



Debates of the Senate

1st SESSION

•

36th PARLIAMENT

•

VOLUME 137

•

NUMBER 49

OFFICIAL REPORT
(HANSARD)

Wednesday, March 25, 1998

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THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

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

Debates: Victoria Building, Room 407, Tel. 996-0397

Published by the Senate

Available from Canada Communication Group — Publishing, Public Works and
Government Services Canada, Ottawa K1A 0S9, at \$1.75 per copy or \$158 per year.

Also available on the Internet: <http://www.parl.gc.ca>

THE SENATE

Wednesday, March 25, 1998

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

[*Translation*]

Prayers.

SENATOR'S STATEMENT

UNIVERSAL DECLARATION OF HUMAN RIGHTS

ISSUANCE BY CANADA POST OF STAMP HONOURING
PROFESSOR JOHN PETERS HUMPHREY TO COMMEMORATE
FIFTIETH ANNIVERSARY

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, you may recall that last year we raised the matter of the desirability of Canada Post issuing a special commemorative stamp marking the fiftieth anniversary of the Universal Declaration of Human Rights and, in particular, the contribution of a distinguished Canadian, John P. Humphrey, who prepared the first draft of this universal standard of human rights.

Honourable senators may also recall that we asked the Leader of the Government in the Senate, during a Question Period, to bring our representation in this regard to the attention of the government and Canada Post. This, the honourable minister agreed to do.

Colleagues, the following letter has been received from the Honourable André Ouellet, Chairman of the Board of Canada Post. I would like to read it:

Dear Senator Kinsella:

As Chairman of the Stamp Advisory Committee, I am pleased to inform you that your suggestion that we issue a commemorative stamp in 1998 on John Humphrey was approved by the committee.

Honourable senators, I want to thank the minister. Notwithstanding what some say about this honourable chamber, our representations are heard and, in this instance, acted upon in a very appropriate manner.

ROUTINE PROCEEDINGS

TELECOMMUNICATIONS ACT TELEGLOBE CANADA REORGANIZATION AND DIVESTITURE ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Lise Bacon, Chair of the Standing Senate Committee on Transport and Communications, presented the following report:

Wednesday, March 25, 1998

The Standing Senate Committee on Transport and Communications has the honour to present its

FIFTH REPORT

Your Committee, to which was referred Bill C-17, an Act to amend the Telecommunications Act and the Teleglobe Canada Reorganization and Divestiture Act, has, in obedience to the Order of Reference of Tuesday, March 24, 1998, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LISE BACON
Chair

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

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

[*English*]

FIRST NATIONS GOVERNMENT BILL

FIRST READING

Hon. David Tkachuk: Honourable senators, I have the honour to present Bill S-14, entitled An Act providing for self-government by the First Nations of Canada.

Bill read first time.

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

On motion of Senator Tkachuk, bill placed on the Orders of the Day for second reading on Tuesday, March 31, 1998.

THE HOLOCAUST

STATEMENT ISSUED BY VATICAN VIEWED
AS TEACHING DOCUMENT—NOTICE OF INQUIRY

Hon. Jeremiah S. Grafstein: Honourable senators, I give notice that on Tuesday, March 31, I will call the attention of the Senate to the statement of the Vatican on the Holocaust as a teaching document.

**INTERNAL ECONOMY, BUDGETS
AND ADMINISTRATION**

SIXTEENTH REPORT OF COMMITTEE PRESENTED

Leave having been given to revert to Reports from Standing Committees:

Hon. Bill Rompkey, Chair of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Wednesday, March 25, 1998

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

SIXTEENTH REPORT

Your committee has examined and approved the budget presented to it by the Special Joint Committee on Child Custody and Access for the proposed expenditures of the said committee for the fiscal year ending March 31, 1998:

(Senate's Share)

Professional and Special Services	\$ 1,815
Transport and Communications	7,530
All Other Expenditures	150
Witness Expenses	<u>3,150</u>
TOTAL	\$ 12,645

Respectfully submitted,

WILLIAM ROMPKEY
Chair

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

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

SEVENTEENTH REPORT OF COMMITTEE PRESENTED

Hon. Bill Rompkey, Chair of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Wednesday, March 25, 1998

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

SEVENTEENTH REPORT

Your committee has examined and approved the budget presented to it by the Special Joint Committee on Child Custody and Access for the proposed expenditures of the said committee for the fiscal year ending March 31, 1999:

(Senate's Share)

Professional and Special Services	\$ 16,035
Transport and Communications	87,870
All Other Expenditures	2,025
Witness Expenses	23,850
Printing	<u>7,500</u>
TOTAL	\$ 137,280

Respectfully submitted,

WILLIAM ROMPKEY
Chair

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

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

QUESTION PERIOD

FOREIGN AFFAIRS

USE OF CHILDREN AS PROTAGONISTS IN WAR IN UGANDA—
GOVERNMENT POSITION

Hon. Norman K. Atkins: My question is to the Leader of the Government in the Senate. Last Sunday, the television program *60 Minutes* presented a devastating piece with regard to Ugandan rebels using children as human shields. Even worse than that, these rebels are kidnapping children and turning them into murderers on the basis that if they do not do what they are told, they will be killed.

I do not know whether governments around the world were aware of the significance of this. My question to the leader is: What is Canada's relationship with Uganda? Is the government aware, or has it been aware of the situation that is so serious there? If so, what would the government be doing in their relationship with Uganda to try to correct the devastating situation that appears to be taking place in that country?

Hon. B. Alasdair Graham (Leader of the Government): I thank the honourable senator for his question. The events in Uganda are obviously shocking. The situation is reprehensible. *60 Minutes* brought information to the public at large, some new, perhaps unknown, but certainly suspected revelations as to the atrocities that have taken place in that country.

The Minister of Foreign Affairs is now more aware of the situation. I know that there have been discussions in this respect with officials at the Department of Foreign Affairs. I would be happy to bring forward to the Honourable Senator Atkins any further information that might be available with respect to Canada's position in relation to Uganda.

NATIONAL FINANCE

CHANGES TO RULES ON GUARANTEED INCOME SUPPLEMENT REGARDING CASUAL EARNINGS OF SENIORS— GOVERNMENT POSITION

Hon. David Tkachuk: Honourable senators, my question concerns the guaranteed income supplement and the new definition of income that is incorporated in Bill C-36, the budget implementation bill.

Changes to the rules in the GIS program are important to our seniors, since they affect the poorest and most vulnerable of Canada's seniors. The GIS has a steep benefit clawback of 50 cents for every dollar of income.

Under section 13 of the Old Age Security Act, the definition of income for GIS purposes is the same definition used in the Income Tax Act, minus various other amounts. One of these amounts is a deduction of one-fifth of the first \$2,500 of employment earnings. For example, if a senior citizen earns \$2,500 part time over a year, only \$2,000 is added to income for GIS purposes. This increases to \$500 the amount of income eligible for clawback purposes, and thus \$250 off the amount that is clawed back. In addition, if a senior pays Employment Insurance or Canada Pension Plan premiums on these earnings, these are also deducted from income used in calculating benefits.

As of July 1999, section 13 and its exemptions will be replaced by a new definition that does not include a break for casual earnings or payroll taxes. Can the minister tell us whether the failure to include these exemptions in the new income definition is an oversight or a deliberate policy decision? If it is a deliberate policy decision, could he also report as to how many seniors are affected and as to the dollar amounts involved?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, this is an interesting and complicated question.

Honourable senators will know that the bill is now before the House of Commons. In fact, I understand it received second reading yesterday in the other place. Perhaps it would be more appropriate for Senator Tkachuk and his committee to give the bill a proper examination when it comes before the Senate.

At any rate, in the interim period, I will attempt to obtain a more up-to-date answer to his question.

WAR VETERANS ALLOWANCE PROGRAM— CHANGES TO REGULATIONS GOVERNING CASUAL EARNINGS— GOVERNMENT POSITION

Hon. David Tkachuk: Honourable senators, I have a supplementary question: The income test for the War Veterans Allowance Program is similar to the income test for the guaranteed income supplement. However, in the case of veterans, the income exclusions are set through regulation.

Could the Leader of the Government provide assurances that the government will not, through regulation, alter the allowable casual earnings under the War Veterans Allowance Program to mirror the new GIS definition of income?

•(1350)

Hon. B. Alasdair Graham (Leader of the Government): I do not believe that that is the intention of the government, but I shall include that aspect in my answer as well.

NOVA SCOTIA

FUTURE USE OF SHEARWATER BASE AS FREE TRADE ZONE— GOVERNMENT POSITION

Hon. J. Michael Forrestall: I have a question for the Leader of the Government in the Senate. It is a question I am sure Dr. Savage would have liked to have put, but I do not see him with us just yet.

Can the minister for all Nova Scotia tell us if there is any truth to the reports that the Department of National Defence property on the south side of the Shearwater base, principally the carrier base, the pier, and the adjunct storage area, is to be turned over to the private sector for the purpose of setting up a free trade zone in Halifax?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I know that discussions are going on with respect to the possible options for the future use of the Shearwater base, certainly with regard to its industrial development capacity. In any negotiations that would naturally proceed with respect to the pier, of course, the armed forces would have first call on the pier.

With respect to the honourable senator's suggestion regarding a free trade zone, I am not aware of any formal discussions having taken place on that particular subject.

Senator Forrestall: The concern, of course, is that it is the principal tie-up area for visiting nuclear submarines, and any impairment of that capacity, which embraces the security of those visiting vessels, would be somewhat detrimental to our relations within NATO.

Senator Graham: I assure my honourable friend that the armed forces are very cognizant of the situation he has described and that they would take every measure to ensure that the special interests of our allies are protected in that regard.

RESULTS OF YESTERDAY'S PROVINCIAL ELECTION—
GOVERNMENT POSITION

Hon. Lowell Murray: Honourable senators, by way of supplementary, I realize I may be leading with my chin on this one, but I cannot resist asking the minister whether, out of respect for the 20 Liberals who lost their seats last night in Nova Scotia, we will be observing seven seconds of silence?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, perhaps we should have eight seconds of silence for the 1 per cent drop in popular vote for the Conservatives.

The Hon. the Speaker: Is it the wish of the Senate that I ask for silence now?

Senator Graham: If we are talking about seven seconds for the Conservative Party, yes; but if we are talking about seven seconds for the Liberal party, no.

Since Senator Murray could not resist the temptation of raising the issue, I think that we should pay tribute to the people who took part in the election in Nova Scotia. I include all three leaders and all of their supporters. Premier MacLellan, Robert Chisholm, the leader of the New Democratic Party, and Dr. Hamm, the leader of the Progressive Conservative Party, all deserve our congratulations and support.

Our real sense of appreciation should go to the electorate and to the democratic process itself.

Senator Lynch-Staunton: Are you asking for a recount?

Senator Graham: Having observed elections all over the world, I cannot recall a more intriguing result of the democratic electoral process at work. I believe it is a result that mirrors the concerns of voters. It honoured the parties and their leaders, and it will ensure that politics will remain very interesting in my home province for many months and years to come.

Senator Forrestall: You will notice the restraint being practised on this side of the chamber.

POST-SECONDARY EDUCATION

MILLENNIUM SCHOLARSHIPS—RESTRICTION ON FUNDS FOR STUDENTS STUDYING ABROAD—GOVERNMENT POSITION

Hon. Ethel Cochrane: Honourable senators, Bill C-36, which implements the millennium scholarship, restricts scholarship recipients to attending degree-granting institutions in Canada. Could the Leader of the Government explain why students will be prohibited from using these funds to study at institutions outside of Canada? What considerations led the government to this policy decision?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, it is a valid point that has been raised by my honourable friend, who has long-standing interest in educational matters. It is certainly a valid question. I shall attempt to bring forward an answer to her question.

Senator Cochrane: Honourable senators, this is discrimination against Canadian students who wish to combine their education with the experience of living in another country. Canadian governments and post-secondary institutions encourage students from other countries to take advantage of the experience of studying in Canada. We have always expressed admiration, to give one example, for Rhodes Scholars who travel to Great Britain for part of their education. How can the government justify this restriction in the millennium scholarships?

Senator Graham: I do not know that Rhodes Scholars would be in need of any particular assistance, nor would we want to pile one scholarship on top of another, but I think that individual achievements should be recognized, and I shall certainly bring the concerns of Senator Cochrane to the attention of my honourable colleagues.

ENERGY

POWER GENERATION FACILITY TO BE BUILT ON LOWER CHURCHILL RIVER, NEWFOUNDLAND— AVAILABILITY OF FEDERAL FUNDS—GOVERNMENT POSITION

Hon. Jack Austin: Honourable senators, I should like to ask the government leader a question with respect to a meeting that was held at Churchill Falls, Newfoundland, on March 9, between Premier Tobin and Premier Bouchard. At that meeting, they announced that they were entering negotiations to build a \$12-billion power generation project on the Lower Churchill and that part of their plans included a \$2-billion, 800-kilowatt transmission line from Labrador to Newfoundland. The information that was given to the media at that point was that the federal government would be expected to finance the \$2-billion transmission line.

I should like to ask the minister what requests have been made of the Government of Canada up to now. Is the Government of Canada considering participating in this project? On what basis might it participate in this project?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I am not aware that any specific commitments have been made with respect to the capital project itself. I suspect that there may have been commitments made with respect to feasibility studies in relation to that very large project, but I shall be happy to bring forward further information for Senator Austin.

GOODS AND SERVICES TAX

RESULTS OF YESTERDAY'S PROVINCIAL ELECTION IN
NOVA SCOTIA—POSSIBLE ABOLITION OF BLENDED
SALES TAX—GOVERNMENT POSITION

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, my question is to the Leader of the Government in the Senate. In light of the results of the election in Nova Scotia yesterday, will the Government of Canada agree should the Province of Nova Scotia bring forward a request to abolish the blended sales tax?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I do not know if the honourable senator means that to be a light-hearted or a loaded question, but it is heavy-duty. I am not aware of any particular agreement or intention on the part of the Government of Canada in that respect.

•(1400)

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, before I call Orders of the Day, I wish to draw to your attention the second page from our exchange program with the House of Commons. Yesterday I introduced the first page.

Today we have with us Charelle Racicot from Battleford, Saskatchewan. She is pursuing her studies in the Faculty of Arts at the University of Ottawa, majoring in English.

We wish you welcome to the Senate.

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, I should also like to remind you that at 5:30 today there will be a special reception in the lobby of the Senate for the unveiling of a painting which has been given to the Senate by one of our colleagues, Senator Joyal, in honour of a previous Speaker, Senator Marchand. I believe all of you have received invitations. I hope to see you at 5:30 in the lobby.

ORDERS OF THE DAY

TOBACCO INDUSTRY RESPONSIBILITY BILL

SECOND READING—ADJOURNED AWAITING
SPEAKER'S RULING—POINT OF ORDER

On the Order:

Motion of the Honourable Senator Kenny, seconded by the Honourable Senator Nolin, for the second reading of Bill S-13, to incorporate and to establish an industry levy to provide for the Canadian Tobacco Industry Community Responsibility Foundation.—(*Speaker's Ruling*).

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, a point of order is presently before His Honour for decision relating to Bill S-13. You will recall that during debate on the point of order, it was indicated that because the matter was under debate and the point of order had just been raised, some of us wanted to go to the literature and do some research. His Honour queried us on whether or not that suggestion would meet with favour, and it was not taken up.

If new material on a point of order comes to the attention of an honourable senator, is there a procedure whereby that material can be brought to His Honour's attention, either by way of a statement in the chamber before His Honour rules on the matter, or by way of a communication in writing to His Honour? If such a situation did present itself, would it be considered out of order to make a submission in writing to His Honour, or should it be raised here, or is the matter indeed closed?

For example, in the matter under consideration, the issue of a private bill versus a public bill came to mind, and that was not part of the debate. Would it be in order for a submission to be made once a matter is in the hands of His Honour for decision?

The Hon. the Speaker: Do any other honourable senators wish to speak to the point of order? If no one wishes to speak, then perhaps I can speak now.

As honourable senators know, the question is still before the Senate. It is No. 1 under Senate Public Bills, and it is in the hands of the Speaker. Normally the matter would await the Speaker's reply. However, this is a very important item, as one will recall from the observations made at the time by honourable senators. If there is further information, I think it would be to the benefit of the Senate to hear it.

If it is agreeable to the Senate, I would be quite prepared, when the item is called in my name as the Speaker, to have further deliberation at that point. However, I can only do that with agreement of the Senate. I think it would be to the advantage of the Senate to hear any further contributions.

I remind honourable senators that this is a serious and important issue from a democratic standpoint as it bears on the powers of this house to introduce matters before the house, not to be restricted unduly by the Royal Recommendation. On that basis, if it is agreeable, when we reach that point on the Order Paper, I will ask for further contributions.

Is that agreeable, honourable senators?

Hon. Senators: Agreed.

[*Translation*]

SMALL BUSINESS LOANS ACT

BILL TO AMEND—SECOND READING

Hon. Céline Hervieux-Payette moved the second reading of Bill C-21, to amend the Small Business Loans Act.

She said: Honourable senators, I would like to speak to Bill C-21, to amend the Small Business Loans Act. After serious reflection, I have decided to vote in favour of this bill. My decision is based on the fact that small- and medium-sized businesses play a vital role in Canada and in the Canadian economy.

While supporting Bill C-21, I am well aware that the Small Business Loans Program is far from perfect. If we were to put an end to this program, which is essentially what we would do if we rejected Bill C-21, we would overthrow the entire set of financial instruments that have been created to support small business. No one would gain, and the small businesses which need access to non-conventional funding sources would suffer.

The program is very popular, with the business sector and such groups as the Canadian Federation of Independent Business and the Chamber of Commerce in particular.

[*English*]

Honourable senators, small business plays a vital role in the Canadian economy. Canada has more than 2.5 million small businesses, including self-employed individuals. Businesses with 100 employees or less account for 50 per cent of all private sector employment and 43 per cent of private sector output. Small businesses created 81 per cent of new jobs in 1996-97.

The objective of the Small Business Loans Program is to increase the availability of loans for the establishment, expansion, modernization and improvement of small business enterprises by encouraging lending institutions to make such loans. These fixed-asset loans are available for such things as the purchase of land or equipment, or for making improvements to buildings or leaseholds. They are not available for the purpose of financing the purchase of shares, working capital or existing debt, and they are not based upon good will or other intangibles. Eligible borrowers include for-profit businesses with gross

annual revenue of \$5 million or less. Farming operations which benefit from a similar but separate program, and religious and non-profit organizations, are excluded from the program.

[*Translation*]

In 1995-96, for example, over 30,000 businesses turned to the program. According to borrowers themselves, the loans they obtained helped them create 73,000 jobs. This is an impressive figure. Let us keep this figure in mind as we discuss Bill C-21.

The bill would do two things: it would amend the Small Business Loans Act by extending the period for which loans could be approved until March 31, 1999; and it would add \$1 billion to the program envelope, increasing it from \$14 billion to \$15 billion.

Honourable senators, unless we pass Bill C-21, it will not be possible to approve any new loans under the program after March 31, 1998. This would be very bad news for the small businesses of the country.

In my view, the Senate must consider this bill a temporary measure making it possible to continue the Small Business Loans Program and to meet the needs of SMBs for another year, while a detailed examination of the program is carried out.

If we were to extend the present loan approval period without any increase in the envelope, loans under this program would have to cease towards the end of October 1998.

•⁽¹⁴¹⁰⁾

The program would then wind up in a disorderly manner. Since it takes lenders several months to register the loans made, hundreds, not to say thousands, of loans would be made by lenders trying to have them approved at the last minute. The majority of these loans would have to be refinanced if possible and, if not, the lender would require them to be paid back, which would put many small businesses in difficult situations.

To extend the loan approval period without increasing the budget envelope at the same time would in fact kill the bill before us. I do not think it is the Senate's wish to leave Canadian small business in the lurch by taking away this useful financing tool.

While I support Bill C-21, I do realize that the Small Business Loans Program contains flaws which will have to be remedied. I know, however, that the Auditor General of Canada has stated that, overall and in spite of these flaws, the program is managed efficiently and meets a real need.

It is encouraging to see that this comprehensive review of the program is an excellent opportunity for us to take a closer look at it. The people of Canada in particular will take advantage of this review to give some thought to the problem areas to which the Auditor General has drawn attention.

The question of incrementality has been raised as to whether the loans granted under the program are well targeted and whether they would have been made by the financial institutions anyway, even without the program.

There is no doubt that some loans have been guaranteed that might have been made outside the program. The SLBA is a form of insurance against default, under which private sector lending institutions assess businesses and make or refuse loans. The federal government steps in when loans are defaulted on and pays 85 per cent of losses on SBLA registered loans.

Like many other insurance programs, it pools risks across thousands of users. This diminishes but does not eliminate risk for lenders. The applicants that received bank loans under the program are otherwise creditworthy, but tend to be startup companies or firms with low capitalized assets.

As with any insurance program, there are likely to be loans that actually do not need to be guaranteed. For the most part, these are loans that will probably be paid back and therefore do not cost taxpayers anything. In fact, a certain percentage of the loans made under the program actually help make the program affordable and sustainable.

It is relevant to point out that since steps were taken in 1995 to move the program toward cost recovery, firms that benefit from the program must pay fees that are designed to recover the cost of loan claims. Therefore, any business that uses the program even if it does not need the loss insurance provided is in effect sharing the risk of lending to small businesses which need the program.

I want to go back to the Auditor General's report. Honourable senators will remember that, when the report was tabled in December, the government had already followed up on some of the recommendations made. Other issues, including that of incrementality, will surely be debated during the comprehensive review.

When the Auditor General testified before the Public Accounts Committee of the House of Commons in February, he was asked many questions on the conclusions and the recommendations found in the report. There are three points that should be repeated here.

First, as I already mentioned, the Auditor General stated that, overall, the Small Business Loans Program was well managed, but that its objectives should be more specific.

Second, he said he would not ask for another audit — contrary to what he usually does — within two years after the tabling of his report. Instead, he will consider giving more time to Industry Canada to provide answers to the issues raised in the comprehensive review.

Third, the Auditor General recognized that it was difficult to provide an answer regarding how many jobs will be created

through the program, and that estimates in this regard vary widely. I already explained to honourable senators that Industry Canada had based its estimates on the figures provided by the businesses that got loans under the program.

The Small Business Loans Program has been in place since 1961 and all the governments that have been in office since, regardless of the political party, have maintained it. They have reviewed the program on a regular basis to improve it and to modernize it.

This is because the Small Business Loans Act is useful and its resulting program meets the needs of small- and medium-sized businesses. And these needs still exist.

If the program needs to be changed, we make the changes during detailed examination. Furthermore, if the best solution would be to drop the program, the examination will make this clear.

In the meantime, honourable senators, I hope you will pass Bill C-21 for the greater good of Canada's small businesses.

Hon. Pierre Claude Nolin: I have two questions. Did you in fact say in your speech that you are introducing Bill C-21 as a temporary measure?

Senator Hervieux-Payette: Yes, I would call it a transitional measure, which will provide us with the examination report and enable us to change the legislation from A to Z as the result of the examination and the recommendations of the Auditor General.

Senator Nolin: I listened carefully to your speech and wonder whether, given the scope of the clientele served by this program, you would be prepared to recommend to this house that the examination take place not only in Ottawa but also across Canada to enable us to reach the maximum clientele served by such a program? This clientele will evaluate the changes or the cancellation of this program if it fails to meet their needs.

Senator Hervieux-Payette: I do not chair the committee examining these questions. All I can say is that when those being served have expressed the interest, our committee has not hesitated to tour the country. We are just back from consultations on the new agency managing pension funds.

At the time the study is done, I am sure the committee chair will consider the possibility with your colleague, the deputy chair of our committee.

[English]

Hon. Duncan J. Jessiman: Honourable senators, I, too, wish to speak on Bill C-21, to amend the Small Business Loans Act. This side of the house is in favour of this legislation but, in general, we are not very happy with the manner in which it has come to us. However, I will speak to that later.

This legislation was introduced in 1961 by the Diefenbaker government. The loans from 1961 through 1980 were modest. From 1980 to 1993, the program under the act provided for 90 per cent financing, up to a total of \$100,000, of loans to small business by lenders other than the government. Eligible companies had to have sales of less than \$2 million per year. The borrower at that time was to be charged not more than prime, plus 1 per cent. The borrower also paid a one-time registration fee of 1 per cent of the value of the loan.

•(1420)

The government guaranteed the lender 85 per cent of the cost of eligible claims, which worked as follows. If a small business had assets valued at \$80,000, that came under the act. The amount the lender could lend him would be 90 per cent of that amount, namely, \$72,000. The government would guarantee 85 per cent, or \$61,200. The borrower would therefore have a risk of \$8,000; the lender financial institution, \$10,800; and the government risk would be \$61,200. However, the government did not pay anything until such time as there was a default.

The historical experience has been exceptional. During the first 31 years of the program, the cost to the government was almost insignificant, but for the five-year period before 1993, the average cost claimed was about \$36 million per year, which represents about 4 to 6 per cent of the loans.

This cost of \$36 million does not take into account the amount of revenue taken in by the government as a result of the program, or additional tax revenues generated by the newly created jobs — that is, for those who were employed and for those whose business was increased, presumably as a result of the loan.

There seems to be no argument that small business in Canada is one of the most dynamic sectors of the economy. Firms with fewer than 15 employees created 81 per cent of the new jobs last year — up from 70 per cent the year before.

The program has always been limited in that it allows borrowing only for the purchase of new land, to purchase and/or improve premises — and that includes leasehold improvements — and to purchase equipment. It is the view of some business persons that the government should consider extending the application of this act so that it would apply to share acquisitions, working capital and other matters.

As already explained, the loans are not made by the government directly but are made by authorized private sector financial institutions, including chartered banks, trust companies, caisse populaires, credit unions and others, with a combined total of approximately 13,000 branches across Canada.

The act is now intended to apply to businesses with sales of less than \$5 million — it used to be less than \$2 million — in the year of the loan. The exceptions are for farms and for

organizations of a charitable or religious nature. As mentioned earlier, there are other programs for farming enterprises.

In 1997, 30,000 firms obtained loans under this program, for a combined total of \$2 billion. The average loan is about \$65,000. It has been said that loans of less than \$55,000 are often deemed too small to justify the administrative costs.

There are two areas of concern in relation to this program. First, those who take advantage of the program — both lenders and borrowers — do so by sometimes splitting their activity within their business and incorporating another company or another enterprise of some kind, and thereby, in the case of the borrowers, receiving two loans when they are only entitled to one. As well, insofar as both borrowers and lenders are concerned, this act is used on numerous occasions for the purpose of borrowing when, in fact, the loan probably could have been made under ordinary circumstances.

Loans under this act are not meant to be the kinds of loans that are given in the usual course of business by a branch of any lending institution. The act is meant to apply where small businesses cannot obtain loans from any other source. When the review is made, I hope that those concerned will look into this aspect to determine whether they can tighten up the regulations so that those who truly need the money will get it.

The minister in the other place made reference to the fact that the previous government relaxed the ceiling on the amounts of the loans in such a way that it created a great debt to the government. In the spring of 1993, the previous government extended the maximum amount for the loans from \$100,000 to \$250,000. They also provided that the lender could lend up to 100 per cent of the value of the assets, and that the government would guarantee 90 per cent of the loan.

I will use the same figures as before to give you an example of the amount of money involved here: If the value of the asset is \$80,000, the amount that could be lent would be 100 per cent, which is \$80,000, and the government would guarantee \$72,000 of that amount. The borrower would have no risks — certainly an encouragement to small business; the lender would have \$80,000, and the government would be responsible for \$72,000. However, the percentage of default is still somewhere in the 4 and 6 per cent range.

Because of the increase in the amount of the maximum loan to \$250,000 and the amount of the guarantee, where the borrower was not at risk except for his asset but was borrowing 100 per cent, borrowers and lenders came in droves. This resulted in loans of \$2.5 billion in 1993-94, and \$4.4 billion in 1994-95. Because of the increase in the amounts involved, the dollar amount of the defaults also significantly increased. I am told that is still at 4 to 6 per cent of the loans. Whereas the average was \$36 million a year, it is estimated that, in the 1997-98 fiscal year, claims will increase to \$241.8 million. That is a large figure. However, the government does not know how many jobs have been created by this lending, nor does the claim figure take into account revenues received from the program.

As I said earlier, the government thought that the previous government should have relaxed these loans. In 1995 — two years after this government took office — the government decided that, in view of the increased claims and the cost to government because of default, it would revert back to allowing lenders to lend 90 per cent of the value of the assets, and the government would guarantee only 80 per cent of the amount of the loan. However, the maximum amount of a loan still remained at \$250,000.

In 1995, this government increased the amount of the interest that could be charged to 3 per cent over prime, plus a 1.25-per-cent annual administration fee. That is an important figure, because it hits right at the borrower. That fee would be passed on to the borrower through the increase in the interest rate.

If the offsetting revenues from increased jobs, which were created by the relaxed lending provisions between 1993 and 1995, did not justify the increased cost to the government, the action taken by the government in 1995 may prove to be prudent. On the other hand, if the jobs created and the revenues received as a result of such relaxation did justify the increased cost to government, it may not have been in the interests of small business and the creation of jobs to revert to the pre-1993 rules, plus the extra 1.25-per-cent annual administration fee, plus the extra amount of interest above prime.

In any event, the change in the rules took place in the spring of 1993. This government took over in the fall of that year. There was nothing to stop them from immediately amending the rules as they saw fit when they took over the government. It did not take them long to cancel the Pearson airport agreements, at an eventual cost to taxpayers of about \$800 million. It took them but a few days to cancel the helicopter contract, at a cost of \$500 million, not to mention all the jobs that went with those contracts.

•(1430)

I would like to give honourable senators some idea of how many jobs are created by these amounts of money. In 1993, the lending was \$4.4 billion, or \$4,400 million. Using the Auditor General's very conservative figure, every \$1 million creates seven jobs. Therefore, \$4,400 million creates 30,800 jobs. It is estimated that each job will bring approximately \$30,000 in income to the employee, with \$7,500 per year paid in taxes, including income tax, GST, et cetera. Therefore, although the cost to government was about \$241 million, on those figures the government would take in at least \$231 million, not taking into account the extra revenues the companies would earn as a result of increased business.

If the study concludes that as a result of these loans \$1 million creates 37 jobs rather than seven jobs, which is what the department responsible for this act is saying, that would be a boon to the economy.

There is no question that there are other things the government could do. I suggest that it might lower employment insurance

premiums, CPP premiums and other payroll taxes. That would be an incentive to small business.

Another matter the government might consider is the \$200,000 small business deduction which was introduced in 1984 and has not been touched since. If that figure were increased with the rate of inflation, it would be at least \$315,000. Consideration should be given to increasing that deduction to at least \$500,000.

We have received this bill today; it will go to committee tomorrow. In a mere six days, on March 31, this lending expires. This would be only a housekeeping matter if we knew that it worked. It probably does work, but the government has had this bill since December of 1997, and we are being allowed to study it in committee for probably one hour, at the most. That is just not good enough.

I ask the government to give us a chance to properly study bills of this magnitude. The suggestion is that we should just renew it for another year; put up another \$1 billion. I think it might be good business to do so, but we do not know for certain.

There is a study ongoing. The Auditor General has suggested that we should look at many things. The results of that study will not get back to the House of Commons until the fall. By the time the study is completed, we may be in the same position next year.

Perhaps the Senate committee should suggest to the government that rather than an extension of one year, it should be 18 months or two years. Otherwise, we will find ourselves in exactly the same position next year if the study is not completed. The money will have been lent again and we will still not know where we are, and thus we will need another extension.

This is an important bill. We can do nothing but pass it, and extend it as I have suggested.

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 Carney, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.

THE ESTIMATES, 1997-98

REPORT OF NATIONAL FINANCE COMMITTEE
ON SUPPLEMENTARY ESTIMATES (B) ADOPTED

The Senate proceeded to consideration of the third report of the Standing Senate Committee on National Finance (*Supplementary Estimates (B) 1997-98*) presented in the Senate on March 24, 1998.

Hon. Anne C. Cools: Honourable senators, I move the adoption of the report.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

APPROPRIATION BILL NO. 3, 1997-98

SECOND READING

Hon. Anne C. Cools moved the second reading of Bill C-33, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1998.

She said: Honourable senators, I rise to speak to second reading of Bill C-33, which will grant to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1998, only a few days from now.

When passed into law, Bill C-33 will be cited as Appropriation Act No. 3, 1997-98. Bill C-33 seeks approval to grant to Her Majesty certain sums of money — being \$1.1 billion — for the remainder of this fiscal year ending March 31, 1998. Bill C-33 embodies Supplementary Estimates (B), 1997-98 and provides for the release of the whole amount set out in these Supplementary Estimates which is, as I have said, just over \$1 billion.

Therefore, total projected expenditures for 1997-98 under the Main Estimates, Supplementary Estimates (A), and now Supplementary Estimates (B), are expected to be \$147.5 billion.

Honourable senators will be pleased to note that these Supplementary Estimates (B) indicate a net reduction in expenditures of about \$3.8 billion. Consequently, the total budgetary expenditure for the current fiscal year, ending March 31, 1998, is expected to be \$1.7 billion less than had been projected in the Main Estimates at the beginning of this fiscal year, April 1, 1997. The government has shown sound fiscal management and clearly deserves credit for it. I feel that we should truly commend the Minister of Finance, Mr. Paul Martin, for a job very well done. I thank him on behalf of all senators here.

Honourable senators, as we know, Supplementary Estimates are proposed expenditures for items that were unforeseen or not contemplated when the Main Estimates were presented. Supplementary Estimates identify new items of proposed expenditure and also identify adjustments to proposed expenditures which have already been approved in preceding appropriations acts. Parliamentary authority is necessary whenever the government proposes to exceed spending in one area of activity and to obtain the needed funds from surplus funds elsewhere. The government must first obtain Parliament's approval for such transfers. Parliamentary approval, that is

parliamentary authority, for such transfers is essential to ensure the government's accountability. As a matter of fact, Parliament's primary function is to ensure the control of the public purse and to hold the government responsible to Parliament for the expenditure of public moneys. Indeed, this is the prime reason for Parliament's very existence. That is why transfers of funds between parliamentary votes are reported in the Estimates as "one dollar items" and do not seek approval for additional funds in Supplementary Estimates (B). The government is requesting approval to transfer \$328 million in this way.

•(1440)

Honourable senators, Supplementary Estimates (B), 1997-98 were introduced in the Senate on March 17 and referred to the Standing Senate Committee on National Finance on March 18, 1998. The committee met on March 18 and 19, 1998, to study and examine the Supplementary Estimates (B). Treasury Board Secretariat officials, Mr. Richard Neville and Mr. Andrew Lieff, appeared before the committee and responded to questions from senators. Supplementary Estimates (B) were approved in the National Finance Committee on March 19, and I introduced our committee's third report in this chamber on March 24, 1998. As honourable senators know, we adopted that report a few moments ago.

Honourable senators, some of the major items in these Supplementary Estimates (B) are: \$148 million for three departments and agencies related to the January 1998 ice storm, which affected eastern Ontario, southern Quebec and New Brunswick; \$121.8 million for 11 departments and agencies related to departure incentives for public service employees; \$118.8 million for 14 departments and agencies under the carry-forward provision to meet operational requirements originally provided for in 1996-97. This provision reflects a feature of the government's approach to operating budgets intended to reduce year-end spending and improve cash management. It allows managers to carry forward from one fiscal year to the next an amount of up to five per cent of the operating budget of the previous fiscal year. The operating budget includes salaries, operating expenses and minor capital expenditures.

There is \$90 million for the Canadian International Development Agency announced in the February 24, 1998, budget to pay current commitments to United Nations organizations in 1997-98, thus freeing up resources in 1998-99 for development initiatives in the areas of environment, health, youth and governance; \$84.7 million under the disaster financial assistance arrangements for the Department of National Defence for assistance related to other Canadian natural disasters such as the 1996 Saguenay flood, the 1997 Manitoba flood, and a number of other floods since 1991 in Newfoundland, New Brunswick, Quebec, Manitoba, Saskatchewan, Alberta, British Columbia and Yukon. Supplementary Estimates (B) set aside \$72.4 million for the Royal Canadian Mounted Police, chiefly to deter smuggling activity and to work with other federal departments and agencies and provincial and municipal police forces on investigations and prosecutions of complex cases,

targeting the proceeds of organized crime and other illegally obtained assets for seizure and forfeiture to the Crown; \$71.8 million for the Department of Public Works and Government Services for the purchase of the Louis St. Laurent Building in Hull, Quebec; \$55 million for the Department of Industry for a one-time contribution to the Canadian Network for the Advancement of Research, Industry and Education, CANARIE Incorporated, to create the next generation of high-speed network backbone across Canada for the Information Highway, as announced in the February 24, 1998, budget; then \$54.1 million for the Department of National Defence to realign existing funds from capital to operating expenditures to cover activities primarily related to peace-keeping, that is Haiti and Bosnia, and the deployment of Canadian forces for humanitarian assistance in Canada, such as the Red River Valley flood.

Honourable senators, these major items represent \$816.6 million of the \$1.1 billion, or 77 per cent for which approval of Parliament is being sought. The \$242.5 million balance is spread amongst a number of other departments, agencies and Crown corporations, the specific details of which are included in the Supplementary Estimates (B).

Honourable senators, our committee was mindful of the very tight time-frame and the fact that the Supplementary Estimates (B), 1997-98 and Bill C-33 must be adopted and receive Royal Assent by March 31, 1998. This supply process must be completed by March 31, 1998, so that the government can meet its financial obligations.

In committee, senators on both sides were supportive to this end. I should like to thank the chairman of the committee, Senator Stratton, and indeed all the senators on the committee for their wholehearted and, I would say, notable cooperation. With their help and dedication, the committee was able to conduct its hearings and adopt its report unanimously in a very timely fashion, and that is obvious since we are giving the bill second reading today.

Honourable senators, Supplementary Estimates (B) describe the government's need and plan for additional supply as well as the government's need to move funds between expenditure envelopes previously approved by Parliament. I urge all honourable senators to support Bill C-33 and therein give legal force to the Supplementary Estimates (B) for 1997-98 by passing Bill C-33.

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, I thank Senator Cools for that overview of the work of the Standing Senate Committee on National Finance that did indeed examine the Supplementary Estimates in committee. There is one matter that I would like to draw to honourable senators' attention, and it is this: Some of us were interested to determine how much supplementary money is being sought because of regulations that have been developed in the various ministries, obviously on the authority of the relevant

act that forms part of the statutes. It is very difficult to determine during the budget-setting process how much ministries should be budgeting if, after that exercise, regulations are made and if those regulations cost money.

Effectively, it is a form of appropriating funds by statute, not through the statute created by an act of Parliament but the regulations made under that statute. The officials did undertake to try to get us some information, first and foremost, on the regulations made during the fiscal year and, second, to the extent it is possible, to give us a dollar amount associated with these new regulations. It will be very interesting for us to look at that data once we receive it.

Otherwise, I feel Senator Cools has provided us with an accurate reflection of the work of the Standing Senate Committee on National Finance.

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.

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

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

•(1450)

CANADA-YUKON OIL AND GAS ACCORD IMPLEMENTATION BILL

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Lucier, seconded by the Honourable Senator Cook, for the second reading of Bill C-8, respecting an accord between the Governments of Canada and the Yukon Territory relating to the administration and control of and legislative jurisdiction in respect of oil and gas.

Hon. Mira Spivak: Honourable senators, Bill C-8 is certainly worthy of support in principle. At last, it will give the people of the Yukon something they have wanted for many years — the right to administer their oil and gas resources, the responsibility for those resources and a good portion of the revenues.

More than a decade ago, a Progressive Conservative government — in particular, former minister Bill McKnight — began the process that this bill concludes. No political party now disputes the wisdom of giving the people north of 60 powers that are similar to the powers that some provinces have enjoyed for more than a century.

A separate Yukon Territory was created 100 years ago, in 1898. One hundred years is certainly long enough for Ottawa officials to make decisions long-distance. Now is certainly the time to transfer the benefits of royalties in the order of \$2 million a year to the people of the Yukon.

Many describe the legislative transfer contained in this bill as a transfer of province-like powers. That may be overstating the case. While the Yukon government will gain administrative authority, its future revenues from royalties will be capped at \$3 million. The federal government acknowledges that the Yukon's oil and gas reserves are, for the most part, undeveloped. Some suggest that the land north of 60 holds as much as half of this country's potential petroleum resources. It is hard to conceive of a province agreeing to cap its future royalty revenues in like fashion.

Under this bill, the federal government will also retain the power to take back its responsibilities on land needed to create national parks, to protect the environment and to settle the land claims of First Nations. The last point is critical. Of the 14 First Nations, only six have reached final land claim settlements. While they are moving along at a better pace than land claims in many other parts of Canada, the take-back clause is essential to make sure we do not repeat the mistakes made decades ago in Western Canada.

First Nations people in my province of Manitoba and elsewhere on the Prairies were the forgotten people when the federal government gave provinces authority over forestry, mining, hydro development, and oil and gas exploration through natural resources transfer acts which are part of our Constitution. For decades, First Nations in the west have seen their traditional lands devastated and their way of life destroyed by development. It continues to this day in my province, where timber cutting licences are granted to companies on land that First Nations have chosen for future land claims settlements. First Nations have turned to the courts, only to be told that the resources belong to the provinces.

We must not make the same mistake in the Yukon. We must hope that the remaining eight land claims settlements move rapidly, and we must urge the government to exercise its take-back authority whenever conflict looms between the rights of First Nations and the desires of developers.

I am pleased that the Yukon Council of First Nations has indicated its support for this bill. I am pleased that under the royalty sharing formula Yukon First Nations are guaranteed 50 per cent of the first \$2 million of off-shore revenues. Whether that formula is just, only time will tell. It is certainly far better than the guarantee given First Nations elsewhere, who were guaranteed nothing and have received nothing for loss of their traditional lands for hunting and fishing, and are rightfully deeply angry to see development on land they have selected for land claims settlements.

I have one other point to raise on this bill. To my knowledge, it has not been raised elsewhere, either in the other place or in the media, although perhaps it has been raised in the deep background of negotiations. It concerns the relationship of this bill to the international foreign investment treaties that our current government is signing at a heavy pace.

In February 1997, when the Government of Canada filed its reservations to the proposed Multilateral Agreement on Investment — the proposed treaty with 28 other countries of the OECD — this bill was included on the government list of reservations. Canada proposed to exempt measures implementing the Canada-Yukon Oil and Gas Accord. It proposed to exempt this bill from national treatment provisions of the MAI, and from its restrictions on performance requirements.

The government does not want to guarantee to foreign investors the right to be treated the same as Canadian companies that invest in the region. The government does not want foreign investors to receive automatically the same subsidies or concessions given to Canadian developers, for example. It also does not want foreign investors to have the right to exploit oil and gas reserves in the Yukon without their promising to put money back into the region by hiring local people, or buying local goods and services, or transferring technology.

Many Canadians would agree with that. Many Canadians believe that our natural resources should bring the best possible benefits to Canadians living closest to them, which is what we are saying in Bill C-8.

The difficulty arises in respect to other foreign investment treaties already signed by the Government of Canada. They are among the growing number of bilateral investment treaties, or BITs. In recent years Canada has signed or initialled these bilateral treaties with 24 other countries and is negotiating with 33 more. Some treaties, like the one in force with Barbados since January 1997, also claim an exemption for this bill. Others, like the treaty with Argentina which came into force in 1993, does not exclude this legislation. In fact, that treaty excludes nothing. It does not exclude any of the 48 pages of Canadian laws that the government says it wants to protect from the MAI. The treaty with Argentina locks Canada into a 15-year agreement that is binding under international law.

This raises two points which are questions, really: I would like to know whether the government plans to reopen long investment treaties which do not exempt this bill. I would also like to know what would prevent British Gas, Shell, Exxon International, and others who have affiliates in Argentina, from using the open door in bilateral treaties that the Government of Canada says it must close in the MAI.

I hope this question of foreign investment, Canada's treaty obligations and future development in the Yukon will receive some attention. I hope to hear more from the government about the protection for this bill in particular in the course of our debate.

That being said, I support this bill in principle, trusting — I hope not naively — that soon it will mean greater responsibility for the people of the Yukon, and greater benefit to them.

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 Lucier, bill referred to the Standing Senate Committee on Aboriginal Affairs.

TOBACCO INDUSTRY RESPONSIBILITY BILL

SECOND READING—ADJOURNED TO AWAIT SPEAKER'S RULING—
POINT OF ORDER

ON THE ORDER:

Motion of the Senator Kenny, seconded by the Honourable Senator Nolin, for the second reading of Bill S-13, to incorporate and to establish an industry levy to provide for the Canadian Tobacco Industry Community Responsibility Foundation.—(*Speaker's Ruling*).

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, the points I wish to raise speak to the matter of the determination of whether Bill S-13 is a private bill or a public bill. I draw your attention to rule 4(2) of the *Rules of the Senate* where "bill" is defined as follows:

"Bill" means a draft Act of Parliament and includes a private and a public bill;

I cannot find references in our rules to anything other than a private bill or a public bill. I find no reference to what, in other Parliaments, they speak of as hybrid bills — that is, a mixture of a private bill and a public bill.

Honourable senators, clause 32(1) on page 12 of Bill S-13 reads:

The Foundation is established on behalf of the Canadian tobacco industry but is independent of it.

The fact that this foundation is established on behalf of the Canadian tobacco industry leads me to worry that what we have here is something that, under normal circumstances, would have arisen by a petition from that private sector indicating that they would like to have this kind of a foundation. That clearly would be a matter for a private bill. If there is some logic to that analysis, the tobacco industry should be doing the petitioning. The clear wording says that this foundation is being established on behalf of the Canadian tobacco industry. To that extent, I believe that we have before us a private bill, not a public bill.

In *Beauchesne's Parliamentary Rules and Forms*, sixth edition, on page 286, we are provided with the definition of a private bill. It reads:

A private bill is solicited by the parties who are interested in promoting it and is founded upon a petition which must be duly deposited in accordance with the Standing Orders of the House.

Of course, *Beauchesne* is written with reference to the House of Commons, and we only draw on it to the extent that it helps us determine the kinds of precedents that we wish to establish.

The next paragraph in this part of *Beauchesne* is entitled "Determining Whether Certain Bills Should Be Public or Private." I quote:

There are four principles which have been followed in determining whether a private bill should not be allowed to proceed as such, but should be introduced as a public bill...

I simply draw to the attention of His Honour that he might want to look at those four criteria. They are, quite briefly, that public policy is affected, if the bill proposes to amend or repeal public acts, the magnitude of the area and the multiplicity of the interests involved, et cetera.

The other matter is that Bill S-13 has as a basic purpose the establishment of a corporation and the granting to that corporation certain powers, including the power to collect levies. That type of legislation doing those kinds of things resembles very much private legislation, so again I am inclined to be suspicious that this bill is not a public bill but a private bill.

Private bills are not uncommon in this chamber. Many of the acts of incorporation used to be introduced in the Senate as a matter of course.

On the other hand, perhaps one could argue that Bill S-13 is a public bill because it has a public purpose. The trouble with that argument is that everything we do, even in acts of incorporation, has a public dimension to it. The private corporation would function in the private domain, or indeed why is it here at all as a private interest matter? It is to receive a certain level of protection and legitimacy not within the confines of that domestic private corporation but as that corporation deals with the body politic. To that extent, all private legislation has some public purpose. However, in my judgment, a clear and distinct difference can be seen in the purpose, objective, and thrust of a private bill and a public bill.

It seems to me that this bill looks very much like a private bill and not a public bill. Bill S-13 does not seem to amend or repeal other public acts. One cannot argue that there are no parties out there who are ready to introduce such a bill. Clearly, the Canadian tobacco industry should be the ones to take this action, since the foundation is being established on their behalf.

Therefore, I ask His Honour to also focus on the issue of whether the bill is a public bill or a private bill or a mixture, and, if it is a mixture, whether we would be setting a precedent by accepting a hybrid bill.

The Hon. the Speaker: Do any other honourable senators wish to participate?

Hon. Anne C. Cools: Honourable senators, I find the subject-matter interesting, but I find the procedure unusual. Had I known that the issue would be reopened, I might have been able to prepare a few comments. To the extent of the procedure in reopening this point of order, I would have thought the honourable senator's point of order could have been raised — and should have been raised — when the bill was properly before us again, after the Speaker has ruled on the first point of order. The order would then be properly before us again, and an infinite number of points of order could be raised thereafter.

In any case, to the extent that the process is very irregular, I would love to have a shot at it too, except that I am simply not

ready to do so. If senators will allow me, I would be happy to adjourn this debate. As this situation is unusual, perhaps we can be doubly unusual.

The Hon. the Speaker: I do not think I can accept an adjournment, Honourable Senator Cools. The matter is standing in my name for a ruling. However, the Senate agreed today to hear further representations. If, when the matter comes up again, the Senate agrees to hear further representation, then it will be proper to hear other senators.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I draw your attention to some distinguished visitors in the gallery. His Excellency Eduardo Ferrero Costa, Minister of Foreign Affairs of the Republic of Peru is accompanied by the ambassador from Peru, the Honourable Mr. Couturier. On behalf of all honourable senators, I wish you welcome to the Senate.

The Senate adjourned until tomorrow at 2:00 p.m.

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