canada. I do not know if all of them are covered with the security services. What will happen with private planes and charter flights? For example, how will this affect Senator Watt when he travels?

We have all become aware of the problems with the proposed airport tax in recent weeks. Over the next five years, that tax could increase to $1 billion more than we were told last December, because the Minister of Finance made some rather pessimistic assumptions about passenger loads to figure out what rate was needed to raise $450 million per year. One has to wonder about how reliable any other number coming out of that department is.

This proposed tax could damage competition and lead to reduced service on short-haul flights, where bus, car and train travel are cheaper alternatives. The tax will cause not only economic impacts but also regional impacts. Taxes and surcharges will make up almost half the cost of some short-haul flights. The government ignored its own guidelines.

Turning to the second aspect of this legislation, most of the money from this tax will be used to pay the bills of the proposed Canadian Air Transport Security Authority, a new corporation that the government plans to set up to run airport security. In recent years, those of us on the opposition benches have been concerned about the poor governance structures that are sometimes put in place when the government creates new agencies and foundations.

There are two tests that we have to apply to this proposed new security agency. First, given the amount of money that it will spend, basically the lion's share of the $12 ticket tax, is the governance structure adequate to protect taxpayers' money and to ensure that it is able to improve airport security? Second, are there sufficient mechanisms available for Canadians to judge whether the authority has significantly improved airport security or whether it has become another expensive boondoggle?

In this respect, the legislative framework set out in Bill C-49 is deficient in a number of areas. First, let us look at what the government can hide. Clause 32 of this bill allows the minister to block the tabling of information in Parliament that would otherwise be required under section 10 of the Financial Administration Act if he or she feels that it would be detrimental to public security. I understand that, for public security purposes, we have to make a compromise, but the minister could use that pretext of public security to hide some other things that are not interesting in terms of administrative management. We all know that.

This affects three types of information. The first is directives from cabinet to the entity, the authority. The second is significant problems found during an annual audit that the Auditor General feels should be drawn to Parliament's attention through inclusion in the agency's annual report. The third is significant problems found during a special examination that the Auditor General feels should be included in the entity's annual report to Parliament.

Honourable senators, special examinations are the Crown corporation equivalent of the value-for-money audits performed on government departments. By law, each Crown corporation must undergo a special examination every five years. Its purpose is to give the board an independent opinion on whether the corporation's financial and management control and information systems, and management practices, are proper. In practice, the problems have to be really serious for the Auditor General to order that the results be reported to Parliament. It happens less than 10 per cent of the time.

There are no safeguards built into this bill to ensure that the minister does not use transportation security as an excuse to simply block publication of embarrassing information. There is nothing to ensure that the minister does not confuse transportation security with security of tenure in office, because he has a built-in interest. I do not say he is dishonest, but he does have a built-in interest. It is different.

•(1710)

Further, normally under the Financial Administration Act directives from the government to a Crown corporation come from cabinet, on the recommendation of the minister, following consultation with the board as to the content and effect of the directive. Such directive must be tabled in Parliament. However, Bill C-49 proposes to allow the minister to issue written direction to the authority, on his or her own, on matters of airport security without ever going to cabinet. He or she need not consult the board, and there is no requirement that the directive be tabled in Parliament.

As well, Bill C-49 specifically declares that these are not statutory instruments. This denies Parliament a mechanism for review of those directives. Indeed, Parliament need not even be informed of such directives. Further, the bill requires the authority, its directors and employees to comply with such a directive, but what if compliance with the directive places the authority, its directors or its employees in violation of other federal laws, the laws of a province, or the by-laws of a municipality? In such a case, which law would the directors and employees follow and which one would they break?

The bill does require the minister to conduct a review of the legislation governing the authority after five years and to table a review in Parliament, and there is no requirement that this shall be an independent, arm's-length review. This agency could be a boondoggle of the highest magnitude, but we would only be told what the minister wants us to hear. This is important. In terms of a five-year review, I do not mind that people inside conduct a review, but ideally this should be an independent review by either the auditor or the Senate.

Honourable senators, as drafted, Bill C-49 does not add the authority to the list of entities subject to the Access to Information Act and the Privacy Act. It would only be subject to this law if cabinet chose to pass a regulation to that effect. This government has not been known for openness. Are there not ample safeguards in the existing access and privacy laws to prevent the release of information that would jeopardize security? Given the amount of money this new corporation will be spending, is it appropriate to exempt all information? It will be spending something in the order of $300 million. For

example, if the minister leans heavily upon the authority to hire a speech writer or a screening contractor whose head office just happens to be in Shawinigan or elsewhere, should the public not be able to determine how many of their hard-earned tax dollars are at play?

A further problem concerns the ability of the minister to place a gag order on airports and screening contractors. Clause 32 of Bill C-49 requires authorized aerodrome operators and screening contractors to keep confidential any information the minister feels would be detrimental to air transport security or public security. This includes financial and other data that might reveal such information, and creates yet another roadblock to prevent Canadians from knowing the value of contracts awarded to friends that may have ties to the governing party.

Further, there may be instances where limiting the financial information that the contractor could divulge to other parties might cause problems for the contractor. Perhaps when the officials appear before the committee they can tell us what would happen if a provincial tax auditor wanted to look at the contractor's books, for example. Which law would the contractor follow? Would the contractor follow the federal law saying that the information cannot be divulged because the minister said so, or the provincial law demanding that the contractor cooperate with its tax auditors?

For that matter, what will happen if the bank wants a full breakdown of the contractor's revenue and expenditure prior to granting a line of credit? That happens frequently. The minister demands that you keep some of the details of your contract secret, while the banks want to see all the details before giving you an operating loan. In short, you have the contract but you cannot fulfil the contract. What would happen if a prospective buyer for the contractor's business wants to view a full set of books prior to agreeing to a price?

Honourable senators, the December 2000 Auditor General's report recommended that Crown corporation boards have a role in selecting both the chief executive officer and the chairman of the board — a practice that is the norm with private sector boards. Bill C-49 partly implements this recommendation by assigning to the board responsibility for selecting the chief executive officer. A further step would have been to also make the board responsible for electing its own chair. The legislation will go beyond that governing most other Crown corporations in giving the airline industry two seats on the board and two to aerodrome operators.

It also says that directors, in the opinion of cabinet, have the experience and capacity required for discharging their duties and functions. While this wording is a bit stronger than what we are used to seeing, it means nothing if the minister views running a Liberal riding association as the necessary "experience and capacity" for the appointment of the rest of the board.

The Auditor General, in his December 2000 report, noted that several Crown corporation boards did not have enough members qualified to sit on an audit committee, or for that matter, enough members that were sufficiently familiar with basic accounting rules to challenge management. There is no requirement in this bill that any director have experience in financial management or accounting. I think that is a mistake.

Honourable senators, to sum up, this agency will have some problems.

I should like to say a few words about the Canada Fund for Africa and the Canada Strategic Infrastructure Fund. We understand that the Prime Minister and the Government of Canada have made a commitment to the G8 that there will be a new partnership for African development. However, since the adoption of any new measures by the group of G8 is scheduled for Kananaskis in June 2002, we do not have much information on the scope of this new partnership. Less than a page of a bill which is 101 pages in length is devoted to these measures, which involve an expenditure of $500 million. What do we know? We know the title of the funds. We know that eligible recipients will receive money, and the minister will agree to that. It troubles me that the minister has huge discretionary power, and that there is no accountability.

Honourable senators, we all want to help Africa. However, it seems to me that we should include at least one or two criteria. For example, do we give money to dictatorial governments in Africa that constantly violate human rights? We should think about this, honourable senators. At least two or three broad criteria should be included in the legislation which will apply to this African fund.

[*Translation*]

For the last project, the Canadian Strategic Infrastructure Fund, the definition is given of what is involved: roads — as in the Duplessis days, stretches of road — water systems, sewage systems. The minister can also define other strategic elements. The system is the same. Exorbitant discretionary power is given to the minister.

[*English*]

This brings us to the issue of what anglophones refer to as "pork barrelling." We never know what influence is brought to bear because, of course, some agreements are possible, and we have seen some such agreements in several areas of Canada, including Quebec.

[*Translation*]

In my opinion, there is a lack of accountability here. I have nothing against governmental discretionary power. However, at the very least, legislation should be structured so as to create a reasonable legislative framework within which ministers and departmental employees may operate. All that we have here is a title and an amount of money. This is really going too far.

[*English*]

Hon. Douglas Roche: When Senator Cools finished her speech, I rose for the purpose of being recognized to ask her a question, but His Honour's visibility was blocked by a senator who was standing near the Table. I did not want to interrupt Senator Bolduc. Thus, I am asking His Honour's consent to ask two questions of Senator Cools now.

•(1720)

The Hon. the Speaker: Is leave granted, honourable senators, for Senator Roche to put a question to Senator Cools?

Hon. Senators: Agreed.

The Hon. the Speaker: Leave is granted. Will the Honourable Senator Cools accept a question?

Senator Cools: Yes.

Senator Roche: Honourable senators, we all know that, usually, budgetary bills have more than one item in them. However, this budgetary bill is widely discordant in that the centrepiece, the thrust of the bill, is the air travellers tax, but it also contains a very important section on the Canada Fund for Africa.

I declare my position immediately. I am opposed to this tax, and I want to vote against it. However, if I vote against the tax, I would be voting against the Canada Fund for Africa, which I very heartily support. I do not want, by one vote, to penalize the Canada Fund for Africa. I wish to emphasize that to place honourable senators in the position of having to choose between airport security on the one hand and development for Africa on the other, in the same bill, is not right.

Why did the government not present a separate bill for the Canada Fund for Africa? I am sure that Senator Bolduc implied in his comments that it would receive general support. Why is Africa tied in with airport security?

Senator Cools: Honourable senators, I thank Honourable Senator Roche for his question.

The honourable senator is absolutely correct. Bill C-49 is really a collection of bills. One could actually separate the items out and place them in separate bills.

In the interest of giving the senator some reassurance, I would like to share with him this fact. The government is being extremely zealous, careful, vigilant and diligent because the overwhelming opinion is that legislation was not necessary to set up this particular matter. It was the opinion of the government and the important ministers that they wanted to be sure it was in legislation because they are mindful of the fact that there are members of the National Finance Committee who keep posing questions to them, to wit: Why is it that such large expenditures are being made without legislation? The ministry wanted to be sure that senators and members of Parliament would be absolutely assured that they were coming here to ask for the expenditure, to ask for the money in the form of a bill.

I would have thought that that would make people rejoice. I hope I have answered the question as to why there is a bill.

Senator Roche: I hope Senator Cools will not mind my saying that her answer was rather disingenuous. I suppose she gave the best answer she could. However, I do not accept her answer. I will not debate that point now. I said that I would only ask two questions, and here is the second question.

Why did the government not conduct a study on the economic impact of the air travellers tax? The honourable senator indicated that if the revenues exceed the expenses in connection with the administration of the tax, then the charge will eventually be reduced. That already indicates that the government does not know how much revenue the tax will actually raise.

Honourable Senator Cools said that the tax is put on travellers because they are the primary beneficiaries of airport travel. Would the honourable senator not agree that the primary beneficiary of airport travel in the age in which we live is the entire public? This is a matter of national concern, not the concern, in a primary sense, of the individual concerned. The individual is being penalized.

Would the honourable senator consider the impact of this tax on travellers between Edmonton and Calgary, which is a short distance but long enough to take an airplane? The deleterious consequences of this $24 tax on a run between Edmonton and Calgary will certainly hurt the economy in both cities. That would have been found out had there been a study on the economic impact. Why was there not a study on the economic impact of a tax of such importance in today's world?

Senator Cools: Honourable senators, I thank the honourable senator for his question.

I take issue with the honourable senator's first statement to me. I wish to state for the record that simply because I gave an answer that the honourable senator did not like in no way makes my response disingenuous.

The honourable senator keeps referring to this charge as a tax. I am not too sure if he is doing that deliberately, if it is purely an affectation or if it is an accident. However, the legislation refers to a charge. The legislation, and the record should be crystal clear on this, refers to it as an air security charge. It does not call it a tax or a user fee. The term is "charge."

The benefit of the honourable senator's question is whether the government has really considered the impact of this charge on the pocketbooks and the purses of air passengers. Quite frankly, I think the honourable senator has a valid point. It is a worthwhile question and should be answered.

If the honourable senator were to look at clause 12(3) of the bill, he would see that the government has a proposition therein that the minister can reduce the amount of the charge. I think I made it quite clear in my remarks that it is the intention of the government to review the entire matter in the fall; and, if reductions are necessary, I think I can say the government would be looking at that with a high degree of seriousness.

I think that the government laid out the bill in a very systematic way. However, the fact of the matter is that the government has not had much experience in dealing with the situation that is now put before us in this bill. We have to be mindful of that. Quite frankly, I do not think any government on the continent, including the United States of America, has had much experience responding to the conditions, the emergencies and the problems that have been created by September 11.

•(1730)

In point of fact, the government is finding its way. Frankly, I am amazed and impressed that the government was able to respond as quickly as it has and in such a comprehensive and fair fashion.

The Hon. the Speaker: Honourable senators, I should point out that I have allowed Senator Roche to put a question to Senator Cools, with leave of the Senate. Other senators are rising. I will recognize first the Deputy Leader of the Opposition, Senator Kinsella.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, Senator Cools drew our attention to clause 12(3). There is no clause 12(3) in Part 1 of the bill. Was she referring to Part 2?

Senator Cools: Yes, Part 2, page 21. The bill, as I said before, is laid out in parts, and each part actually forms a bill. The clause 12 that I was speaking to is in Part 2, called the Air Security Charges Act. Each part may have a clause 12. The first part of the bill is the enabling authority and the constituting of the actual air transport authority agency.

Honourable senators, we are blessed and fortunate because tomorrow night, at the meeting of the Standing Senate Committee on National Finance, we have an unusual situation. We will have two ministers — not one, but two — appearing before the committee to defend the bill. I would love to take the opportunity to invite all honourable senators to come to question these two ministers. The ministers are John McCallum, the junior Minister of Finance, and then a more senior minister, the Honourable David Collenette, Minister of Transport.

Senator Kinsella: I assume there is an assumption behind the last statement made by Senator Cools. She announced that these two ministers will appear before the committee. The assumption is that this bill will receive second reading.

[Senator Cools]

Senator Cools: I was making a reasonable assumption that the bill will receive second reading. I was also making a very reasonable assumption that when the bill has received second reading and is referred to the committee, the two ministers will appear to satisfy and to answer all the questions that honourable senators can possibly put to them.

Hon. Edward M. Lawson: I should like to make a few brief comments. On the security issue, the premise is that this bill is to improve and expand on existing security. I can accept that. The question is the amount. The Americans have a maximum charge of $10. Why is ours $24?

Senator Kinsella: In American dollars.

Senator Lawson: That is only $15.50 or $16. It is still too high if one makes a straight comparison of U.S. to Canadian dollars. The Minister of Finance said he will review it in September. We know now some things that he will find when he reviews the charge, and one of them being that it is too high.

Senator Bolduc raised the issue about the south airport in Vancouver. I understand that part of the philosophy they are applying is that if you do not go through an airport, for example, with the heli-jets, then you will not pay. There is some merit to that. It makes some sense. Now we have the south airport. Remember that the premise is that this charge will improve and expand on existing security. Existing security at south airport is zero. What will it be the day after we pass the legislation? Zero. What will it be when it is reviewed in September? Zero. Where I come from, that is called taking money under false pretences. It should not happen. Paul Martin is a very good Minister of Finance, and he says the government will review it. If the government takes the money and give no benefit for it, what will they do? Will they return the money? Will the money be given back, at a huge cost to the government? I have never seen a track record of sending money back.

There are a number of concerns in those coastal communities. I can understand why they do not have security. When you get in an airplane late in the afternoon, they give you a plastic knife because they do not want you to have anything that resembles a real knife. Loggers do not have a plastic knife or a real knife, but they probably have an axe and a chainsaw. I understand why they may not want to go through security. We need to use common sense and be realistic.

Presently, some of the airport authorities have union contracts representing some of the workers. The usual thing in long-established, Liberal legislation is successor status. If Company A takes over Company B and there is an existing collective agreement, Company A inherits it. Is there such a provision in this legislation? No. There is zero protection. I suspect that when the government finishes, many of the existing contractors will probably still be there. They will be rehired or hired by the government instead of working for the airport authority, and they will bring in others, and that simple basic protection will be lost. They will not have it. That troubles me.

Another thing that troubles me is that I understand there is a provision for 11 directors on that board. The government said through the minister that there would be two representatives from Air Canada, which is good sound logic. There will be two from the airport authorities, which is good sound logic. The committee in the other place recommended two from labour. The minister knocked that, so they have zero representation. What is happening over there? What is happening with the government? In previous administrations, previous Ministers of Labour would not have brought in a piece of legislation that did not recognize that the success or failure of the program would depend on the cooperation and the ability of the workers to work with management to make it a success. First, you give them no security on successor status, and then the minister rejects the committee's recommendation and says no representation.

Who will be the other seven directors? I understand that the minister will select them, but if you want a successful program, does it not make sense to have either the workers or their representatives on the 11-man board? What is happening?

I have noticed in the last five or six years that there seems to be an attitude of "Let's not bother; the minister knows best, and he has the authority." He appears to be displaying a kind of arrogance that the workers should not be represented. I would urge the government when considering this legislation — it is not too late to make the appointments — to give some recognition to the people who will be largely responsible for the success of the program, which we must have if we are to have security. The government should not be taking money under false pretensions by promising to do things or to increase and expand security when there is zero security now and there will be zero in the future.

Senator Cools: It seems to me that the honourable senator's statement was more of an intervention than a question.

The Hon. the Speaker: Honourable Senator Lawson did not ask a question; it was an intervention. However, Senator Cools can ask him a question.

Senator Cools: Did the honourable senator intend that as an intervention, or did he intend it as a question?

Senator Lawson: I was not asking a question. I was expressing my views.

Senator Cools: I thought he was asking a question, and I was taking notes so that I could respond.

Senator Lawson: I did not want to take the risk. I was afraid the honourable senator might answer it.

Senator Cools: Do not worry, I will answer it when I close debate.

Senator Lawson, as we all know, has had great ties with labour. In his remarks, he did raise the question of the 11-member board of directors of the new agency, the new authority, and he was proposing or concerned that two of them should be from labour.

I should like to ask the honourable senator the following question: Why would a statute be necessary for the minister to be able to appoint two directors from labour? The minister may choose to appoint many more than two. Who would know?

Why does the honourable senator believe it would have to be enshrined in statute for the minister to appoint two from labour?

•(1740)

Senator Lawson: I do not think it should necessarily be in statute. However, if there is a provision in the statute for two from Air Canada and two from the airport authorities, and if that is set as precedent, they should all be enshrined. If not, why would he reject the recommendation of the committee of the House of Commons to appoint two from labour? If it is going to be in the statute, they should all be covered. If it is not going to be in the statute, make the appointments.

On motion of Senator Kinsella, debate adjourned.

[*Translation*]

QUESTION OF PRIVILEGE

SPEAKER'S RULING

The Hon. the Speaker: Honourable senators, last Thursday, March 14, Senator Cools claimed a breach of parliamentary privilege in connection with debate on Bill S-9, the definition of marriage bill. The incident that sparked the senator's claim occurred the previous day, Wednesday, March 13, when there was an exchange between the senator and Senator LaPierre following the speech of Senator Wilson on Bill S-9.

[*English*]

In making her case, Senator Cools raised the following points. First, the senator maintained that the arguments of Senator LaPierre, when he spoke to Bill S-9 on March 6, were blasphemous and unparliamentary and called into question the motives of Senator Cools in sponsoring the bill. More important, Senator Cools alleges that through several exchanges that occurred between her and Senator LaPierre — some recorded in the *Debates of the Senate*, some not — Senator LaPierre showed disrespect to a justice of the British Columbia Supreme Court. In the view of Senator Cools, these remarks constitute a breach of privilege that could be properly remedied through a motion of apology addressed to the particular justice, were I to find that a *prima facie* question of privilege had been made.

[*Translation*]

In commenting on the case made by Senator Cools, Senator Murray noted that there was nothing on the public record that supported the contention of Senator Cools that Senator LaPierre had spoken disrespectfully of any judge. Senator Murray also suggested that in raising this question of privilege, Senator Cools seemed to be in a conflict with her own professed belief in the importance of protecting freedom of speech in the Senate.

Senator LaPierre then made some comments explaining his assessment of what had occurred last Wednesday. This was followed by brief interventions by Senator Lapointe and Senator Stratton.

[*English*]

Having reviewed the transcript of last Thursday, it is my ruling that there is no *prima facie* case of privilege. The complaint raised by Senator Cools, as I understand it, is more in the nature of a point of order than a question of privilege. Insofar as it is founded in part on the remarks of Senator LaPierre of March 6, it is clearly out of date.

With respect to any comments that might have been exchanged between these two senators last Wednesday, these, too, might have been the object of a point of order at that time had they been on the public record. Be that as it may, senators should be mindful of the need to respect their colleagues' right to speak and should refrain from unnecessary interruptions.

The *Rules of the Senate* provide a mechanism for bringing a question of privilege to the attention of the Senate quickly. It is not a procedure to be invoked lightly. As rule 43(1)(*b*) and (*d*) state, any alleged breach must "be a matter directly concerning the privileges of the Senate" and it must "be raised to correct a grave and serious breach." Once proper notice is given in writing and then orally under Senators' Statements, a senator is allowed an opportunity to bring the alleged breach of privilege to the attention of Senate after Orders of the Day. In this instance, nothing I heard met the usual tests as described in our rules and the parliamentary authorities that would justify a claim to a breach of parliamentary privilege.

SURVEY OF MAJOR SECURITY AND DEFENCE ISSUES

REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the fifth report (final) of the Standing Senate Committee on National Security and Defence entitled: *Canadian Security and Military Preparedness*, deposited with the Clerk of the Senate on February 28, 2002.—(*Honourable Senator Banks*).

Hon. Douglas Roche: Honourable senators, this item stands in the name of Senator Banks, with whom I have held discussions. Senator Banks is in accord with my desire to adjourn the debate.

I do wish to speak to the centrality of the issue raised in the report concerning the need for a foreign policy review before a defence review. I should like to elaborate on the argument, but I need some time to prepare my remarks. Thus, I move the adjournment of the debate.

On motion of Senator Roche, debate adjourned.

[The Hon. the Speaker]

[*Translation*]

THE SENATE

MOTION TO AUTHORIZE BROADCASTING OF PROCEEDINGS AND FORMATION OF SPECIAL COMMITTEE ON RESOLUTION—DEBATE ADJOURNED

Hon. Jean-Robert Gauthier, pursuant to notice given December 6, 2001, moved:

> That the Senate approve the radio and television broadcasting of its proceedings and those of its committees, on principles analogous to those regulating the publication of the official record of its deliberations; and
>
> That a special committee, composed of five senators, be appointed to oversee the implementation of this resolution.

He said: Honourable senators, this is an issue which is topical. That the Senate approve the radio and television broadcasting of its proceedings is at the root of democracy. The experience of the House of Commons in this regard has been positive, and has been so since 1977. We must make the proceedings of the Senate known.

•(1750)

There are many myths outside this chamber. I would like us to be serious and broadcast our proceedings in order to allow Canadians to understand this institution, the Senate.

We are about to purchase television equipment, cameras and so on. We need to do this in the context of a new provision that could provide Canadians with better information. Television is a hot medium. We need to use it. We do not make enough use of it. I will not talk about that, because it would provoke numerous debates. I want to revisit the fundamental issue, that of why we should broadcast the proceedings of the Senate and its committees on television. Our work would be better known, viewed more positively.

Honourable senators, I would like to adjourn debate in order to continue presenting my position in the Senate on this motion.

On motion of Senator Gauthier, debate adjourned.

•(1750)

[*English*]

THE *HALIFAX GAZETTE*

MOTION IN CELEBRATION OF THE TWO HUNDRED FIFTIETH ANNIVERSARY—DEBATE ADJOURNED

Hon. B. Alasdair Graham, pursuant to notice of March 14, 2002, moved:

> That the Senate of Canada celebrates with all Canadians the 250th anniversary of Canada's first published newspaper, the *Halifax Gazette*, the publication of which on March 23, 1752, marked the beginning of the newspaper industry in Canada which contributes so much to Canada's strong and enduring democratic traditions.

He said: Honourable senators, in the aftermath of Robert Mugabe's actions to design elections in Zimbabwe that the opposition could not win, much of the international community has been angered by such an arrogant display of contempt for the democratic process.

As one who has actively served in many countries in the cause of democratic development, I am only one amongst many who believe that the elections that were held were indeed designed to fail. Of course, any experienced election observer will tell you that dictators attempt to root out the fragile seeds of freedom first from the minds of ordinary people. Zimbabwe was no exception. In the course of the election campaign in that country, Mr. Mugabe and his supporters did what all dictators have done before them. His thugs used violence and intimidation of the worst magnitude against opposition forces. Less noticed, perhaps, was that much of the international press was run out of the country, and Mr. Mugabe implemented laws that severely curtailed press freedom.

Honourable senators, the existence of an open, lively, opinionated and broad-based newspaper industry is integral to the course and the cause of freedom in any country. In Canada, we boast more than 100 daily and 1,000 community newspapers with a total circulation of five million daily and 11 million weekly papers from coast to coast to coast.

As a Nova Scotian, I am proud to say that the industry was born in Halifax. Two hundred fifty years ago, on March 23, 1752, in a newly opened print shop in Halifax, a man by the name of John Bushell ran off a few modest copies of the *Halifax Gazette*. Our National Librarian, the distinguished Dr. Roch Carrier, who is in the south gallery, was kind enough to bring prized copies of that first edition, and they have been made available at the desks of all honourable senators.

In John Bushell's day, the town of Halifax had been in existence for only three years. It was, as Ronald Rompkey of Memorial University — the younger brother of our own esteemed Senator Bill Rompkey — tells us, a small British garrison established to offset the fact that the Treaty of Aix-la-Chapelle of 1748 had compelled Britain to give the Island of Cape Breton back to France, hence finding themselves strategically exposed.

When the *Halifax Gazette* was born, a commercial and political society had begun to develop. John Bushell's rather inauspicious and modest publication was largely supported by the colonial government. Employed as the King's Printer, much of Bushell's income came from the commissions to produce copies of new laws and proclamations.

Crowded with shipping news, the equivalent of classified advertising at the time, localized information relating to the town's position as a trade centre and political articles scalped from British publications, sometimes months after they had originally appeared, the *Halifax Gazette* of the period is a delight to fascinated readers of today.

I might add that all Canadians may take the time to have a look at one of the first issues of the paper, so beautifully preserved by the National Library at the National Library. Beginning tomorrow, it will be on public display until the end of June. This small sheet of foolscap will catapult us back over centuries because newspapers have always been, as Ben Bradlee once said, a rough draft of history.

The Hon. the Speaker: Honourable senators, I am sorry to interrupt Senator Graham. I must draw attention to the clock. It is six o'clock.

Is it your desire not to see the clock, honourable senators?

Hon. Senators: Agreed.

Senator Graham: I thank honourable senators.

As far as it is known, the Halifax paper is the third oldest on the North American continent.

Honourable senators will understand very well that at the time of Bushell's death in 1761, the whole thrust of journalism would change, as the political ferment which culminated in the American revolution against Great Britain would change forever what became known as the fourth estate.

[*Translation*]

The ability of the press to influence the hearts and minds was clearly demonstrated by the famous publisher Benjamin Franklin's attempt to found a rebellious newspaper in Montreal, under the auspices of the Frenchman, Fleury Mesplet. This fascinating chapter of our history culminated in the founding of the *Montreal Gazette, La Gazette de Montréal* by Mesplet in 1785. As Senator Joan Fraser can confirm, having been its eminent editor-in-chief at one point, this daily paper is the oldest newspaper still being published in Canada.

•(1800)

[*English*]

Honourable senators, had it not been for the fact that the *Halifax Gazette* briefly lost its government patronage in 1766, when, due to the lead up to the American Revolution it challenged British authority by publishing an issue of the paper without the required official stamp, what is now the *Nova Scotia Royal Gazette* would have beaten out its Montreal rival by over two decades.

In a wonderful little piece entitled "Canadian Newspapers: Celebrating 250 Years," Mr. Stephen Kimber, Director of the School of Journalism at the University of King's College in Halifax, made the point that Bushell was certainly no Joseph Howe, the legendary Nova Scotia editor and statesman who won freedom of the press in Canada. Honourable senators will recall that Mr. Howe, through the columns of his paper, the *Nova Scotian*, fought the lucid, courageous struggle for responsible government in the 1830s and 1840s.

Joseph Howe was one of the Fathers of Democracy in Canada, along with Louis-Hippolyte Lafontaine and Robert Baldwin of the United Canadas of the time. One of his friends and colleagues was a man by the name of John Boyd, a second-generation Scot who founded the *Antigonish Casket* in 1852. The *Casket* serves as the local weekly paper for Antigonish and the surrounding counties, with a present-day circulation of over 7,000.

At its peek, the *Casket* enjoyed a circulation of over 12,000, with over 400 copies mailed to expatriates from Nova Scotia who were living in the State of Massachusetts — or in the "Boston States," as we sometimes called them.

Over the years, as you might expect, the name "Casket" evoked curious queries from thousands of puzzled readers from many corners of the globe. Honourable senators, let me explain. When it was founded, the word "casket" commonly referred to a lady's jewel box, and it was not until the turn of the century that the word "casket" was used in reference to a coffin. To this day, the masthead of the *Casket* continues to be a picture of a jewel box overflowing with jewels, with the paper's motto, unchanged since 1852, directly above: "Liberty — Choicest Gem of the Old World. Fairest Flower of the New."

On June 23 of this year, the *Antigonish Casket* will celebrate the one hundred fiftieth year of its founding. I had a special interest in the *Casket* from the days when I was the editor of the St. Francis Xavier University student newspaper, *The Xaverian Weekly*, which was published by the Casket Printing and Publishing Company. The *Casket* also served as an important part-time breadwinner for the growing Graham family. I started there as a student and continued for several years as news editor and as sports editor, largely through the encouragement and patience of the wonderful publisher Mr. Donald L. Gillis, who, faithfully and with great editorial and business skills, managed the establishment for 53 years.

Sidebars on the *Antigonish Casket* would not be complete without mentioning that, during his student days in Antigonish, our colleague, Senator Lowell Murray, at one time had the lofty title of Assistant to the Editor. No one knows if he was ever paid.

The *Casket* was and is a wonderful paper, and the traditions and history associated with it are all part of a proud lineage. At the time of its founding 150 years ago, Nova Scotia had won responsible government and Joseph Howe was the province's first premier.

The fact that Howe was still alive was rather astonishing. In his day, duelling was on the wane in Nova Scotia, but a gentleman still found it difficult to lose his self-respect by refusing a duel. In the famous response to John Halliburton's challenge in 1840, Howe found himself the winner as Halliburton fired first and missed. Howe then fired his pistol into the air, sparing his opponent's life. He was then challenged to a second duel in the same year. In refusing this second challenge, the relatively youthful editor of the *Nova Scotian* reportedly said that "a live editor is more useful than a dead hero."

In so many ways, this off-handed remark contains a wisdom that is well worth thinking about today. Perhaps on this wonderful two hundred fiftieth anniversary of the founding of the first newspaper in Canada, it can be put in a broader context.

As Canadians, honourable senators, we are privileged and blessed to be one of the oldest democracies in the world. A free and unfettered press is one of the primary buttresses of our way of life. Too often we tend to forget the brave struggles of centuries ago fought through the power of the printing press and the leadership of editors and journalists of conviction.

However, we must be sensitive to the fact that new democracies are now undergoing the same critical transitions to civil societies that Joseph Howe was so intensely involved in so long ago.

As I have thought about the Zimbabwes of this world, my mind goes back to a conversation I had with the editor of a tabloid newspaper, *ABC Colour,* in Paraguay over a decade ago at the conclusion of elections that served as stepping stones to further democratization in that country. In praising the role of the international observer teams sent to monitor the 1989 elections, the editor said to me, personally: "But you cannot love us and leave us. President Rodriguez has promised a new constitution, a free press, electoral reform and a new code of human rights. You must monitor the situation on a continuing basis to ensure he lives up to his promises."

Honourable senators, I have never forgotten his words and the poignancy with which he made his case — only one individual example of the many courageous leaders of democracy across the globe that I have been privileged to meet. I related the story in a book that I wrote about democratic development entitled, *The Seeds of Freedom*. Of further interest, perhaps, the book was printed for the Pearson Peacekeeping Press at the *Antigonish Casket*, which, I have already said, is a fine old newspaper born at a time when Nova Scotians and Canadians were beginning to nurture the beautiful, still fragile flower of democracy.

As we reflect on this celebration of the roots of our own freedom and the rich civil society we have today, we must remember all of those who are persecuted and oppressed, and we must remember that after the elections we cannot love them and leave them.

Honourable senators, I would like to thank the National Library of Canada, which has worked so hard with provincial groups and institutions in Nova Scotia and here in Ottawa to commemorate the early beginnings of the *Halifax Gazette* and the seeds of a democratic tradition in Canada. The National Library is responsible for ensuring that Canadians have access to their newspaper heritage. In doing so, the library is the repository of much of what we are and much of what we have come from. In carrying out their responsibilities, the talented staff of the National Library of Canada do much to nurture the soul of this great country, preserving our unique and distinct identity for our children and our children's children yet to come.

•(1810)

In closing, I should like to salute and thank, on behalf of all Canadians, the National Librarian, Dr. Roch Carrier, who is with us in the Senate gallery this evening.

Hon. Senators: Hear, hear!

Hon. John Buchanan: Honourable senators, I did not think I would get a chance to speak on this item.

First, I want to second the motion of Senator Graham. In so doing, I wish to point out that the honourable senator has already said everything that I had wished to say. That is unusual because over the years that I have known him, he would usually follow me and repeat what I had to say. Here, however, it is the reverse. What he has said, I was going to say. Nevertheless, I do have some different things to say this evening regarding this motion.

Senator Graham: I would hope so!

Senator Buchanan: The honourable senator has already outlined the history of the *Halifax Gazette* for honourable senators. I wish to add that all good things did happen first in Nova Scotia and then moved from the Atlantic out to the West. I can tell senators about all the firsts that happened in Nova Scotia.

How many of honourable senators know that the first permanent European settlement was at Port Royal in the Annapolis Valley just outside Annapolis Royal? Governor Graham of Florida challenged me on that when I made that statement at a meeting in Boston. Later, I read an article from the New England governors that said that the first settlement was in Massachusetts in 1619. Well, in Nova Scotia, we had that settlement in 1605. At the National Governors Conference in 1984, in Boise, Idaho, I told Governor Graham, "Did you know that we had the first settlement in North America at Port Royal?" Governor Graham turned around and said, "I told you before that your statement is incorrect." I then pulled out the brochure that the New England governors incorporated and read it. I then said "Here! They say it was 1619 in Massachusetts. Therefore, you are wrong; I am right." He looked at Governor O'Neill of Connecticut and said, "Do you know what? I never did trust you Yankees and I still do not." We did have the first settlement there.

Honourable senators, that is not all. Nova Scotia had the first representative government. We also had the first responsible government, as Senator Graham said, which was led by Joe Howe. He started it all. In speeches I made over the years, I would say that we had the first responsible government in North America and we still have a very responsible government in Nova Scotia. Some may not have agreed with that, but it was all true.

Honourable senators, the first wireless message sent by Marconi from North America to Europe came from Table Head and not from Newfoundland, because he said one letter was received. We sent a full message from Cape Breton. Also, the first landing by John Cabot occurred in Cape North, Cape Breton and not in Newfoundland. We have a plaque to prove it. In fact, I unveiled that plaque. We have a plaque at Table Head that I unveiled, too. I used to ask Brian Peckford, "Do you have a plaque?" He does not have a plaque; we have one!

In addition to that, Joe Howe made a famous speech once. He said, "Brag about your province, boys. Whenever you meet a Texan who tells you how big everything is in Texas ask him, 'How high are your tides in Texas?'" We have the highest tides in the world — another first for Nova Scotia and New Brunswick!

An Hon. Senator: You share that with New Brunswick.

Senator Buchanan: Oh, no, Nova Scotia.

In addition, I wish to talk about the electric lights that we see in this chamber and all over the country. I am not saying that Tom Edison invented them in Nova Scotia. I am not saying that at all. Furthermore, I am not saying that Tom Edison was from Nova Scotia. But his father was. They moved from Digby County, Nova Scotia, to Boston, where he was born.

Honourable senators, we had all those firsts in my great province. I also wanted to say that we had the first newspaper in Canada and the third in North America. It was put together by John Bushell. I am extremely pleased and proud to second this motion.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I rose before but I know that all honourable senators wanted to take copious notes during that last intervention.

I am sorry that His Honour has left the chamber because in the copy of the *Halifax Gazette* dated March 23, 1752, which was circulated this afternoon in this house, under the "Foreign Advice" section there is an item that is datelined "Rome, September 24." It says:

> A Few Days ago, as the Pope was going in his Coach to the Quirinal, an ordinary man kneeled in the Street upon his Knees as if he wanted to receive a Blessing from him, which as he was going to give, the Man threw a Stone at His Holiness —

The point I wanted to make is that a few days ago His Honour led a group of our colleagues to the Quirinal, which is now occupied not by the Pope but, rather, by the President of the Italian Republic, President Chiampi. In the building beside the Quirinal, we also visited the President of the Constitutional Court of Italy, which is contained in another former papal building that is now part of the Italian state. In that particular building at the Quirinal, the President of the Constitutional Court of Italy took the Honourable Senator Hays and the group to the room in which the last death sentence was imposed by the papal court. It is interesting that we have this item circulated in the Senate of Canada today from this paper of 1752, and one of the news items speaks to a matter that involved a visit of our colleagues only a few days ago. I wanted to place that on the record.

On motion of Senator Corbin, debate adjourned.

•(1820)

[*Translation*]

FISHERIES

MOTION TO AUTHORIZE COMMITTEE TO STUDY MATTERS RELATING TO OCEANS AND FISHERIES—DEBATE ADJOURNED

Hon. Gerald J. Comeau moved, pursuant to notice of March 14, 2002:

That the Standing Senate Committee on Fisheries be authorized to examine and report upon the matters relating to oceans and fisheries;

That the papers and evidence received and taken on the subject during the First Session of the Thirty-seventh Parliament be referred to the Committee;

That the Committee submit its final report no later than June 30, 2003; and

That the Committee be permitted, notwithstanding usual practices, to deposit any report with the Clerk of the Senate, if the Senate is not then sitting; and that the report be deemed to have been tabled in the Chamber.

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, in order to allow our subcommittee time to finish examining all budgets submitted by the committees in order to determine what resources will be required, I move adjournment of the debate.

On motion of Senator Robichaud, debate adjourned.

The Senate adjourned to Wednesday, March 20, 2002, at 1:30 p.m.

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Tuesday, March 19, 2002