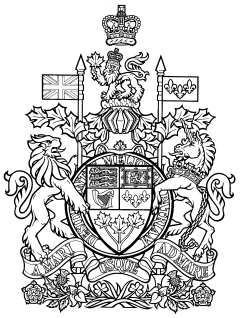

CANADA

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OFFICIAL REPORT
(HANSARD)

Wednesday, June 15, 2005

THE HONOURABLE DANIEL HAYS
SPEAKER

CONTENTS

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THE SENATE

Wednesday, June 15, 2005

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

Prayers.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, before we go to Senators' Statements, I wish to draw to your attention the presence in our gallery of the Queen of the Montreal St. Patrick's Day Parade organized by the United Irish Societies, which has been in uninterrupted existence since 1824. The ladies in charge are Margaret Healy, Sheila Shower and Elizabeth Quinn. Congratulations on their involvement. They are the guests of the Honourable Senator Lavigne.

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

SENATORS' STATEMENTS

WORLD BLOOD DONOR DAY

Hon. Terry M. Mercer: Honourable senators, yesterday, June 14, was World Blood Donor Day. I was honoured to host an event in the Senate foyer where we welcomed 150 guests to our hallowed halls to celebrate the gift of life and the many volunteers who donate that precious gift, blood and blood products. It was moving to hear from two very special people, Samar Chaker and Captain Raymonde Gaumont.

Samar, a blood recipient from Windsor, Ontario, is one of only 50 people to be profiled as part of the World Blood Donor Day Celebration Gallery at Trafalgar Square in London, England. Captain Gaumont has 738 blood donations to her credit and ranks highest among female donors in Canada.

It was very moving to hear from a recipient and a donor. More important, it was a very emotional moment to see how each of them has changed each other's life. In fact, both are role models for all Canadians to encourage more of us to donate blood.

The two blood operators in Canada, Canadian Blood Services and Héma-Québec, collect their annual 1.1 million units of blood from less than 4 per cent of the eligible population. Just 4 per cent of those who can donate blood actually give it on a regular basis. This percentage must increase.

With the help of yesterday's event, and Bill S-29 to declare a national blood donor week in Canada, Canadians will realize that they can no longer wait for their neighbour to donate blood.

Blood donors can make a difference in someone else's life without even knowing it — a difference that can last forever. Yesterday's event was evidence that we should celebrate the gift of life more often.

I would like to thank and congratulate all the volunteers and employees of Canadian Blood Services and Héma-Québec, especially their CEOs, Dr. Graham Sher and Dr. Francine Décary, for their dedication and hard work.

I would also like to take this opportunity to thank all the Senate staff and administration, as well as the Usher of the Black Rod, for their wonderful job in helping my office to organize this event. I look forward to next year's week-long celebration.

• (1340)

THE HONOURABLE VIOLA LÉGER, O.C.

TRIBUTE ON RETIREMENT

Hon. Joyce Fairbairn: Honourable senators, I want to add my voice today to those who paid tribute to one of the most remarkable and beloved members of this house who will be leaving us shortly: Senator Viola Léger, from New Brunswick. She came to this place as a breath of fresh air. I am not certain she felt that way when she walked into this chamber because this was a different stage from her award-winning performances on television, screen and in the theatre. She has been an icon of Acadian arts and culture, on whose behalf she spoke and acted. She came here wondering if she had come to the right place. She was a little perplexed by the way that the acting was played out, and at one time she needed encouragement that this place would grow on her and she on this chamber, which happened.

Senator Léger is passionate about the role of arts and culture in the life of this country. I want to quote from a statement she made in the Senate not so long ago:

> We cannot live without beauty, without laughter and tears. The arts define us, and above all, help us understand who we are as Canadians and what our society is all about.

Honourable senators, after four years, she leaves with our greatest admiration and respect. As a going away gift from her, she has placed on the Order Paper an inquiry in respect of greater consideration of the cultural dimension in the review of programs and policies. She said that as she leaves the chamber, she hopes to see the creation of a Senate committee on cultural affairs. That proposal will remain before us because it will be ours to choose. I hope that in her memory and with thanks for all she has done while in this chamber and on committee, and will continue to do when she returns to her beloved stage, her dream for the Senate will be realized with the addition of such a committee.

THE LATE SCOTT YOUNG

Hon. Francis William Mahovlich: Honourable senators, the great Canadian journalist Scott Young has passed away. I first met Scott in 1957, the year I began playing for the Toronto Maple Leafs. He was from Winnipeg and joined *The Globe and Mail* as a sports columnist that same year. He covered Grey Cups, World Series and Stanley Cups. Often, he would travel with us to cover road games. Occasionally, he would be on *Hockey Night in Canada*. I recall the time they shot a scene at my home just before a road trip, when my younger brother helped me carry my luggage to the car.

One of our last times together was in France, 10 years ago, where we had dinner and a visit in Paris with the then Canadian Ambassador Benoît Bouchard. We exchanged great memories of Toronto in the 1960s.

Scott also worked for *Maclean's* and the *Toronto Telegram*. He wrote 45 books, most of them about hockey, that would encourage Canadian youth.

Scott was the only writer to attend my stag in 1962, the year he ridiculed Leaf's Chairman John W. Bassett for supporting the idea of selling Frank Mahovlich to the Chicago Blackhawks for $1 million. Bassett, in addition to running a newspaper and controlling CFTO, was one of the stakeholders in Maple Leaf Gardens Limited. He applied enough pressure to *Hockey Night in Canada* and Young was fired.

Scott Young seldom spoke of his son, Neil, except to tell me that he made $10,000 for one night's appearance. We had a laugh because that was my full year's salary in 1957. Later, Scott wrote a book, *Neil and Me*, about the relationship with his famous rock 'n roll son.

Mr. Young was an outstanding journalist in his time and was respected by fans and players alike. He had an incisive intelligence. He knew how to get a good story and extrapolate on it. He would write his entire column on a goal that was scored in an unusual way. Only The Rocket could score goals like The Rocket. We will not see a Berton to connect the past, a Gzowski to connect the present, a Smythe to build a dynasty or a Scott Young to connect the national game to the national culture. Scott Young will be remembered by all journalists. He was a legend and worthy of Hall of Fame status.

THE LATE ANDY RUSSELL, O.C.

Hon. Tommy Banks: Honourable senators, I want to say a little about a famous Albertan who has left us. Andy Russell was born in 1915 in Southern Alberta and passed away on June 1 at the age of 89. He was a famous and remarkably successful author, filmmaker, essayist, lecturer, photographer and producer of radio and television documentaries. He wrote 14 books and is the envy of authors because all of them were hugely successful. He produced four feature films and innumerable radio and television documentaries. He received four honorary doctorates and was made a member of the Order of Canada in 1977.

The thing upon which all of that literacy and cinematic success rests is the fact that Andy Russell was a true mountain man. He was a big, strong, fearless, indefatigable, adventurous mountain man. He personified the early history and heritage of Alberta. He came to a remarkable literary capacity even though he was born in relative poverty on his family homestead in Alberta. He had a neighbour, who was an English remittance man named Harold Butcher, a large library containing all the best in English literature. By the time Andy Russell was nine years old, he was reading not only Dickens and Scott but also Keats and Shelley. He had another neighbour, Bert Riggall, who eventually became his father-in-law, a world-renowned botanist and naturalist from whom he learned to see nature and the necessity of preserving it through a highly disciplined eye. He applied that to his literary talents, which he developed simply by reading, and he regaled us for decades.

Long before we came to know it as biodiversity, Andy Russell recognized the need to find the right balance between nature and human occupation. He encountered bears more frequently than most of us do and literally stared them down on occasion. If ever a fight had occurred between Andy Russell and a bear, the winning bets would have been on Andy.

He told us about a world that now seems to be almost mythical in its romantic and natural grandeur. However, it was not mythical and Andy Russell made it real for the rest of us. Andy Russell was one of the last living connections to that wonderful heritage of the true West.

ROUTINE PROCEEDINGS

THE SENATE

NOTICE OF MOTION TO ESTABLISH NEW NUMBERING SYSTEM FOR SENATE BILLS

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I give notice that at the next sitting of Senate I will move:

> That, in order to facilitate references to the various classes of bills introduced in the Senate, namely government bills, public bills or private bills presented by senators, the Standing Committee on Rules, Procedures and the Rights of Parliament be authorized to examine and report upon establishing a new system of numbering for Senate bills.

[*Translation*]

APPROPRIATION BILL NO. 2, 2005-06

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-58, granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2006.

Bill read first time.

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

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

BANKING, TRADE AND COMMERCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF ISSUES DEALING WITH DEMOGRAPHIC CHANGE

Hon. Jerahmiel S. Grafstein: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, notwithstanding the Order of the Senate adopted on Tuesday, November 23, 2004, the Standing Senate Committee on Banking, Trade and Commerce, which was authorized to examine and report on issues dealing with the demographic change that will occur in Canada within the next two decades, be empowered to extend the date of presenting its final report from June 30, 2005 to December 31, 2005; and

That the Committee retain until March 31, 2006 all powers necessary to publicize its findings.

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF ISSUES DEALING WITH INTERPROVINCIAL BARRIERS TO TRADE

Hon. Jerahmiel S. Grafstein: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, notwithstanding the Order of the Senate adopted on Tuesday, November 23, 2004, the Standing Senate Committee on Banking, Trade and Commerce, which was authorized to examine and report on issues dealing with interprovincial barriers to trade, be empowered to extend the date of presenting its final report from June 30, 2005 to December 31, 2005; and

That the Committee retain until March 31, 2006 all powers necessary to publicize its findings.

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF CONSUMER ISSUES ARISING IN FINANCIAL SERVICES SECTOR

Hon. Jerahmiel S. Grafstein: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, notwithstanding the Order of the Senate adopted on Tuesday, November 16, 2004, the Standing Senate Committee on Banking, Trade and Commerce, which was authorized to examine and report on consumer issues arising in the financial services sector, be empowered to extend the date of presenting its final report from June 30, 2005 to November 30, 2005; and

That the Committee retain until December 31, 2005 all powers necessary to publicize its findings.

THE SENATE

NOTICE OF MOTION TO STRIKE SPECIAL COMMITTEE ON GAP BETWEEN REGIONAL AND URBAN CANADA

Hon. Marie-P. Poulin: Honourable senators, with leave of the Senate, I give notice that, two days hence, I will move:

That a special committee of the Senate be appointed to examine the growing gap between regional and urban Canada;

That research be gathered to consolidate and update current facts and figures regarding this gap;

That testimony be heard to provide an overview of the challenges facing regional areas in several socio-economic areas as transportation, communications, employment, the environment;

That this special committee be authorized to hear testimony in Ottawa and in regions;

That this special committee be comprised of five members, and that three members constitute a quorum; and that two members be sufficient for the purposes of hearing witnesses;

That the committee be authorized to send for persons, papers and records, whenever required, and to print from day to day such papers and evidence as may be ordered by it;

That, pursuant to rule 95(3), the committee be authorized to meet even though the Senate may then be adjourned;

That the committee be authorized to permit coverage by electronic media of its public proceedings, with the least possible disruption of the hearings;

That the committee submit its final report no later than June 30, 2006, and that the committee retain all powers necessary to publicize its findings until September 30, 2006;

That the committee be permitted, notwithstanding usual practices, to deposit its reports with the Clerk of the Senate if the Senate is not then sitting, and that any report so deposited be deemed to have been tabled in the chamber.

[*English*]

STATE OF INTERNATIONAL HEALTH SERVICES

NOTICE OF INQUIRY

Hon. Wilbert J. Keon: Honourable senators, pursuant to rules 56 and 57(2), I give notice that on Wednesday, June 22, 2005:

> I will call the attention of the Senate to the state of international health services.

QUESTION PERIOD

INFORMATION COMMISSIONER

ACCEPTABILITY OF REPORTS

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, one of the officers of Parliament, indeed an officer whose appointment was ratified by this house, is that of the Information Commissioner. The current Information Commissioner has dutifully had his reports tabled in this house over the last few years, and I recall no criticism of those reports. Could the Leader of the Government in the Senate let the house know whether the government has had any problems with any of the reports that were submitted to this house by the Information Commissioner?

Hon. Jack Austin (Leader of the Government): Honourable senators, the question is asked in a very skilful way. I would like to reply by saying that it would be my view, if it is the view of the Leader of the Opposition, that a period of time be allowed to Mr. Reid to continue with his work.

EXTENSION OF TERM

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, I thank the Leader of the Government in the Senate for the self-fulfilling prophecy that he has articulated. We on this side would be happy to give him a break any time he wants to come here.

My understanding is that there is an interest in Parliament, indeed in both Houses, that there be an extension of the term of the current commissioner, Mr. John Reid, whose term will expire on June 30. Given the time of year, I wonder whether the government would support the idea of an extension of the Information Commissioner's term?

Senator Robichaud: If Bernard Lord gives an extension to the Auditor General in New Brunswick.

Hon. Jack Austin (Leader of the Government): Honourable senators, I believe it would be of value to Parliament to allow John Reid to continue for a period of time with the work he is doing. He has said publicly that he has some work that he would like to have time to finish. I will make those representations on behalf of the Leader of the Opposition and on my own behalf.

Frankly, if Senator Kinsella had the job on this side, he might enjoy it less than he thinks.

NATIONAL DEFENCE

GAGETOWN—
TESTING OF AGENT ORANGE AND AGENT PURPLE

Hon. Michael A. Meighen: Honourable senators, following on from the question I raised yesterday, the government's lethargic approach to dealing with the aftermath of Agent Orange and Agent Purple tests at CFB Gagetown is troubling to us all. As the government dithers, our veterans and our civilians who worked and lived, and continue to work and live, near CFB Gagetown are paying the price.

Given the analytical techniques of the day, there is a high probability that amounts of dioxin might be detected at CFB Gagetown if sampling were to take place. According to a CBC television interview today, Dr. Wayne Dwernychuk, who visited Vietnam in 1994 to research the effects of Agent Orange and Agent Purple, found traces of dioxin in the soil there. In his opinion, it is likely that dioxin could also be found in the soil at CFB Gagetown.

If indeed dioxin is still present in the soil around the base, there is clearly a chance that this poison could be contaminating the water system around the former test sites. There is also a chance that children could be playing in contaminated fields, and farmers could be harvesting crops in fields that still contain this toxic substance.

My question for the Leader of the Government in the Senate today is, given that there apparently is now scientific evidence that dioxin can be detected in soil where Agent Orange and Agent Purple were used in Vietnam, decades after their use, will the government finally make this issue a priority and undertake tests at CFB Gagetown and the surrounding areas to find out if Canadians are at risk?

• (1400)

Hon. Jack Austin (Leader of the Government): Honourable senators, I am surprised that Senator Meighen's question does not take into account the answers I provided yesterday to this chamber with respect to the use of Agent Orange and Agent Purple at Gagetown. Perhaps the senator's assistant did not have time to consider the Senate Hansard yesterday.

There is no basis for any representation that the government is acting in a dilatory manner. The government is proceeding aggressively, as I said yesterday, to track what took place. I want to confirm that the government is testing the soil, vegetation and water at CFB Gagetown for residual contamination. The results will be made public as soon as they are received. The department is also committed to undertaking a long-term study of the herbicides used at CFB Gagetown and at other military sites across the country.

As honourable senators heard yesterday, when these herbicides were used, they were not known to be harmful to humans. They were used in accordance with the common practices at the time. These herbicides were also used commercially in this country in

other places and were thought to be effective in the control of underbrush. Therefore, we are tracing back over 40 years to see what took place and which individuals might have been exposed to these particular agents.

We now have information based on the advance of technology that indicates the toxicity of Agent Orange and Agent Purple. I want to repeat that the government is acting aggressively to put this file together and to ascertain the risk to any Canadians who were involved in this way.

Senator Meighen: Honourable senators, the Leader of the Government in the Senate might also wish to consult his staff and the record when he refers to testing. As I read his response from yesterday, I do not see the word "test" appear anywhere. He said:

> The Department of National Defence is now searching for all available information with respect to when these two toxic chemicals were used and in what areas, and to determine who was affected by them.

My question was based on the necessity of conducting tests as a result of the testing carried out by Dr. Wayne Dwernychuk in Vietnam. I was seeking information as to what tests were to take place under the supervision of the department. I leave that with the Leader of the Government.

I have a supplementary question. While I do not think anyone is suggesting that toxicity was known or recognized at the time — no one is seeking to throw blame in that area — the fact remains that the United States ceased using Agent Purple in Vietnam in 1965. Why did the Liberal government of the day continue using Agent Purple at CFB Gagetown until 1966 when the Americans themselves had apparently stopped its use a year before?

Senator Austin: Honourable senators, I will seek information as to when Agent Purple was last used in Canada, particularly at CFB Gagetown. I will add Agent Orange to the inquiry and ask about the use of those two agents in Vietnam or elsewhere. I will seek information as to when their use was discontinued commercially in the United States.

HOUSE OF COMMONS

ETHICS COMMISSIONER— REPORT ON MEMBER FOR YORK WEST

Hon. Marjory LeBreton: Honourable senators, the Ethics Commissioner in the House of Commons began his study on Judy Sgro eight months ago. Does the Leader of the Government in the Senate have information on why it is taking so long to release this report?

Hon. Jack Austin (Leader of the Government): Honourable senators, I cannot answer for the Ethics Commissioner in the House of Commons.

Senator LeBreton: Apparently the report is ready. Two weeks ago, Mr. Shapiro gave excerpts of it to those named in it and gave them a week to respond.

Leaving aside the question of whether Mr. Shapiro is open to changing his report if the named Liberals were to apply pressure, not to mention the heads-up this gives to the PMO spin doctors, could the Leader of the Government assure the Senate that this report will be made public before Parliament rises for the summer recess?

Senator Austin: Honourable senators, I think Senator LeBreton has made her political statement.

ETHICS COMMISSIONER—HIRING OF LAW FIRMS

Hon. Marjory LeBreton: I will make another one, then.

Honourable senators, Democracy Watch has posted the following on its website:

> To conduct the investigation into Sgro's and other's actions, the Ethics Commissioner (hired without a contract bidding competition) law firm Borden Ladner Gervais (BLG). BLG donated $165,000 to the federal Liberals between 2000 and 2003 (2004 figures are not yet publicly available); donated more than $25,000 to Paul Martin's campaign for the Liberal Party leadership; has three partners representing Liberals before the Gomery Commission inquiry (David W. Scott, Peter K. Doody representing Jean Chrétien, and Guy J. Pratt representing Jean Pelletier), and; in February 2005 hired Gar Knutson, former Cabinet colleague of Judy Sgro.

Honourable senators, can the Leader of the Government in the Senate assure us that the investigation into the Dosanjh-Murphy-Grewal affair will not be tainted by the Ethics Commissioner hiring a firm with Liberal connections to do the work?

Hon. Jerahmiel Grafstein: Point of order!

The Hon. the Speaker: Points of order during this part of the proceedings are not in order. They are raised after Routine Proceedings and before Orders of the Day.

Hon. Jack Austin (Leader of the Government): Honourable senators are aware that I do not answer for any actions of the Ethics Commissioner in the other place. The other place does its business and we do our business.

I do understand that Senator LeBreton wants to make political statements on our record and is free to do so. We on this side are also free to do so.

Honourable senators, Senator LeBreton alleged some months ago that Borden Ladner Gervais was a Liberal law firm, and I answered that there are no such things as Liberal law firms or Conservative law firms. There are law firms and they are professionals. They do their work as their clients hire them to do.

It is also a matter, I hope, of contribution to the public political process and the party process that Canadians, whether they are lawyers or in any other walk of life, give financial support to the parties of their choice. Many of them give financial support to multiple parties.

The innuendo that somehow this particular law firm might have a bias is a very serious charge against their professional standing in this community.

Senator Tkachuk: Please!

Senator Austin: It is a very serious charge. If it were made outside this chamber, honourable senators, legal consequences might follow.

Senator LeBreton: I was quoting Democracy Watch, who made these comments on the public record. I am sure that the head of Democracy Watch will be very interested in the comments of the honourable leader. I will make sure he has them.

• (1410)

Senator Austin: Honourable senators, Democracy Watch is one of those useful non-governmental organizations that sometimes go over the top in their observations.

Senator Kinsella: Dear, dear!

CANADA-UNITED STATES RELATIONS

PROPOSAL TO VET CANADIAN AIRLINE PASSENGER LISTS OF DOMESTIC OVERFLIGHTS

Hon. David Tkachuk: Honourable senators, on June 10, in the Moncton *Times & Transcript,* Frank McKenna implied that U.S. authorities will likely relent on their proposal to vet passenger lists for Canadian domestic flights across U.S. airspace. Currently, there are 2,300 such flights a week.

My question is for the Leader of the Government. Does he have additional information on discussions Canada is having with the U.S. government on this issue?

Hon. Jack Austin (Leader of the Government): No, honourable senators, I do not. The report is accurate. Canada is holding discussions on the subject of overflights and reports on passenger complements.

[*Translation*]

DELAYED ANSWER TO ORAL QUESTION

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour of presenting a delayed answer to an oral question raised on June 7, 2005 by Senator LeBreton concerning the Access to Information Act — legislation to amend.

JUSTICE

ACCESS TO INFORMATION ACT— LEGISLATION TO AMEND

(Response to question raised by Hon. Marjory LeBreton on June 7, 2005)

The *Access to Information Act* is a complex statute, and it is the foundation of an access regime that serves Canadians on an ongoing basis. For this reason, we need to approach reform thoughtfully to ensure that reforms actually provide appropriate and workable improvements to the overall scheme.

That is why the government decided that the most appropriate step towards access reform was to present the Standing House Committee on Access to Information, Privacy and Ethics with a discussion paper, entitled "A Comprehensive Framework for Access Reform." The paper, presented to the committee in April, raises complex questions on access reform which we have asked the committee to study.

The government has invited the committee to examine the specific concerns which are outlined in the discussion paper, for example those issues regarding cabinet confidences, Crown corporations, agents of Parliament, and modernizing current exemptions and creating new exemptions.

The government agrees that we need to have the most comprehensive and workable access legislation possible. We must therefore craft a set of reform proposals that carefully and effectively balances the complex and varied interests at stake. The government maintains that the committee has a key role to play by reviewing the issues in the discussion paper and by considering the views expressed by all interested parties.

Once the committee has completed its important work, the government will be in a far better position to move forward with access reform.

[*English*]

BUSINESS OF THE SENATE

Hon. Jerahmiel S. Grafstein: Honourable senators, I have a point of order. I will begin by saying that I am not sure that it is a valid point of order. I ask that you listen and then shoot it down, if you choose.

It is inappropriate in this chamber to raise questions that go to the Ethics Commissioner in the other place. If the other place were to raise questions with respect to our ethics process, which is somewhat different from that of the other House, we would be equally upset. There is a separation of powers that we should respect in this chamber.

Senator Robichaud: That is a good point of order.

The Hon. the Speaker: Honourable senators, no rule or parliamentary practice has been cited, and I am aware of none. I do not believe there is a point of order.

[*Translation*]

ORDERS OF THE DAY

NATIONAL DEFENCE ACT
CRIMINAL CODE
SEX OFFENDER INFORMATION REGISTRATION ACT
CRIMINAL RECORDS ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Pearson, seconded by the Honourable Senator Milne, for the second reading of Bill S-39, An Act to amend the National Defence Act, the Criminal Code, the Sex Offender Information Registration Act and the Criminal Records Act.

Hon. Pierre Claude Nolin: Honourable senators, I am pleased to speak today to Bill S-39 at second reading.

The purpose of this bill is to amend the National Defence Act, the Criminal Code and the Sex Offender Information Registration Act, Bill C-16, assented to on April 1, 2004.

From the outset, I want to point out that this is not the first time in the history of this chamber that we are being asked to consider a legislative initiative that extends to the military justice system the use of a measure originally intended for civil courts only.

Honourable senators will recall that, in 2000, we passed Bill S-10 following a request by senators on the Standing Senate Committee on Legal and Constitutional Affairs to the Minister of Defence and the then Solicitor General.

The purpose of that bill was to extend to the military the application of new provisions in the Criminal Code on DNA samples and their storage in the new national DNA data bank. These provisions were included in Bill C-3, which was enacted in December 1998. They were meant to help police officers arrest repeat sex offenders and murderers more quickly in order to better protect the Canadian public.

At that time, I supported the grounds for the adoption of Bill C-3. Having said that, like my colleagues on the Standing Senate Committee on Legal and Constitutional Affairs, I nevertheless concluded, after an in-depth review of this new legislation, that the departments of the Solicitor General and of National Defence had forgotten to include the military in its application.

In other words, no DNA profile of members of the military convicted of serious violent crimes defined in the act would be stored in the data bank. Only those individuals found guilty of such crimes under our civilian justice system would be included.

This situation was unacceptable because, under the provisions of Bill C-25, which greatly modernized the military justice system, legal proceedings concerning offences of a sexual nature would in future come under a court martial, and not the civil courts.

Moreover, this serious gap would compromise achievement of the objective set by the lawmaker. For those reasons, the government introduced Bill S-10.

Honourable senators, as Senator Pearson stated last Thursday, the same problem arose when the Standing Senate Committee on Legal and Constitutional Affairs conducted a thorough study — as it always does — Bill C-16 in the winter of 2004.

That bill created a national sex offender registry. During our work, the members of the committee, along with Senator St. Germain, told the Minister of Public Safety and Emergency Preparedness that, for reasons of equity, the Sex Offender Information Registration Act had to apply to persons convicted by both the civil and military courts.

There is no doubt in my mind that military and civilian sex offenders should suffer the same consequences for the reprehensible acts they have committed. Sex offences by members of the military hurt the image of our armed forces, in Canada and overseas.

Honourable senators, for these two reasons, I support Bill S-39 because it will make it possible, or so I hope, for members of the Canadian Armed Forces, other Canadians and civilians who support our forces in operations around the world to be better protected against this kind of criminal activity.

That being said, honourable senators, I have no intention of explaining in detail the provisions of Bill S-39 since that has already been done, and well done, by Senator Pearson.

I would rather draw your attention to a few specific provisions of this initiative that should be examined very closely by the committee during the next few weeks.

Since April 2004, most Canadians have thought that the National Sex Offender Registry is fully operational. Unfortunately, that is not the case. I noted that it is not the case as recently as yesterday morning, when reading the Sex Offender Information Registration Act on the Department of Justice website.

According to the site, the act is still not in force since the Governor-in-Council does not appear to have passed an Order-in-Council for that purpose. Is this just a simple administrative oversight? Honourable senators, I doubt it. Was the introduction of Bill C-16 delayed by federal-provincial negotiations aimed at creating the registry and ensuring its effective operation?

• (1420)

Will the technical amendments to the Sex Offender Information Registration Act proposed in Bill S-39 lead to its coming into force? Is the federal government waiting for the decision of the courts on the constitutionality of the "Christopher Act," in Ontario, before proceeding with this bill?

Just like us, Canadians are now waiting for answers to these questions as well as the following question: When will the provisions of Bill C-16 come into force? It is important that officials of the Department of Public Safety and Emergency Preparedness specify the reasons for this note in order to reassure Canadians and not hold up the implementation of Bill S-39.

The second point that I would like to raise concerns the list of offences covered by Bill S-39. Just as in the case of Bill C-16, any person convicted of a designated offence, as provided in clause 4 of Bill S-39, might have to register pursuant to an order issued by a court martial.

The designated offences are divided into two categories.

The first category encompasses the exhaustive list of offences of a sexual nature referred to in subsection 490.011 of the Criminal Code. The second category includes various offences under the National Defence Act that, even if not of a sexual nature, may lead to the commission of such a crime.

Some examples include offering violence to a superior officer, abuse of subordinates, disgraceful conduct or any offence against the property or person of any inhabitant or resident of a country.

Anyone found guilty of a designated offence must register as a sex offender only if it has been established beyond a reasonable doubt that the person committed the offence with the intent to commit an offence of a sexual nature.

What is the premise behind this argument that such offences lead to the perpetration of crimes in the first category? In other words, the Minister of National Defence should explain the epidemiological or scientific basis for such a decision. That said, I now want to address a third aspect of Bill C-39 before concluding my remarks.

In order to be effective, the provisions of the Sex Offender Information Registration Act must be adapted to the military environment and the operational context of the Canadian Forces.

To this end, clause 4 of Bill S-39 states that the Chief of the Defence Staff may suspend the application of the prescribed time limits, in particular those in an order to register, if the member of the military personnel is unable to comply for operational reasons.

Obviously, such determinations will be governed by regulations. We should be informed of the contents of such regulations in order to better verify how this provision will be enforced. Clause 4 also states that, if some of the information collected for the purposes of the registry could jeopardize a military operation, international relations or national security, the Chief of Defence Staff may prohibit its inclusion in the registry.

Hypothetically speaking, the Chief of Defence Staff could invoke this provision in reference to a member of the top secret Joint Task Force 2 subject to an order to register.

Honourable senators, in recent years we have all become aware that the concept of protecting national safety, necessary as it is, can lead to abuses to cover up problems or administrative errors. Contrary to the other measure to which I have referred, the refusal to disclose certain information to the database is not regulated.

In that context, the Minister of National Defence will need to provide explanations on how this important discretionary power will be applied. We do not want it to be used excessively to exclude military personnel with impunity from the provisions of Bill S-39.

In other words, the objective of the database — which is to facilitate the work of police forces in order to enhance public safety — must not be unduly subordinated to the other interests of the Canadian Armed Forces.

Finally, Bill S-39 will be in addition to the measures taken by National Defence in recent years to deal with sexual offences. Those arose out of the publication of two special reports prepared by the DND ombudsman in 2000 with a view to improving the handling of complaints of sexual assault and the services available to victims.

We have learned from past events that, notwithstanding the extremely high degree of professionalism among its ranks, the Canadian Armed Forces are, unfortunately, not immune to these reprehensible and insidious crimes.

Honourable senators, the Department of National Defence deserves our congratulations for the energetic measures it has taken in recent years to deal with this internal problem. Without a doubt, Bill S-39 will provide the Canadian Armed Forces and the military police with one more means of ensuring the safety of not just its members, but all Canadians.

That is why this legislative initiative ought to be referred without further delay to the Standing Senate Committee on Legal and Constitutional Affairs.

[*English*]

The Hon. the Speaker: No senator rising to speak, are honourable senators ready to deal with the question at this time?

Hon. Senators: Question!

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

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Rompkey, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

SPIRIT DRINKS TRADE BILL

SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Mitchell, seconded by the Honourable Senator Massicotte, for the second reading of Bill S-38, respecting the implementation of international trade commitments by Canada regarding spirit drinks of foreign countries.

Hon. James F. Kelleher: Honourable senators, I rise today to speak to Bill S-38, which deals with Canada's trade commitments regarding spirit drinks. I only hope the consideration of it does not risk the Senate's well-known reputation as the chamber of sober second thought.

Honourable senators, this bill is not to be confused with a similarly numbered but far more controversial bill, Bill C-38. The letters enumerating both bills do tend to roll off the tongue in a similar fashion. I would admonish my fellow senators to indeed remain sober when considering Bill S-38, lest we find ourselves debating marriage vows when we should be debating brown cows.

• (1430)

In preparing my remarks today, I pored over — pardon the expression — the sponsor's speech at second reading. In my opinion, he distilled the main elements of the bill more than adequately. Rather than do that again, I should like to provide a chaser, if you will.

I am a former Minister for International Trade. I continue to have a keen interest in trade to this date. I am a strong proponent of free trade. In fact, you might say I am a trade-aholic. Therefore, you will not be surprised to learn that I and my colleagues in the Conservative Party of Canada support this bill, though I cannot pass up the opportunity to take a few shots at it.

First, this bill does not deal with wine but with spirit drinks only. Vintners are waiting for a separate piece of legislation shortly that should deal with wine. I want to clarify this issue because I fear that the sponsor's speech at second reading may have left a misleading impression, emphasizing the benefits for Canadian wine producers of this piece of legislation. Looking at the bright side, there is precious little to say that deals with wine. Hopefully we can look forward to a short second reading speech from the other side.

This is a minor matter and one for which the sponsor is perhaps not entirely responsible. The fact may lie within the legislation itself, for nowhere in the definition section of the bill do we find an explicit definition of "spirit drink." This may lead to conclusions for the more abstemious among us who can easily mistake wine for a spirit drink when clearly it is not, though the end result of drinking too much of either, I can assure you, is much the same. That is from past experience.

Honourable senators, the Excise Act defines a spirit as:

> any material or substance containing more than 0.5 per cent absolute ethyl alcohol by volume other than
>
> (a) wine;
> (b) beer;
> (c) vinegar;
> (d) denatured alcohol;
> (e) specially denatured alcohol;
> (f) an improved formulation; or
> (g) any product containing or manufactured from a material or substance referred to paragraphs (b) to (f) that is not a consumable beverage.

I am sure everyone wanted to know that.

This raises a question: If the Excise Act includes such a definition, should the Spirit Drinks Trade Bill also include such a definition? After all, this bill contains a provision to allow cabinet to expand the schedule to accommodate future agreements. Therefore, a definition would be a useful guide for the interpretation of this act for such future expansion.

Honourable senators, on that basis, if not to clear things up for Senator Mitchell, I would strongly recommend the inclusion of a definition of "spirit drinks" in this bill.

Let me turn to another concern. Under the provisions of the Canada-European Community Wine and Spirits Agreement, the measures spelled out in this bill must be completed by June 2006. Those measures include the designation of inspectors and analysts to enforce the act. Penalties for non-compliance with the act range from $50,000 to $250,000 or a prison sentence of from six months to three years. These penalties are not unsubstantial.

Honourable senators, is there a grace period for those not in the know? If not, will the government ensure that spirit makers are well informed about the act when it comes into force?

Honourable senators, I look forward to discussing this bill in committee.

Senator Austin: I want to contribute to the debate by thanking Senator Kelleher for not letting our spirits down today.

The Hon. the Speaker: There being no other senator wishing to make a comment or a speech, are you 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 read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Mitchell, bill referred to the Standing Senate Committee on Agriculture and Forestry.

CRIMINAL CODE
CULTURAL PROPERTY EXPORT AND IMPORT ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Baker, P.C., seconded by the Honourable Senator Eggleton, P.C., for the second reading of Bill S-37, An Act to amend the Criminal Code and the Cultural Property Export and Import Act.

Hon. Janis G. Johnson: Honourable senators, I rise today to speak to Bill S-37, to amend the Criminal Code and the Cultural Property Export and Import Act.

Bill S-37 lays the groundwork for Canada's accession to two international protocols. These are the first and second protocols to UNESCO's 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict, also known as The Hague Convention 1954. Canada acceded to The Hague Convention in 1958, but has not yet ratified its protocols.

The Hague Convention is a very important international instrument. As honourable senators know, cultural property, be it a millennium-old church, a museum housing priceless artworks, or a significant historical artifact, is critical to our understanding of history. They are symbols of a people's sovereignty and of ourselves. This value has made them tempting military targets through the centuries of human conflict.

The destruction and looting of the First and Second World Wars had thrown into sharp relief, by 1954, the need for a way to safeguard these cultural resources during times of conflict. The result was the first instrument to deal solely with the protection of cultural property, acknowledged not only as national, but as world heritage. The convention now has 105 states parties, and the list continues to grow.

In practical terms, The Hague Convention lays down ground rules to be followed by states parties for protecting cultural property during times of war. The convention sets out responsibilities for both attackers and defenders in military conflict. Attackers must do everything they can to avoid military manoeuvres that might damage cultural property. Defenders must undertake to protect their cultural property, including establishing during peace times plans and measures to safeguard objects during times of conflict, ensuring military targets are kept at a safe distance from cultural property, and avoiding using cultural property as a shield for a military target.

Measures in the convention allow for the emergency transportation, protection and even legal export of property during times of war. The convention also creates an international register for the special protection of cultural property, which affords listed property some immunity from attack. A special emblem marks such property to make its protection under the convention clear. In addition, the convention establishes mechanism for implementation of the convention in times of conflict and for mediating disputes.

• (1440)

The first protocol, which Canada has not yet acceded to, was created at the same time as the convention. It mainly deals with the behaviour of occupying forces. It forbids an occupier from exporting cultural property and obliges the accompanying party to seek out and return any such property illicitly exported during the occupation.

The second protocol, adopted in 1999, was created in response to a review of The Hague Convention in the 1990s. The review was commissioned to address concerns that some aspects of the convention were not strong enough to adequately protect cultural property. These weaknesses came into sharp focus in the 1990s with incidents like the destruction of the historic Mostar Bridge during the Yugoslavian upheaval and the looting of Kuwait by invading Iraqi forces at the beginning of the Gulf War. This review was also meant to identify elements of the convention that needed to be modernized to take new technologies and new international instruments into account. The second protocol thus addresses these issues with the convention that had become apparent over the years.

The second protocol tightens the definition of "military necessity," a concept that allows an attacking force to bypass the protection of cultural property under certain circumstances. This narrows the loophole that allows such attacks. The protocol also creates a new "enhanced protection" register for cultural property of the highest significance to humanity. Including a property on this list gives it greater immunity in times of war than the "special protection" list would have given.

A new 12-member committee for the protection of cultural property administers this list and the implementation of the convention. The committee also administers a new fund to help countries properly plan for the protection of their cultural property in preparation for war and to help with emergency protection during conflicts.

The second protocol also establishes individual responsibility for crimes against cultural property — like arson, theft or vandalism — as defined under The Hague Convention and sets out the basis for extradition of such suspected criminals. This means that states parties have to change their domestic laws to comply with the prosecution of these new offences.

Honourable senators, this brings us back to the subject of Bill S-37, which amends two acts to bring our laws into line with the protocols. First, it amends the Criminal Code to let us prosecute Canadians who steal or commit mischief or arson against cultural property outside of Canada. It establishes that everyone who steals or commits mischief against such property is guilty of an indictable offence with the maximum sentence of 10 years or is punishable on summary convention.

Second, the bill amends the Cultural Property Export and Import Act with the goal of bringing our laws into line with the requirements of the first convention. A new section added to the act makes it illegal for a Canadian to illicitly export cultural property from an occupied territory. Offences are deemed to have been committed on Canadian soil for the purposes of prosecution. This new section also allows the Attorney General to seek recovery of the illegally exported property through an action in the federal or provincial superior court. This court can award compensation to a bona fide owner of the property.

Finally, for clarity, the Cultural Property Export and Import Act is amended by adding The Hague Convention definition of "cultural property" as a schedule at the end of the act.

Honourable senators, this is largely the scope of the bill. The Conservative Party supports Bill S-37. It prepares Canada for the adoption of two protocols critical to the protection of world heritage. This is clearly a positive move.

There are, though, a couple of points that need closer examination. These have mainly to do with the implementation of the protocols for which the bill lays the groundwork. For example, it is unclear thus far exactly how the implementation of the protocols will affect our Armed Forces, who will come under obligations to change or possibly add procedure to comply with our new responsibilities. The protocols also require the extensive education both of military personnel and the general public about the convention. As this is a government bill introduced in the Senate, we know that no money is allocated here for these changes.

Another reservation concerns the location of our cultural property. I am thinking of Ottawa in particular where the headquarters of the Department of National Defence, the American Embassy and even Parliament Hill, all potential military targets, are located within a few blocks of the National Gallery of Canada and much of the city's historic architecture. The fact that The Hague Convention requires states parties to locate military targets as far as possible from cultural property is probably something that most signatories will have some level of difficulty dealing with.

As honourable senators know, a new museum, the Portrait Gallery of Canada, is due to move in across the street from where we sit in a couple of years. This appears to have been planned without much thought given to the responsibilities we have to live up to under the convention and its protocols. I am confident these issues will be given scrutiny by the Senate committee that examines this bill.

Hon. Serge Joyal: Honourable senators, I commend Senator Johnson for her analysis of the convention and wish to share some thoughts in the context of Bill S-37.

Some 28 years ago, I was the promoter of the original bill in the other place establishing the Canadian Cultural Property Export Review Board. Through the years, I have tried to keep an eye on the development of that board and the work that original bill triggered in the federal government administration.

I share those thoughts with honourable senators today in the context of Bill S-37 because this bill seems to be innocuous when one reads the short title. As stated on the Order Paper, Bill S-37 is simply labelled "An Act to amend the Criminal Code and the Cultural Property Export and Import Act." No one would think that we are dealing with war here. This bill is about war. We all know that war brings casualties on humans, the army, the civil population and properties. Among the properties targeted by hostile acts are works of art, monuments, heritage artifacts, archaeological sites, documents and libraries. Everything that identifies a population could be a target of war.

We have learned how the Pharaoh Ramses, Alexander the Great and Julius Caesar brought home from victories trophies constituting art works and foreign slaves.

Through the centuries, civilization wanted to address those issues, and it is through a series of international conventions that the civilized world began to protect civil populations, armies and properties. If we look into the archives of the international convention, we notice that since the middle of the 19th century, 1856 to be specific, more than 100 conventions and international instruments have been devised to establish regimes to treat the population in a humane and more appropriate manner.

Civilization tried to protect international cultural sites, especially because such sites are the property of the world. They are testimony to the genius of humanity. We all have in mind the souvenirs of World War II and the bombing of Dresden in Germany and Warsaw in Poland. Recently, a museum situated on the dividing line between the Islamic and Christian neighbourhoods of Beirut was bombed. At the beginning of the Afghanistan war, the Buddhas of Bamiyan were bombed.

• (1450)

During the invasion of Iraq in the spring of 2002, the Museum of Baghdad was looted. The museum contained 80,000 cuneiform tablets of some the world's earliest writings, a 4,000-year-old silver harp from the ancient city of Ur, a 5,000-year-old, three-foot, carved Sumerian vase and a 4,600-year-old carved sacred cup. That museum was totally looted. It was left with no protection at the door for months so that anyone could take whatever they wanted.

Senator Johnson spoke about what happened in the city of Dubrovnik, the jewel of the Balkans. It dates back to the 8th century and is the most important medieval and high Renaissance city of the Balkans. I had the pleasure of visiting it 20 years ago. Dubrovnik was recognized as a world heritage site by UNESCO in 1979.

According to the convention that rules the protection of that city, flags were to be placed at the top of each important building so that attacking forces would not bomb them. Those important structures included the Franciscan Monastery, the Rector's Palace, the old bridge, the walls and the fortified churches of the city. The invading forces used the white flags in order to specifically bomb those sites and destroy the city.

That, of course, triggered very aggressive international reaction. There were complaints to the international tribunal established for the former Yugoslavia. Among the 16 charges that were brought against the air force that attacked Dubrovnik was the charge of destroying the city. Under international law, the attacking air force was ruled responsible for that destruction, the first time that such a decision had been taken by an international court. When the International Criminal Court was established through the Treaty of Rome in 1998, section 8 of the constituting statute clearly established the competence of the court to hear such complaints.

Honourable senators, this bill is very important. In reviewing the convention of 1954, I realized that the dossier of Canada was not above suspicion. In 1998, Canada signed the convention that is mentioned in the bill. As Senator Johnson said, section 25 calls upon Canada to adapt its criminal law to the convention. Pursuant to section 28, Canada undertook to do that within six months of signing the convention. It is now 2005, honourable senators, and we have not done so. Canada was the ninety-fourth country to sign the convention that was created in 1954, near the tail end of the 114 signatories.

That convention triggered two other protocols. The second protocol was proposed to the international community in 1999, and we have still not ratified it. We seem to be slow to understand our international responsibility in relation to world cultural properties.

In addition, pursuant to the convention, Canada has a responsibility to denounce parties that have not assumed their responsibilities within the convention. Two countries have not signed any of the conventions — the United States and the United Kingdom. That is important to consider because many American groups have denounced what happened in Baghdad during the invasion of Iraq and Kuwait. Those groups include the American Council for Cultural Policy, the Association of Art Museum Directors, the American Schools of Oriental Research, the World Archaeological Congress, the International Council of Museums and the British School of Archaeology. All of those groups have identified the weaknesses of those conventions, yet the countries that usually lead the forces for peace around the world have not recognized that they have an inherent responsibility to protect the treasures of the countries in which they lead operations at the same time as they try to protect the population.

This is an important bill and I congratulate the government for introducing it in this chamber. Despite the respect I have for the Foreign Affairs Committee, I think perhaps this bill should be considered in two committees. It clearly has international implications, as it deals with The Hague Convention of 1954 and 1999, but there are other aspects of the cultural policy of Canada that must be addressed. I would like to hear not only from the Department of Foreign Affairs but also from Heritage Canada, because it has responsibility in this matter as well.

As Senator Johnson said, and as the convention indicates, no commissioner has been appointed in Canada to oversee the identification of sites that are of importance to Canada. There are sites in Canada of UNESCO quality. I think of Quebec City, one of the most ancient European settlements on the continent, and there are other sites of UNESCO importance in Canada.

Honourable senators, Bill S-37 gives us an opportunity to take up that responsibility and to be informed of what our Armed Forces do in this regard. We have a contingent at Camp Julien in Kabul. Have those troops been instructed on their responsibility with regard to this convention not only there but all around the world?

Every 10 years there has been an international conflict in which Canadian Forces have served in a mediating capacity, and this convention sets out our responsibilities in this regard.

Honourable senators, I would like to commend Senator Johnson and Senator Baker for having brought this bill to our attention. The title makes it seem innocuous, but in reality it deals with a matter of importance to the survival of civilization and the protection by Canada of the soul and brain of the cultural identity of every country of the world.

• (1500)

The Hon. the Speaker *pro tempore***:** Are senators ready for the question?

Hon. Senators: Question!

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

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Rompkey, bill referred to the Standing Senate Committee on Foreign Affairs.

NATIONAL SECURITY AND DEFENCE

BUDGET—REPORT OF COMMITTEE ON STUDY OF VETERANS' SERVICES AND BENEFITS, COMMEMORATIVE ACTIVITIES AND CHARTER ADOPTED

The Senate proceeded to consideration of the ninth report of the Standing Senate Committee on National Security and Defence (budget—Study on the services and benefits provided to veterans in recognition of their services to Canada), presented in the Senate on June 14, 2005.—(*Honourable Senator Meighen*)

Hon. Michael A. Meighen moved the adoption of the report.

Motion agreed to and report adopted.

SCRUTINY OF REGULATIONS

SECOND REPORT OF JOINT COMMITTEE DEEMED ADOPTED

The Senate proceeded to consideration of the second report of the Standing Joint Committee for the Scrutiny of Regulations (Report No. 75—Disallowance), presented in the Senate on May 5, 2005.—(*Honourable Senator Bryden*)

Hon. Bill Rompkey (Deputy Leader of the Government): Our understanding is, honourable senators, that this item drops automatically from the Order Paper.

Hon. John G. Bryden: For clarification, honourable senators, I believe what really occurs is that on this day, which is the limit day, this chamber is deemed to have adopted our report. This is the fifteenth day.

The Hon. the Speaker *pro tempore***:** This report is subject to section 19.1(5) of the Statutory Instruments Act:

> The resolution is deemed to have been adopted by the Senate or the House of Commons on the fifteenth sitting day after the report is presented to that House unless, before that time, a Minister files with the Speaker of that House a motion to the effect that the resolution not be adopted.

This is the fifteenth day.

Senator Bryden: If I could, I will speak to that point. The Statutory Instruments Act functions automatically. It has time limits under which action is taken unless it is interrupted. On the fifteenth day after the report to disallow particular regulations has been tabled in this chamber, the chamber is deemed to have adopted that report unless the minister — and the only minister we have is Senator Austin — has followed certain procedures in order to move that it not be adopted. Since that action has not been taken and is not being taken and cannot be taken now because notice would have had to be given, today is the last day and the report is automatically adopted at the end of this day.

Hon. Jack Austin (Leader of the Government): Honourable senators, if I may add further confusion to the issue, I am advised that, in the other place, the report was not adopted but indeed returned to the Standing Joint Committee of the Senate and the House of Commons for the Scrutiny of Regulations for further consideration. The result of the action in the other House is that the adoption of this report here is a nullity under the legislation. If this is not correct, I would like to advise the house further, but I believe that is an accurate statement of what has taken place. Therefore, no action need be taken in this chamber because the other place has determined the outcome of this report.

• (1510)

Senator Bryden: It is correct that in order for the regulation to be disallowed it must be disallowed in both Houses. It is being disallowed in this house under the rules, but in the meantime, because they sit five days a week instead of the three that we do, their time limit came up earlier. As Senator Austin has indicated, they decided not to adopt the report at this time, but to refer it back to the committee. It is not disallowed; it is referred back to the committee.

I can provide more information about that matter because the department that is involved introduced a piece of legislation that placed the offending regulation in the act, which makes it legal. They were hopeful that they could get unanimous consent in the other place to expedite passage and then perhaps both Houses could withdraw the provision. That unanimous consent was not forthcoming because of one party's position on the matter. Therefore, they went ahead with their second option, which was to refer it back to the committee. We let ours run.

I wish to indicate, for the information of honourable senators, that if the bill is not moved expeditiously through the other chamber, then because this action has been referred back to our committee by the House of Commons, the same report will be back before both Houses expeditiously.

Hon. Tommy Banks: I am confused. I hope that Senator Bryden will answer my question for future reference. Senator Bryden says that day 15 is the day on which the action is deemed to have been taken. Yet, the number in brackets above the item on the Order Paper reads 13. Is it the case that the 13 is wrong because the report was tabled two days before something that I do not know about?

Senator Bryden: I believe the difference lies between when we started to debate the report and when it was actually tabled. That is the two days**.**

The Hon. the Speaker: Perhaps I could assist, honourable senators. The day when the report was adopted by the committee is the date from which the time runs. That is the 15 days. The 13 days is the time the matter has been on our Order Paper.

Report deemed adopted pursuant to section 19.1(5) of the Statutory Instruments Act.

[*Translation*]

NATIONAL SECURITY AND DEFENCE

MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE— DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Nolin, seconded by the Honourable Senator LeBreton:
>
> That the Standing Senate Committee on National Security and Defence have power to sit on June 20, 21 and 22, 2005, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto; and
>
> That if the Senate has adjourned for a period exceeding one week, the Standing Senate Committee on National Security and Defence be empowered, in accordance with rule 95(3), to sit on June 20, 21 and 22, 2005.—(*Honourable Senator Stratton*)

Hon. Pierre Claude Nolin: Honourable senators, I move the motion standing in my name.

Hon. Fernand Robichaud: Honourable senators, the motion before us seeks authorization for the Standing Senate Committee on National Security and Defence to sit on June 20, 21 and 22, 2005. These dates fall next week.

I am a little confused. Yesterday, we received the eighth, ninth, tenth, eleventh, twelfth and thirteenth reports of the Standing Senate Committee on National Security and Defence. Some of them were nothing more than a single sheet of information providing a list of witnesses who had appeared before the committee. I would simply like to ask a few questions of the committee chair, should he be present here tomorrow. I therefore move that this matter stand until the next sitting of the Senate.

Senator Nolin: Honourable senators, I have doubt as to the relevance of my colleague's questions. However, I do not think it will delay passage of the motion before us.

The motion requests that the Standing Senate Committee on National Security and Defence be authorized to sit on June 20, 21 and 22, 2005, even if the Senate is sitting at that time. I have taken part in the various debates. There was one question, among others, as to whether the committee could travel sufficiently quickly to permit members to attend voting, if votes were called in the Senate chamber.

[*English*]

The Hon. the Speaker: Honourable senators, the table is looking quizzically at me, as are others, so I think I should share with the chamber how I see what we are doing.

Senator Nolin rose when the item was called and asked that the question be put. He moved the motion, but it had been moved.

Senator Robichaud then rose and I did not put his motion to adjourn the debate. I was giving Senator Nolin an opportunity, because it was his time — I could interpret it that way, although that may be generous — to comment on Senator Robichaud's question. Although Senator Robichaud explained as a preamble to his intention to move adjournment of the debate that he wanted to put questions to the chair of the committee who is not here and presumably would stand the matter until the chair was here.

Are you interested in Senator Nolin's comments, Senator Robichaud?

[*Translation*]

Senator Robichaud: Honourable senators, I am always open to comments by my honourable colleague Senator Nolin. I moved that the debate be stood until tomorrow, in the hope that the committee chair would be here, because I want to question him about why the committee needs to meet. I understand that Senator Nolin may be capable of answering my questions. However, while I am in no way passing judgment on the quality of his answers, I would like the committee chair to explain why he wants authorization for the Standing Senate Committee on National Security and Defence to sit on June 20, 21 and 22, 2005.

On motion of Senator Robichaud, debate adjourned.

INFLUENCE OF CULTURE

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Léger, calling the attention of the Senate to the importance of artistic creation to a nation's vitality and the priority the federal government should give to culture, as defined by UNESCO, in its departments and other agencies under its authority.—(*Honourable Senator Kinsella*)

Hon. Joan Fraser: Honourable senators, given who and where we are, we know a number of politicians. Some of us have the additional pleasure of knowing a few actors. In fact, we knew some even before Senator Léger's arrival here. Those who are unkind often say that actors and politicians have much in common and they do not mean it as a compliment. They have this to say about actors and politicians.

[*English*]

They say we love the spotlight; we are vain; we love to talk; we love to hear ourselves talk a great deal, frequently without much expertise, but nonetheless with great pleasure. In other words, they do not speak kindly of us.

• (1520)

If any among us thought those things were true about actors, they know differently now because Senator Léger has brought to this fortunate place a new sensibility, a new sensitivity about the arts and, in particular, about actors, acting and the theatre — the performing arts.

Senator Léger has proven false such nasty myths. Few of us have ever met someone of greater natural goodness, warmth, generosity, human wisdom and true beauty. She is beautiful outside of course but inside lies a profoundly beautiful person who has done much for us. I do not think any of us will ever forget the sound of her extraordinary voice speaking poetry to us. When did we ever hear a senator speaking poetry, let alone with such profound art and conviction? Others have spoken of her career outside and inside this place, and I will not take your time to repeat what they have said so eloquently. It is true that she has honoured us by agreeing to sit among us. She has enriched us enormously, and her contribution to this place will last long after she is unfortunately obliged to leave us.

The topic of Senator Léger's inquiry is worthy of serious consideration because it is true that the state has always had a great role to play in support of the arts whether that support came from the king or, in democracies, from the great institution of the state. No worthy artistic community could survive without such support. However, I do not know whether I agree that there should be a full-time Senate committee devoted to the arts, although my hesitation is not about the indisputable importance of the subject that she has brought to our attention. Committees find ways to keep busy. They can meddle. Yet, one thing about the arts, like journalism, is that they do not do well when governments meddle. A fine balance must be struck. Nonetheless,

her suggestion should be considered seriously by this chamber, perhaps as part of a broader examination of our committees. There are many gaps in our committee systems and some overlaps. If we were to rethink the system, I know that the arts would place high on the list of priorities, in large part, though not entirely, in homage to Senator Léger.

[*Translation*]

Senator Léger, I cannot tell you just how great a privilege it has been to serve the Canadian public in the same chamber as you. You have left us richer. I thank you from the bottom of my heart.

On motion of Senator Losier-Cool, debate adjourned.

[*English*]

WORLD HEALTH ORGANIZATION

MOTION IN SUPPORT OF GOVERNMENT OF TAIWAN REQUEST FOR OBSERVER STATUS ADOPTED

On the Order:

> Resuming debate on the motion of the Honourable Senator Di Nino, seconded by the Honourable Senator Stratton:
>
> That the Senate call on the Government of Canada to support the request of the Government of Taiwan to obtain observer status at the World Health Organization. —(*Honourable Senator Rompkey, P.C.*)

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I had adjourned debate on this item to give other senators an opportunity to speak to it. However, I take silence as consent, which in my opinion is well placed, and so I would encourage honourable senators to support the motion.

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

Hon. Senators: Agreed.

Motion agreed to.

INEQUITIES OF VETERANS INDEPENDENCE PROGRAM

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Callbeck calling the attention of the Senate to the present inequities of the Veterans Independence Program. —(*Honourable Senator Rompkey, P.C.*)

Hon. Consiglio Di Nino: Honourable senators, this item will fall off the Order Paper unless someone reactivates the clock. Therefore, I move that debate be adjourned to the next sitting of the Senate for the balance of my time.

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

Hon. Senators: Agreed.

On motion of Senator Di Nino, debate adjourned.

EFFICACY OF GOVERNMENT IN IMPLEMENTING KYOTO PROTOCOL

INQUIRY—DEBATE ADJOURNED

On Inquiry No. 19:

By the Honourable Senator Andreychuk:

> That she will call the attention of the Senate to the failure of the government to address the issue of climate change in a meaningful, effective and timely way and, in particular, to the lack of early government action to attempt to reach the targets set in the Kyoto Protocol.

Hon. Terry Stratton (Deputy Leader of the Opposition): Honourable senators, I would ask that this item stand because Senator Andreychuk is travelling in Atlantic Canada. The honourable senator will speak to the item upon her return.

The Hon. the Speaker: Honourable senators, is it agreed to re-start the clock?

Hon. Senators: Agreed.

On motion of Senator Stratton, debate adjourned.

SEA-DUMPED MUNITIONS AND SEISMIC TESTING

INQUIRY—DEBATE ADJOURNED

Hon. Gerard A. Phalen rose pursuant to notice of June 7, 2005:

> That he will call the attention of the Senate to sea-dumped munitions and seismic testing.

He said: Honourable senators may recall that on February 10, 2004, I brought to the attention of the chamber concerns in respect of sea-dumped chemical and conventional munitions. At the time, the Department of National Defence announced a study to assess these dumping sites with the intention that sites that pose a risk to human health or to the environment be addressed as part of a concurrent follow-up project. After a number of requests, I received a copy of the January 2005 report prepared for DND by Neil and Gunter Limited. They conducted detailed research into the 50 sites designated as high risk in order to provide detailed evidence of the potential risks posed; to compile positional information regarding the location of the sites; and to assess all available information and evidence.

• (1530)

It was disturbing to read in this report that the researchers were not given access to restricted files at the National Archives on munitions disposal sites, nor collaboration with the Canadian

Hydrographic Service on munitions disposal sites. It was equally upsetting to read that despite not being given access to all available information the researchers were nevertheless still able to identify 50 sites.

The sites were classified in three categories: munitions disposal sites, shipwrecks and submarines. Five categories were considered in the risk assessment of these sites. They were: proximity to population, accessibility, quantity of ordnance, type of ordnance and the risk to the environment. Based on these five categories, 11 sites were ranking in the highest risk category; 17 sites were ranked in the average risk category; and 20 sites were ranked in the lower risk category.

Although time does not permit me to go into a detailed description of all of these sites, I would like to bring to the attention of honourable senators a few of the worst. The site rated as the most dangerous by this report was the Bedford Basin. The report states, regarding the Bedford Basin, that "the issues of proximity to population and quantity and type of ordnance indicate a potential high risk condition."

The report further states:

> The shoreline and waters around Bedford Basin have seen a rapid increase in development and recreational boating in recent years which increases concern for accidental disturbance of unexploded ordnance.

I am sure senators all remember the newspaper reports of munitions that washed ashore after last year's Hurricane Juan.

Another of the highest ranked sites is the Sydney bomb disposal site. The report states that "the coordinates for the site put it in relatively shallow water, which increases the potential risk of accidental disturbance."

The third site listed in the highest risk category that I would like to bring to the attention of honourable senators is the Sydney disposal site. This area was a designated munitions disposal site at the end of the Second World War to get rid of ammunition from Sydney and from vessels that were directed to Sydney from overseas.

It is important to understand the dangers posed by these highest risk sites. Perhaps the best way to explain their danger is to compare them to what are classified as sites with below average risk. One such below average risk site is the chemical/biological disposal area south of Sable Island. This site is reported to contain approximately 11,000 drums of mustard gas. If a site containing 11,000 drums of mustard gas is a below average risk, then the highest risk sites are surely dangerous beyond all imagination.

Mustard gas, when exposed to seawater, forms a thick outer crust over an inner core, allowing it to be brought to the surface where it can injure fishermen who end up hauling up these crusts of toxic material in their nets. Is our fishermen's future going to be similar to that of the Danish fishermen who, in 2003, reported 25 catches of mustard gas lumps, amounting to 1,110 kilograms of these dangerous gas lumps unknowingly hauled onto fishing vessels? If so, protection for our fishermen should be a priority. Perhaps we should follow the lead of the Danes, who have put in place a program to decontaminate fishing vessels that haul up mustard gas, as well as compensate these fishermen for their contaminated catches.

As I said in my earlier speech, NATO has said:

> Although the risk of sea-dumped munitions does not meet the eye, the corrosion of the shells and rounds which were dumped five decades ago is progressing fast now. It is feared that major quantities of chemical agents will leak into the sea by 2005. Beyond the immediate impact of a further depletion of the world's endangered fish stocks, poisonous agents will enter the food chain via plankton. Toxic effects with possible genetic consequences would not be confined to the countries of the region, but might become a worldwide concern.

It is also important to restate what Dr. Jennifer Mokos told the Standing Senate Committee on Fisheries and Oceans on June 3, 2003. She said:

> If a dump site is disturbed enough to cause some sort of release, it could decrease the fish stock by approximately 70 per cent. This is just an example of what some of the outcomes could be.

Honourable senators, as if the dangers posed by these unexploded munitions deteriorating over the past 60 years was not enough, we now have to add to the mix the threat posed by oil and gas exploration in these areas. The Neil and Gunter report states that the Sydney disposal site "is located in an area of interest for petroleum exploration. The water depths at the site are well within the capacity for oil exploration operations."

Honourable senators, let me make it clear from the outset that I am not against seismic testing for oil and gas exploration. Present exploration commitments off shore from Nova Scotia total approximately $1.56 billion on 57 licence blocks over an area of 7.8 million hectares. During the past two years, approximately 10 wildcat wells were drilled on these blocks with a total investment of more than $485 million. The economic benefits of the oil and gas sector to the economy in Nova Scotia are clear, but proper scientific review needs to be done to ensure the future of oil and gas development and, equally important, the future of the East Coast ocean industries, which accounts for $6.76 billion of the gross domestic product.

Much has been said in the media over the last couple of years regarding the potential impact of seismic testing on the marine environment. It is important to understand exactly what modern-day seismic testing is. I am sure senators all remember the Second World War movies when submarines were located by sonar equipment sending down sound waves that bounced back off the hulls of the submarines. The theory is the same, but the modern-day technology is immensely different. Today's seismic testing is

performed by ships deploying up to 30 airguns towed at a depth of five to seven metres below the sea's surface. The airguns eject high-pressure air bubbles every 10 to 12 seconds into the water and the resultant pressure wave is used as the sound source. The sound is focused downward through the sea bed and bounces off the layers of various rock types back to the surface where hydrophones located on 6,000-metre-long cables record their arrival times, which are used to determine the geological formations.

According to information published by Hunt Oil, one of the companies involved in exploration off the coast of Canada, the sound in a radius of five metres from the airguns is at the level of 260 decibels, which is considered lethal. Up to 2,000 metres away, the sound is still at the 190-decibel level, which they consider to have possible physical effects on marine life.

I think it is important for us understand the effects of 260 decibels. The human threshold of pain is a mere 130 decibels. At 160 decibels, human eardrums perforate. According to Dalhousie University Professor Martin Willison, 200 decibels vaporizes fish into tiny particles. As Professor Willison said, 200 decibels is "just way, way beyond the word loud."

An article in the BBC News World Edition quoted Dr. Paul Jepson of the Zoological Society of London, who studied a mass beaching of whales in the Canary Islands following a military sonar exercise. Dr. Jepson said:

> There is a very good correlation between the naval sonar and the mass strandings.

The article goes on to say that the noxious boom of sonar causes the terrified animals to flee to the surface, triggering an acute form of the bends. Dr. Jepson studied the dead whales and found that they had bubbles in their tissues that were consistent with severe decompression sickness, or the bends.

• (1540)

Thankfully, the new Statement of Canadian Practice on the Mitigation of Seismic Noise in the Marine Environment, which was released for comment on February 19, 2005, states that enough is known about the spawning and migration patterns of fish in the Canadian environment that reasonable efforts can be made to plan to avoid situations of highest concern, such as avoiding critical local areas where species aggregate to spawn, as well as avoiding peak spawning periods.

A procedure called "ramping up" is now being used. This procedure involves slowly increasing the decibel level of the sound used in seismic testing to frighten the fish into leaving the area before dangerous levels of sound are employed.

Unfortunately, in this statement of Canadian practice, one of the general conclusions derived from the science review was that for invertebrates, such as snow crab, the biological and ecological effects of marine seismic sound are expected to be low, unknown or not fully understood. This conclusion would seem to be in disagreement with the findings of the study on snow crab by the Department of Fisheries and Oceans released in December of last year. That study found hemorrhaging and membrane detachment in crabs' ovaries, as well as significant damage to their livers.

As well, concerning marine animals, the statement of Canadian practice states:

> All programs to acquire seismic data in the Canadian marine environment shall establish:
>
> a. a safety zone of 500 metres from the centre of the seismic source array or arrays; and
>
> b. when the safety zone is visible, conduct regular on-going visual monitoring of the safety zone...

Unfortunately, this Statement of Canadian Practice on the Mitigation of Seismic Noise in the Marine Environment does not mandate any mitigation measures. For example, the statement says:

> All programs to acquire seismic data should be planned to avoid:
>
> a. death, harm, or harassment of individuals of marine mammals and sea turtles...; and
>
> b. population-level effects for all other marine species.

It seems to me that such a statement ought to take a clearer approach and state that seismic activity shall follow mandated mitigation measures.

Perhaps we should take our lead on this issue from the November 2004 resolution of the 16 member states of the Agreement for the Conservation of Marine Mammals in the Black Sea, Mediterranean Sea and adjoining Atlantic area, which called for "extreme caution" in conducting activities that produce intense underwater noise.

My other concern about the Statement of Canadian Practice on the Mitigation of Seismic Noise in the Marine Environment is that it does not make any mention of sea-dumped unexploded munitions. In fact, the Department of National Defence does not appear to be involved at all in this effort.

Munitions, by their very nature, are sensitive to shock. All explosives are shock sensitive and therefore can be exploded by mechanical shock, such as that created from an energy pulse. Initiating explosives such as lead azide and mercury fulminate are detonated by mild shock, such as the tap of a pencil. Other explosives, such as TNT, require a sledgehammer blow to set them off. The question that needs to be asked is, after 60 years on the ocean floor, how deteriorated are the casings of these munitions, and what will the pulses from powerful seismic testing guns do to these explosives?

Although some experts believe there is a low likelihood of seismic activity affecting old munitions, I believe we need to err on the side of caution. The Department of National Defence, in their presentation to the Ad Hoc Working Group of the Nova Scotia Offshore Petroleum Board, indicated that seismic testing over munitions was an additional risk at some level. The Neil and Gunter report to DND on the munitions dump sites included two risk categories based on oil and gas explorations.

Honourable senators, I believe we need to strengthen the measures in the statements of Canadian practice and to bring the Department of National Defence into the process to ensure that the statement deals with known ocean-dumped munitions. I hope you will join me in encouraging the government in both of these areas.

Honourable senators, we also need to ensure that the cleanup of munition sites continues and that further cleanups of the sites are adequately funded by experts in the field of munitions disposal. You may have seen the article in the *Ottawa Citizen* on May 30 reporting on the cleanup of the HMS *Raleigh* off the coast of Labrador. I commend DND on this continuing cleanup, but I also wish to point out that since the *Raleigh* was sunk there have been four residents killed as a result of these munitions, and that, honourable senators, is four too many.

Hon. Gerald J. Comeau: Would the Honourable Senator Phalen accept a question on his presentation?

The Hon. the Speaker: Before we could do that, I must advise Senator Phalen that his time has expired. Are you requesting leave?

Senator Phalen is asking for leave for additional time. Is leave granted?

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I believe the normal time is five minutes.

Senator Comeau: I would like to congratulate Senator Phalen for bringing up an extremely important subject, the danger of seismic testing, and tying it to the issue of undersea munitions dump sites. He has vividly illustrated the danger of the two, the impact this might have not only on fisheries but also on the safety of fishermen and the extreme danger this could pose in many areas.

Is the honourable senator aware of any contingency plans the government may have in place to tackle a major disruption of one of these sites over the long term? I know there has been some suggestion that it is better to let these munitions lie as they are and to avoid disturbing them because they are so badly corroded. Is the honourable senator aware of whether there are any plans to identify the sites and to prepare some kind of contingency plan to handle this?

As well, is the honourable senator aware of whether the Department of National Defence, given that sailors were involved in the disposal of these munitions, mustard gas and so on, has used the expertise and the memory of some of these sailors to identify the sites? As time progresses, these sites may not all be known. The honourable senator has identified a number of sites, but might there be others as well?

I pose two questions: Might there be other sites, and is there any kind of contingency plan to mitigate those munitions dumping sites?

Senator Phalen: In response to the Honourable Senator Comeau's question with respect to the sites, the Neil and Gunter people who studied this problem were not given access to all the sites. Other sites exist; there is no question about that. The Department of National Defence has them listed as secret.

In respect to mustard gas, they have classified that as an average risk, not as a high risk. I have talked to fishermen during the course of this study, and they give the site I mentioned at Sable Island a wide berth. That is the only safety precaution I am aware of with respect to that site. The government has said nothing to indicate that they have given any priority to that.

Hon. Eymard G. Corbin: Honourable senators, I rise on a point of order. When an extension of time was requested to allow Senator Phalen to receive a question from Senator Comeau, I saw my leader rise in his place, raise his hand, look at the deputy leader on the other side and say something along the lines of, "the usual five minutes."

• (1550)

This is becoming more than a practice. It is becoming a tradition or almost a convention. This Order Paper item is basically a senator's private matter or interest under the title of "Inquiry." There has been a practice between the leadership of taking matters under their control and imposing limits on speaking time. Surely this is not government business, per se. These are matters of private concern to those senators who raise important issues. I feel that the issue, once heard, becomes a matter of interest for all senators, including so-called — I know this is not an expression used very often in the Senate — backbench senators. I sit on the back bench because that is where I prefer to sit in this place.

I am not asking the Speaker to make a ruling on this matter, but I wish to serve notice that I will continue to question this practice in the future. I am giving it serious thought because it is not for the leadership to impose limits that have the effect of limiting debate and very useful exchanges among senators in this place, especially on private initiatives. I fully sympathize with the leadership on both sides. There have been instances in this place where the extension of time has been abused and abused badly, perhaps with a purpose in mind.

Previous to this practice being agreed to, debates have gone beyond what I would call reasonable limits, which is a concern for all senators. Matters of detail are properly dealt with at the committee stage, if the house decides to refer matters to a committee. Initial debate or second reading should deal with matters of general principle, not detail.

I am observing closely what is going on. I do not necessarily belong to an old boys' club or whatever one wants to call it. I consider myself a solitary senator in this place. I have my own views. I have been around a long time and have experienced this practice in other times.

When I was an elected member in the other place, the practice for private members' business was that the leadership did not intervene. We should honour that practice in the future in order to have fruitful and useful exchanges. Senator Phalen has raised this matter before; Senator Comeau has asked questions on this matter before; I also have questions regarding this whole conundrum. I would save questions for the committee stage, if the Senate referred the matter to a committee.

Honourable senators, I am voicing my concern about this practice now, and I reserve the right to intervene again in the future.

The Hon. the Speaker: Senator Corbin did not ask for a ruling. He was intervening on the matter. To preserve his time to speak later, perhaps adjourning the item might be the best way to deal with it; otherwise, I am inclined to regard the comments as an intervention. With leave, I can regard his intervention as a point of information or a notice of a point of order that may go to Senator Rompkey for adjournment, which would preserve Senator Corbin's right to speak.

Senator Corbin: Perhaps I did not make myself clear. I thought I was rising on a point of order. I should like to adjourn my point of order to a later date.

Senator Stratton: Motion for adjournment. This is not debatable.

The Hon. the Speaker: A request for a ruling has not been made. Therefore, I cannot regard this as a point of order. If it were a point of order, I would want to dispose of it in terms of interventions on the point today.

Senator Rompkey: I agree, in principle, that the leadership on either side should not have anything to do with private members' bills, and we do not wish to. There is no compulsion or desire or intention of the leadership on either side to interfere with private members' bills. The chamber should deal with them, and we understand that procedure. However, in the past, my experience has been — and Senator Corbin made this point — that if debate is allowed to continue, there is no termination. It could go on for days. No one has the authority or right to stop it. Someone in the chamber, somehow, has to put some reasonable limits on the time for debate.

Experience has shown us that a mutually-agreed time works best. Senator Phalen did not ask me to adjourn the debate, but I did rise to do so because I assumed other senators wished to contribute to the debate. I simply wanted to keep this inquiry on the Order Paper. We do have the authority to order the work of the chamber in general so that it is dealt with fairly and expeditiously. The matter of flexibility is the reason we agreed to five minutes, although it could be three or five or six minutes. Someone in the chamber has to take responsibility at some point and put a limit on debate, and Senator Corbin made that very point himself. I do not know who it would be other than the Speaker, if not the leadership. I wish to assure honourable senators that I have absolutely no desire to interfere in private members' bills, but I should like to see them debated in an open, fair and complete manner.

The Hon. the Speaker: Perhaps this should be put under the rubric of "house business." I do not want to leave this as it is because I believe Senators Corbin, Rompkey and Stratton may wish to speak to this inquiry. The difficulty is by what means I recognize them on this occasion. I have done everything I can to allow senators to speak.

• (1600)

This is not a point of order because no request for a ruling has been made. It has to do with the practice of senators conditionally granting additional time, which we deal with under the rubric of "house business." Therefore, for clarification of the record, I will regard these interventions under that rubric.

Hon. Terry Stratton (Deputy Leader of the Opposition): In the time that I have been here, it has been my experience that if no control is imposed debate can continue for an extensive period of time. It is a device not to limit debate but to limit the time involved, recognizing that there is a 15-minute time limit for a speech.

Last week or the week before, an extension was requested and the debate continued well beyond the five minutes normally granted. It was not limited, and that depends on the issue. The understanding is meant to prevent matters from getting out of hand. Our side does not want to limit debate either. However, we do want control over what takes place in the chamber, and I think that is a logical way of approaching the matter. Senator Robichaud was the originator of this methodology, and I think it works extremely well.

On motion of Senator Rompkey, debate adjourned.

The Senate adjourned until Thursday, June 16, 2005, at 1:30 p.m.

CONTENTS

Wednesday, June 15, 2005

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